

# 2013 Interim LEGISLATIVE

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## RECORD

## Pension reform legislation passes 2013 General Assembly

by Rebecca Hanchett  
*LRC Public Information*

Intent on reducing over \$30 billion in unfunded obligations in the state's public employee pension system, the Kentucky General Assembly voted during the 2013 Regular Session to change benefits offered for future employees served by the Kentucky Retirement Systems and pay down the pension system's debt to the tune of around \$100 million a year.

The pension system changes were approved with final passage of Senate Bill 2, which cleared the Senate on a 32-6 vote and the House on a 70-28 vote. The legislation will take effect on July 1, 2013, although key provisions will not affect future employees, judges or legislators until on or after Jan. 1, 2014.

SB 2, sponsored by Senate Majority Floor Leader Damon Thayer, R-Georgetown, will place state and local government employees (except public school teachers, who are covered under a separate retirement system), state police employees, state judges and state legislators who begin participating in their retirement system on or after Jan. 1, 2014 in a hybrid "cash balance" plan. That plan is similar to a 401K, but with a guaranteed minimum 4 percent return.

The bill also requires prefunding of retiree 1.5 percent cost of living raises before they can be given, and resets the time period that the Kentucky Employees Retirement System (KERS), County Employees Retirement System (CERS), and State Police Retirement System have to pay off the state's unfunded liability in the KRS to 30 years, effective this year.

Most notably, the bill will require the Kentucky General Assembly to pay the full actuarially required contribution (ARC) rate—or the full employer contribution—to the appropriate retirement systems beginning in fiscal year 2015. The ARC totals around \$100 million per year, and will be paid with revenue generated by House Bill 440, sponsored by House Speaker Pro Tempore Larry Clark, D-Okolona.

HB 440, which was given final approval by a vote of 82-17 in the House and a vote of 35-3 in the Senate, will generate around \$100 million a year, starting with around \$95.7 million in fiscal year 2015 and \$99 million in 2016. The funds will come from



Senate Majority Floor Leader Damon Thayer, R-Georgetown, speaks on pension reform legislation on the floor of the Kentucky Senate.

a \$10 reduction in the personal income tax credit, a cap on vendor compensation for sales tax collection, and enhanced revenue collection by the state Department of Revenue, along with some federal changes. The revenues will be offset by a trade-in credit for new car purchases.

Most provisions in HB 440 will take effect July 1, 2013, while others will apply on or after Jan. 1, 2014.

Thayer said during pension negotiations that SB 2 will save Kentucky taxpayers \$10 billion over the next 20 years while spreading investment risk between employer and employee.

"It will avert a fiscal crisis that looms only four years ahead," Thayer said.

Benefits for current employees and retirees served by the Kentucky Retirement Systems will not be affected by SB 2 because of an "inviolable contract" the state has with employees that protects existing benefits, according to House Speaker Greg Stumbo.

"Unlike the folks in Washington, we can actually come together and forge a comprehensive and responsible piece of legislation to a huge public po-

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## 'Graduation bill' signed into law

by Staff Report  
*LRC Public Information*

School districts in Kentucky will be allowed to raise the dropout age for their students under a bill signed into law on March 18.

Senate Bill 97, sponsored by Sen. David Givens, R-Greensburg, will allow

"It's apparent to me that (this) is going to be the best policy we can subscribe to as a state."

**Sen. David Givens**  
R-Greensburg

local school districts in Kentucky to increase their dropout age to 18 beginning with the 2015 school year. The current dropout age for Kentucky public schools is 16.

Four years after 55 percent of Kentucky's school districts change their mandatory

age of school attendance from 16 to 18, all public school districts in the state will be required to adopt the change.

School districts must have programs and resources in place for students who are at risk of dropping out of high school before the districts will be allowed to raise the dropout age under SB 97. They will also need the approval of the state Department of Education.

"It's apparent to me that (this) is going to be the best policy we can subscribe to as a state," Sen. Givens said of SB 97. He commended the work of many lawmakers and public leaders—including Gov. Steve Beshear and First Lady Jane Beshear—for their work toward its passage.

SB 97 passed the Senate by a vote of 33-5 and passed the House by a vote of 88-10 on March 11.

# General Assembly's 2013 session ends

by Rob Weber  
LRC Public Information

The Kentucky General Assembly's 2013 Regular Session came to a close on March 26 as lawmakers adjourned at the conclusion of the 30th and final session day allowed by the state constitution.

Among the highlights on the final day of legislative activity was the passage of a long-sought bipartisan agreement to ease the state's public pension debt, along with a funding measure to assist in that effort.

Since the session's start in early January, lawmakers have also approved measures to allow school districts to raise the high school dropout age, provide better oversight of special taxing districts and make the absentee voting process easier for Kentuckians serving overseas in the military.

Most new laws – all that don't come from legislation with emergency clauses or different specified effective dates – will go into effect in 90 days.

Bills approved this year by the General Assembly include measures on the following topics:

**Child protection.** House Bill 290 will establish by statute an independent review panel to investigate cases of child deaths and near-fatal injuries. The panel will be given access to complete records of the Cabinet for Health and Family Services, as well as information from law enforcement and other agencies involved in the cases.

**Crime.** Senate Bill 15, named the Bryan Durman Act in honor of a Lexington police officer who was killed by a hit-and-run driver in 2010, will ensure that a person convicted of criminal homicide in the killing of a police or firefighter on duty doesn't become eligible for probation or parole until 85 percent of a sentence is served.

**DNA testing.** HB 41 will allow some felony offenders in prison or under state supervision to request testing and analysis of their DNA as case evidence.

**Hemp.** SB 50 creates an administrative framework for the growing of hemp in Kentucky if the crop is legalized by the federal government.

**Human trafficking.** HB 3 will strengthen human trafficking laws while protecting victims from prosecution for crimes they were forced to commit. The legislation will offer assistance to agencies responsible for

helping human trafficking victims by creating a "human trafficking victims fund" supported by service fees paid by convicted human traffickers, proceeds from seized and forfeited assets of traffickers, and any grants, contributions, or other funds that may become available.

**Military voting.** SB 1 will make the absentee voting process easier for Kentuckians serving overseas in the military. The legislation will allow members of the armed forces, their spouses and others serving overseas to register to vote and request and receive absentee ballots electronically.

**Newborn health screenings.** SB 125 will include critical congenital heart disease testing as part of the newborn screening program.

**Pill mills.** HB 217 will make adjustments to the "pill mill" law approved last year by easing some reporting requirements when pain medications are dispensed for legitimate needs while upholding the original bill's intention of stopping prescription drug abuse. Mandatory reporting to KASPER (the Kentucky All-Schedule Prescription Electronic Reporting system) will be lifted for hospitals and long-term care facilities. Exemptions would also be made for post-surgery patients, end-of-life patients, and some specified other patients with a clear medical need for increased pain management.

**Proof of insurance.** HB 164 will allow people to use electronic insurance cards on their smart phones or other electronic devices as proof of motor vehicle insurance. Drivers will still be required to keep paper insurance cards in their vehicles.

**Public pensions.** SB 2 will offer a plan to ease the state's public pension debt and HB 440 offers a financing component to the plan. SB 2 will require the state to contribute the full amount recommended by actuaries to the pension system each year beginning in fiscal year 2015. Rather than a defined-benefit plan, the legislation offers future public workers a hybrid cash balance plan with a guaranteed four percent return on contributions. On the funding side of the issue, HB 440 will generate almost \$100 million a year from tax changes that include a \$10 reduction in the personal income tax credit, a trade-in credit for new cars, a cap on vendor compensation for sales tax collection, and enhanced

collection efforts by the state Department of Revenue.

**Religious freedom.** HB 279 specifies that government shall not burden a person's freedom of religion. The legislation states that an action motivated by a sincerely held religious belief can not be infringed upon without a compelling governmental interest. (HB 279 was vetoed by the governor; the veto was overridden by the House and Senate.)

**Scholarships.** SB 64 will ensure that students earning Kentucky Educational Excellence Scholarships aren't penalized in the amount of scholarship money they receive if they graduate from high school in three years rather than four.

**School dropouts.** SB 97 will allow school districts to increase the compulsory attendance age to 18 beginning in the 2015 school year. Districts that do so must have programs and resources in place for students at-risk of not graduating. The increased compulsory attendance age will become mandatory statewide four years after 55 percent of Kentucky school districts adopt it.

**Special taxing districts.** HB 1 will boost transparency and accountability for the more than 1,200 special taxing districts across the state. The bill will put education and ethics rules in place for those special-purpose entities and create an online central registry to publicly disclose their annual budgets and other pertinent information. The bill will require the taxing districts to submit budget reports to fiscal courts. If a special district wants to impose a new fee or increase the rate of an existing tax, it will need to hold a public hearing in conjunction with a fiscal court meeting.

**Student health.** HB 172 will encourage schools to possess at least two epinephrine auto-injectors in case one is needed for a student having a life-threatening allergic or anaphylactic reaction.

**Suicide prevention.** SB 72 will require attendance at suicide prevention training programs at least once every six years for social workers, marriage and family therapists, professional counselors, fee-based pastoral counselors, alcohol and drug counselors, psychologists, and occupational therapists.

**Synthetic Drugs.** HB 8 will continue the state's efforts to update laws

regarding synthetic drugs to ensure that newly developed, harmful synthetic drugs are listed as controlled substances.

**Teacher evaluations.** HB 180 will require the Kentucky Board of Education to establish a statewide evaluation system for all certified personnel. The Department of Education, in consultation with teacher and principal steering committees, will develop the system prior to the 2014-2015 school year.

**Tuition waivers.** SB 95 will extend the five-year tuition waiver eligibility period for adopted children who serve in the military.

**University projects.** HB 7 will authorize six state universities to issue agency bonds for 11 specific building construction projects at a collective cost of approximately \$363 million. The projects will be funded by the universities' own revenue streams, not state dollars.

**Victim protection.** HB 222 will establish a crime victim protection program in the Secretary of State's office to allow domestic violence victims to have personal information, such as addresses, redacted from public voter registration rolls. The legislation will also allow victims in the program to vote by mail-in absentee ballot.

## Pensions, from page 1

licy problem" while protecting workers and retirees, Stumbo said.

Another important factor in SB 2 is the allowed age of retirement. Members of SPRS and other hazardous duty retirees who are members of a hybrid cash balance plan will be able to retire at age 60 with at least 5 years of service, or at any age with 25 or more years of service. Non-hazardous members (which account for the majority of retirees in the KRS) will be eligible to retire at age 65 with at least 5 years service, or at a minimum age of 57 if their age and years of service combined total 87.

SB 2 also creates the Public Pensions Oversight Board, which will advise the Kentucky General Assembly on matters related to the Kentucky Retirement Systems. Other provisions are also set out throughout the legislation.

SB 2 and HB 440 were both signed into law on April 4.



# Special districts law now in effect

by Rebecca Hanchett  
LRC Public Information

Kentucky's more than 1,200 special taxing districts and like entities will be required to submit data about who they are and how the money they raise is spent under legislation approved by the 2013 General Assembly.

House Bill 1, sponsored by House Speaker Greg Stumbo, D-Prestonsburg, took effect immediately when signed into law on March 21. It defines the special districts as "special purpose governmental entities" for reporting and auditing purposes, requires the entities to register with the state, and requires them to provide the state with administrative and financial data for public viewing on an online registry.

The entities must register with the state Department for Local Government (DLG) before Dec. 31, 2013. The online public registry is scheduled to be up and running by Oct. 1, 2014. Entities that fail to provide the required information may be subject to state audit at their own expense.

The entities will also be required to prepare annual financial statements and submit to standard audit requirements for fiscal periods on or after July 1, 2014.

Examples of special purpose government entities affected by HB 1 include ambulance services, fire districts, library districts, mass transit services, and water districts, among others.

HB 1 also sets new education and ethics rules to ensure special entities are using taxpayer money properly, and makes it easier for inactive or defunct entities to be dissolved. Additionally, the law will require the entities to submit a budget report to their fiscal court. If an entity adopts a fee or increases an existing tax, a public meeting would have to be held prior to the change.

Stumbo said during debate on HB 1 in the 2013 session that the law is designed to bring transparency to public spending while ensuring continuity of services. He worked on the legislation with State Auditor Adam Edelen, who reported last session that the state's over 1,200 special districts spend \$2.7 billion of public money every year.

Edelen reported that special districts in Kentucky hold twice the cash reserves as the state's 174 public school districts, or approximately \$1.4 billion.

"This is not something that is



House Speaker Greg Stumbo, D-Prestonsburg, speaks on HB 1 on the floor of the Kentucky House of Representatives before a vote during the 2013 Regular Session.

a reaction to bad conduct," Stumbo said during the session. "This is an attempt to clarify (by law) to make sure that they have a clear path as to what reporting requirements they need to make... and just a way to simplify this very complicated and convoluted series of laws that have developed in our statutes dealing with special districts over the past number of years."

The audit and financial reporting requirements that HB 1 puts in place for fiscal periods starting on July 1, 2014 are part of the law's transparency goals, supporters say. Those provisions require annual financial statements from all entities, as well as the following: Attestation--a type of procedure that does not necessarily require an audit--once every 4 years for entities with annual receipts or expenditures of less than \$100,000; an independent audit once every 4 years for entities with annual receipts or expenditures of between \$100,000 and \$500,000; an annual audit for entities with annual receipts or expenditures of \$500,000 or more.

To offset costs related to the law's requirements, HB 1 requires special purpose governmental entities to pay an annual registration fee to the DLG. The initial fee will be \$25 for entities with annual revenues of less than \$100,000, \$250 for entities with annual revenues of between \$100,000 and \$500,000, and \$500 for entities with annual revenues of half a million dollars or more.

As far as the standard information to be reported to DLG is concerned, HB 1 requires that reporting and certi-

fication forms, online reporting application and online registry be available to entities for reporting purposes as of March 1, 2014. The data shall be submitted annually to the DLG for fiscal periods starting on July 1, 2014 and include at a minimum, among other data: administrative information; name, address, and term and appointing authority for each board member, if applicable; the fiscal year; the statutes under which the entity was created, and date of creation; mailing address and phone number, and web site of entity, if applicable; list of all taxes, fees, or charges imposed and collected by the entity; the entity's primary contact person; code of ethics that applies to the entity; financial information; the entity's most recently adopted budget; and completed audits or attestations, among other data.

HB 1 grew out of House Concurrent Resolution 53, sponsored by Rep. Reginald Meeks, D-Louisville, and House Local Government Committee Chair Steve Riggs, D-Jeffersonton, and passed into law during the 2012 Regular Session. The resolution directed the General Assembly's 2012 Interim Joint Committee on Local Government to study special districts' fiscal, administrative, and ethical issues in light of audits released by Edelen's office.

Concerns with accountability and transparency of Kentucky's special purpose governmental entities were highlighted in a report issued last year by the Office of State Auditor that is titled "Ghost Government--A Report on Special Districts in Kentucky."

## Military voting bill approved by General Assembly

Amy Rose Karr  
LRC Public Information

A bill aimed at making absentee voting easier for Kentuckians serving overseas in the military was approved during the 2013 Regular Session of the Kentucky General Assembly.

Senate Bill 1, sponsored by Senate President Robert Stivers, R-Manchester, will allow members of the armed forces, their spouses and others currently serving overseas to register to vote and request and receive absentee ballots electronically.

Under the bill, overseas voters will choose to receive their ballots via fax, e-mail or another secure electronic transmission system. Election officials will be required to send ballots at least 45 days before an election.

According to Stivers, the legislation addresses many voting challenges facing members of the military serving overseas by modernizing and streamlining the system. The difficulties were originally identified by Secretary of State Alison Lundergan Grimes after a trip overseas, he said.

Grimes testified to legislative committees considering the bill about the need to address issues such as lost or late absentee ballots. Approximately ten percent of the overseas absentee ballots in Kentucky's 2012 general election were not counted for various reasons, she said.

Supporters of the measure say it will bring the state's absentee voting procedures more in line with the federal process and will help ensure that individuals stationed overseas can cast their vote timely and accurately.

Completed ballots will continue to be returned via traditional postal mail or a delivery services company. Some expressed

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### INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 1st Meeting  
of the 2013 Session Break  
January 31, 2013

#### Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Judiciary was held on Thursday, January 31, 2013, at 1:00 PM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Sara Beth Gregory, Ray S. Jones II, John Schickel, Dan “Malano” Seum, Robert Stivers II, and Robin L. Webb; Representatives Robert Benvenuti III, Joni L. Jenkins, Stan Lee, Mary Lou Marzian, Darryl T. Owens, Ryan Quarles, Tom Riner, Kevin Sinnette, Gerald Watkins, and Brent Yonts.

Guests: Judge Lucinda Masterton, Kentucky Child Support Guidelines Review Commission; Angela Antone, Jefferson County Assistant Director for Child Support; Dr. John Hollis; Chief Justice John D. Minton, Jr., Kentucky Supreme Court; Secretary J. Michael Brown, Justice and Public Safety Cabinet; Larry Chandler and John Cummings, Kentucky Parole Board; Ernie Lewis, Kentucky Association of Criminal Defense Lawyers; Ed Monahan, Department of Public Advocacy; Chris Cohron, Kentucky Commonwealth’s Attorneys Association; Laurie Dudgeon, Administrative Office of the Courts, Shellie Hampton, Kentucky Association of Counties; Representative Julie Raque Adams; Debbie Mosqua; Carolyn Sharp; Frank Anglin, Sovereign Watchdogs; Jan Gould, Kentucky Retail Federation; Bill Doll, Kentucky Medical Association; Bill Patrick, Kentucky County Attorneys Association; Leigh Ann Hiatt and Jamie Neal, Administrative Office of the Courts; and Allyson Taylor, Attorney General’s Office.

LRC Staff: Jon Grate, Matt Trebelhorn, Joanna Decker, Ray DeBolt, Kathy Miller and Rebecca Crawley.

#### Child Support Update

Judge Lucinda Masterton, Angela Antone, Jefferson County Assistant Director for Child Support, and Dr. John Hollis discussed the findings and recommendations of the Kentucky Child Support Guidelines Review

Commission. The commission developed proposals to update the calculation table, extend the upper limits, and provide a formula for shared custody. Judge Masterton said the Kentucky child support guidelines have not been changed since 1989 and are based on 1987 data. The commission was assisted by Dr. Troske, University of Kentucky, who issued a report in 1988. The recommendations have been submitted to the General Assembly every session since then without success. The recommendations would provide a formula for guiding the courts in child support decisions at no cost to the state. She asked the members to support legislation to implement these recommendations.

#### Court of Justice Update

Chief Justice John D. Minton, Jr., Kentucky Supreme Court, gave the 2013 State of the Judiciary Address. He recognized Justice Wil Schroeder, who recently announced his retirement from the Supreme Court after thirty years of judicial service. Justice Minton reviewed the judicial system budget, which has been reduced 48 percent since 2008. During 2012, all non-elected employees were furloughed for three days for a savings of \$1.2 million. The court system is facing a \$25.2 million shortfall in FY13 and an additional \$28.7 million shortfall in FY14. These continuing reductions are seriously affecting the court’s ability to swiftly and efficiently deliver justice to all Kentuckians. About 86 percent of the judicial budget is dedicated to personnel, leaving very little room to lower costs without reducing the workforce.

He discussed the need to update the court system’s aging court case management system. The current case management system is based on technology that is nearly 25 years old and is running on programming which is more than ten years old. Maintenance of the system has been unsupported since 2008. The existing system supports 120 databases in each county at the trial court level, and separate systems and databases at the appellate court level. None of the systems can communicate with each other, which means information cannot be shared among counties or levels of the court system. The system is at risk of catastrophic failure. The last judicial budget recommendation included language for authority to bond the first phase of a new case management system to become the

foundation for Kentucky to adopt e-filing. He is hopeful that this bonding authority can be revived and approved during the 2013 Regular Session.

The Jefferson County Veterans Treatment Court was established in November 2012, the first of its kind in Kentucky. This unique resource for veterans in Jefferson County gives veterans access to treatment and support services to help them stabilize their mental health and recover from addiction. The team includes judges, prosecutors, defense attorneys, treatment providers, veterans outreach specialists and others dedicated to providing important services to veterans. The project is funded by a three-year \$350,000 grant from the Bureau of Justice Assistance of the U.S. Department of Justice. It is anticipated 25-30 veterans will be served annually. If the court system is able to secure additional grant funds, he would like to establish veterans courts in Hardin, Fayette, and Christian counties, where the majority of Kentucky veterans live.

The cap on Drug Court participants has been lifted, partly the result of House Bill 463, which created additional alternatives including deferred prosecution and presumptive probation for low-risk defendants who have had limited contact with the court system. These new sentencing alternatives have significantly reduced the number of participants entering Drug Court. He is encouraging Drug Court judges to give special consideration to accepting high-risk/high-need individuals, based on research showing these participants respond well to drug court programs.

The court system has taken steps to reduce high employee turnover in pretrial services. The previous pretrial 12-hour presentation rule has been changed to reflect a 24-hour presentation rule. Kentucky is the only state requiring a specific timeframe after arrest to complete an investigation and make recommendations to the court. House Bill 463 mandated a significant increase in pretrial services, supervisory caseloads, and defendant contacts. This rule change has reduced employee turnover in Pretrial Services.

#### 2011 House Bill 463 Update

Secretary J. Michael Brown, Justice and Public Safety Cabinet, said since implementation of House Bill 463, intake and admissions into the Department of Corrections have been lower than forecast, mandatory

reentry supervision (MRS) releases have been greater than forecast, the felon population is higher than forecast but would have been much higher without the initiatives in the legislation, and parole grant rates have been below forecasted rates but the FY 13 numbers appear more promising with a 52.94 percent average grant rate.

House Bill 463 revised the controlled substances statutes to place a greater emphasis on treatment programs. The number of Department of Corrections' substance abuse beds has increased by 890 to a total treatment capacity of 3,859. There is a waiting list of 2,116 offenders; of those, 330 have been ordered by the Parole Board to complete the program prior to release on parole. The number of substance abuse vendors has increased, who must offer evidence based programs to qualify.

One of the successes of House Bill 463 has been implementation of the mandatory reentry supervision (MRS) component. To date, 3,627 offenders have been released to MRS with a 15.3 percent recidivism rate for violations. The Cabinet estimates a savings of \$9.3 million in the first thirteen months of implementation, and anticipates even greater savings as the provisions are fully implemented. The Division of Probation and Parole now supervises 42,625 people, including court diversions, parolees, misdemeanants, MRS, post incarceration supervision, sex offender post incarceration, and interstate compact cases. Counties have also realized savings because of citation only arrests while court appearances have increased. The Cabinet is hopeful the current high intake levels will taper off as the courts fully implement the provisions of HB 463. Chairman Tilley commended Secretary Brown for his dedication to the successful implementation of the legislation.

Larry Chandler and John Cummings, Kentucky Parole Board, assured the committee the Parole Board has complied with all provisions of House Bill 463. They noted Parole Board decisions are impacted by Department of Corrections' implementation of the LS/CMI assessment tools. He urged the committee to review the 2011 Parole Board Annual Report provided to the members.

Ernie Lewis, Kentucky Association of Criminal Defense Attorneys, agreed that implementation of House Bill 463 has been successful, but noted it will need further refinements as problems and issues are identified. His recommendations to further reduce the number of Kentuckians in the corrections system include reclassifying nonviolent felonies and misdemeanors, reducing

the number of sentences in the 85 percent parole category, reforming persistent felony offender laws, replacing the death penalty with a life without parole sentence, increasing funding for the public defender system, increasing the theft limit to \$1000, and decriminalizing nonsupport. These recommendations could free resources for other necessary programs in Kentucky.

Ed Monahan, Department of Public Advocacy, said implementation of House Bill 463 has maintained public safety while advancing the fiscal security of the state. Both release rates and safety rates went up with no decrease in appearance rates. Counties have saved over \$25 million in jail costs. His recommendations to enhance House Bill 463 include presumption of parole or mandatory parole for eligible low risk offenders, expanding judicial discretion for expungement of low level felonies, adjusting persistent felony offender/violent offender statutes, creating a new gross misdemeanor classification, establishing a legal standard for clear and convincing evidence for pretrial release decisions, reclassifying minor offenses to violations or civil infractions, and increasing funding for the DPA Alternative Sentencing Social Worker program to aid pretrial release, alternative sentencing and reentry.

Chris Cohron, Commonwealth's Attorney Association, agreed House Bill 463 has been successful but is only the first step toward comprehensive reform of the penal code. He said House Bill 463 focused on defendants and now we need to address crime victims. The only ones who can calculate the length of sentences are inmates. It is time to revamp the truth in sentencing system and move toward a determinate sentencing model or create a 50 percent category for parole eligibility. Other issues needing attention include synthetic drugs, a statewide gang activity database, and increased funding for prosecutors offices across the state. He said 90 percent of a prosecutor's current budget is for personnel costs, so any future budget reductions will reduce staffing levels.

Laurie Dudgeon, Director, Administrative Office of the Courts (AOC), said since implementation of House Bill 463, pretrial release rates have increased, court appearances have increased, public safety rates have increased, and continuing education for judges is ongoing. Monitored conditional release for defendants topped 11,000 in 2012, a savings of \$9.3 million for county jails. Deferred prosecution is being used in only 25 counties, and AOC is hopeful it will expand to additional counties. AOC is concerned about declining participants in Drug Court programs

and is committed to additional training and education to include more high risk offenders.

Shellie Hampton, Kentucky Association of Counties, said the number one priority is additional funding for the local corrections assistance fund to address catastrophic medical expenses.

#### **Shock Probation and DUI Involved Cases**

Representative Julie Raque Adams discussed House Bill 28, which would prohibit shock probation for DUI-related offenses. Debbie Mosqua and Carolyn Sharp, who both lost family members to drunk drivers, spoke in support of the bill. Representative Adams said the legislation has been introduced several times, and she is hopeful for passage during the 2013 General Assembly.

The meeting adjourned at 3:20 p.m.

### **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs  
Minutes of the 3rd Meeting of the 2012 Interim  
November 27, 2012

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

The 3rd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, November 27, 2012, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Walter Blevins Jr., Jimmy Higdon, R.J. Palmer II, Dorsey Ridley, John Schickel, Dan "Malano" Seum, and Robert Stivers II; Representatives Kevin D. Bratcher, Mike Cherry, Larry Clark, Joseph M. Fischer, Derrick Graham, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, Bart Rowland, and John Will Stacy.

Guests: Peter Wagner, Executive Director, Prison Policy Initiative; George Schuhmann, Attorney.

LRC Staff: Judy Fritz, Greg Woosley, Kevin Devlin, and Terisa Roland.

#### **Approval of Minutes**

The minutes of the October 23, 2012 meeting were approved without objection, upon motion by Senator Thayer and second by Representative Graham.

#### **Prison Population Allocation and Its Effect on Redistricting and the Electoral Process**

Peter Wagner, Executive Director of the Prison Policy Initiative, testified

about how prison populations are counted and allocated by the decennial census and the effect of that allocation on redistricting and the electoral process. He gave several examples around the country and in Kentucky where prison populations comprise significant portions of electoral districts and noted that counting prisoners at the prison location can result in substantial disparities in representative democracy.

Mr. Wagner offered two ways in which this issue could be addressed to more accurately reflect where prisoners previously lived and are likely to return after their incarcerations end: (1) the Census Bureau could count and report prison populations in as if the prisoners reside at their last known residential address prior to incarceration; or (2) the states could use the current census methodology—site of the prison—and reallocate prisoners back to their last known residential address as part of the redistricting process. Several states, most notably New York and Maryland, and many local governments have chosen to not wait on the Census Bureau and have pursued the second option, with several court cases upholding the constitutionality of that approach.

Several members asked questions about the impact of reallocation on local communities or districts, to which Mr. Wagner noted that no federal or state funding relies on population counts that are used for redistricting. Mr. Wagner used a PowerPoint presentation to cover the topic, and copies were passed out in the meeting.

#### **House Concurrent Resolution Urging Congress to Propose Constitutional Amendment on Limitations on Contributions and Expenditures in Campaigns**

Regarding 2013 BR 139, a prefiled House Concurrent Resolution sponsored by Representative Mary Lou Marzian that urges Congress to propose an amendment to the United States Constitution relating to campaign finance, Representative Marzian discussed the need for limitations on contributions and expenditures in campaigns and introduced George Schuhmann, a retired Louisville Attorney and self-described citizen activist.

Mr. Schuhmann testified that he became interested in the issue of money in elections following the United States Supreme Court ruling in the case of *Citizens United v. Federal Election Commission*. He was troubled by the right of free speech being extended to include corporations without any time, place, or manner restrictions, and by the amount of money that was spent in the last election cycle. A recent Pew Center on the States poll indicates that 80 percent of the public is not satisfied



with how money affects politics. Eleven states and over 100 cities have passed measures calling on Congress to propose an amendment that would allow reasonable restrictions on the use of money as political speech by corporations and other non-citizens. Copies of BR 139 were passed out in the meeting.

A copy of the materials summarizing these topics can be found in the Legislative Research Commission library.

The business concluded, and the meeting adjourned at 2:30 p.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

Minutes of the 12th Meeting  
of the 2012 Interim

December 18, 2012

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

The 12th meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, December 18, 2012, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Jim Glenn, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Bob Leeper, Co-Chair; Representative Jim Glenn, Co-Chair; Senators Tom Buford, and Jared Carpenter; Representatives Robert R. Damron, Steven Rudy, and Jim Wayne.

**Guests:** Representative Dennis Horlander; Bryan Russell, Director, Planning Design, and Construction, Western Kentucky University; John Hicks, Deputy State Budget Director; Mike Hardin, Kentucky Department of Fish and Wildlife Resources; Scott Aubrey, Director, Division of Real Properties; Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; Robin Brewer, Financial Analyst, Office of Financial Management.

**LRC Staff:** Kristi Culpepper, Josh Nacey, and Christine Robertson.

### **Approval of Minutes**

Representative Rudy made a motion to approve the minutes of the November 20, 2012, meeting. The motion was seconded by Representative Damron and approved by voice vote.

### **Resolution**

Representative Glenn asked Kristi Culpepper, Committee Staff Administrator, to read a resolution honoring the late Representative Paul Marcotte. Representative Wayne made a motion to approve the resolution. The motion was seconded by Senator Leeper and passed unanimously by voice vote.

### **Information Items**

Ms. Culpepper said there were two information items for members to

review. The first was an article from the *Herald-Leader* regarding extended service fees paid to construction firms working on courthouse projects. The committee discussed the awarding of extended service fees at the September 2012 meeting. The second information item was the Capital Projects and Bonds Oversight Committee Report to the Legislative Research Commission and the 2013 General Assembly. The report summarizes the projects and transactions that the committee has reviewed over the past year.

Representative Wayne said he had been looking into the question of whether the Administrative Office of the Courts (AOC) is subject to review by the state auditor and if open records laws applied to AOC with respect to administrative issues. He suggested that the committee, depending on what he learns, might invite a representative from AOC to discuss these issues at a future meeting.

### **Project report submitted by Western Kentucky University (WKU)**

Bryan Russell presented one report to the committee. WKU intends to use \$2,300,000 from the Miscellaneous Maintenance Pool 2012-2014 for the Raymond Cravens Library/Helm Library Envelope rehabilitation project. This project will address deficient conditions that exist with the building envelope that impact the durability of the structure. In response to a question from Representative Wayne, Mr. Russell explained that the brick veneer on the exterior of the building, built in 1970, had sustained water leakage which caused rusting of the supports. In some cases, bricks have fallen from the building and pedestrian safety is a concern. No action was required.

### **Project reports submitted by the Finance and Administration Cabinet**

John Hicks reported two pool projects in excess of \$600,000 for the Kentucky Department of Fish and Wildlife Resources. Both were funded from the Fees-in-Lieu-of Stream Mitigation Project Pools. The first project was a scope increase of \$6,500,000 to the Rogers Gap project previously presented to the committee in October 2011. The scope increase will fund the restoration of approximately 100,000 feet of small headwater streams and their associated wetland habitat. The total project scope, including the purchase of the land, is now \$13,100,000.

The second item was a new project in the amount of \$1,202,900. The Bolts Fork project will restore and enhance approximately 7,045 feet of stream in Boyd County.

In response to a question from Representative Glenn, Mike Hardin, Kentucky Department of Fish and

Wildlife Resources, said that no land was taken off the tax rolls with regard to the Bolts Fork project. Instead, there exists a donated conservation easement of approximately 30 feet on either side of the stream channel.

No action was required on either project.

### **Lease reports submitted by the Finance and Administration Cabinet**

Scott Aubrey presented two items. The first item was a report of amortization of leasehold improvements for the Transportation Cabinet in Franklin County. Building modification costs of \$8,343 to install new circuits and a sub-meter will be amortized through the lease expiration date of June 30, 2017. Two estimates were obtained on the improvements, and the lowest bids were selected. No action was required.

The second item was a lease renewal exceeding \$100,000 annually for the Department of Corrections in Fayette County. The department will renew its lease at 273-275 West Main Street in Lexington at an annual cost of \$116,908. Representative Damron made a motion to approve the lease. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

### **Kentucky Infrastructure Authority**

Sandy Williams presented one Fund A loan request to the committee. The request was for a \$1,713,600 increase to a previously approved \$8,906,000 loan to the City of Flemingsburg for the Wastewater Treatment Plant project. Bid amounts were substantially higher than originally projected due to three primary issues. First, the utility could not reuse an existing clarifier as a post-equalization basin due to hydraulic constraints resulting in the need for a new post-equalization structure. Second, an additional 1,700 cubic yards of concrete were required for the sequencing batch reactor (SBR) units due to the need for higher and thicker walls. Third, an increase in scope during design was required for additional electrical, instrumentation and HVAC infrastructure. Representative Wayne made a motion to approve the loan increase. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Ms. Williams presented one Fund B loan request to the committee. The request was for a \$75,000 increase to a previously approved \$1,000,000 loan/grant to the Marshall County Fiscal Court. The increase is necessary to address cost overruns related to higher-than-anticipated booster station costs and an unanticipated need to replace a water line.

In response to a question from Representative Glenn, Ms. Williams

said that KIA does not refinance loans. When there are loan increases, the increases are done according to the terms of the original loan.

Senator Leeper made a motion to approve the loan increase. The motion was seconded by Senator Carpenter and passed unanimously by roll call vote.

Ms. Williams presented two Fund F loan requests to the committee. The first request was for \$250,000 to the City of Nicholasville to replace the majority of the undersized and obsolete water distribution system in the Armory Place area of Nicholasville. The second request was for \$756,100 to the City of Nicholasville to connect the Jessamine-South Elkhorn and City of Nicholasville water systems. The project will allow each system to be an alternative system for the other, in addition to Kentucky American Water being a source. Representative Wayne made a motion to approve both Fund F projects. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Ms. Williams presented two Infrastructure for Economic Development grants to the committee: one for the Knox County Fiscal Court and one for the City of Raceland. These grants were line items in the budget and no action was required.

### **Follow-up reports for previously approved bond issues**

Representative Glenn asked Robin Brewer, Financial Analyst, Office of Financial Management, to present three items. Ms. Brewer said the first item was a follow-up report for \$5,070,000 of State Property and Buildings Commission (SPBC) Revenue Refunding Bonds, Project Number 102. This bond issue advance refunded agency fund bonds SPBC issued for the University of Kentucky and produced a net present value savings of \$680,089. The transaction priced on November 14, 2012. The bonds were sold on a negotiated basis and Morgan Stanley served as the underwriter. Peck, Shaffer, and Williams served as bond counsel and US Bank is the trustee.

The second item was a follow-up report for \$4,810,000 of SPBC Revenue Refunding Bonds, Project Number 103. This bond issue refunded (some on a current basis, some on an advanced basis) agency fund bonds SPBC issued for Eastern Kentucky University and produced a net present value savings of \$587,245. The transaction priced on November 14, 2012. The bonds were sold on a negotiated basis and Morgan Stanley served as the underwriter. Peck, Shaffer, and Williams served as bond counsel and US Bank is the trustee.

The third item was a follow-up report for \$31,860,000 of SPBC Revenue Refunding Bonds, Project



Number 104. This bond issue advance refunded agency fund bonds SPBC issued for the Kentucky State Fair Board and produced a net present value savings of \$4,498,078. The transaction priced on November 14, 2012. The bonds were sold on a negotiated basis and Morgan Stanley served as the underwriter. Peck, Shaffer, and Williams served as bond counsel and US Bank is the trustee. No action was required on the follow-up reports.

#### **New school bond issues with School Facilities Construction Commission (SFCC) debt service participation**

Ms. Brewer said there were eleven school district bond issues being reported with SFCC debt service participation. Nine were refundings and two were for new schools and school improvements. None of the projects involve tax increases. Representative Wayne made a motion to approve the bond issues. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

#### **New school bond issues with 100 percent locally-funded debt service participation**

Ms. Culpepper said there were four local school bond issues reported to the committee this month. The bond issues, all refundings, have 100 percent local debt service support and none of the bond issues involved a tax increase. No action was required.

With there being no further business, the meeting adjourned at 1:32 p.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes of the 1st Meeting of the 2013 Interim**

January 22, 2013

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

The 1st meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, January 22, 2013, at 1:00 PM, in Room 169 of the Capitol Annex. Kristi Culpepper, Committee Staff Administrator, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Julian M. Carroll, Chris Girdler, Bob Leeper, and Christian McDaniel; Representatives Steven Rudy and Kevin Sinnette.

Guests: Representative Jim Gooch; Representative Dennis Horlander; Representative John Will Stacy; Scott Aubrey, Director, Division of Real Properties; John Hicks, Deputy Budget Director, Governor's Office of Policy and Management; Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; Katie Smith, Executive Director, Office of Compliance, Financial and

Administrative Services, Cabinet for Economic Development; Robin Brewer, Financial Analyst, Office of Financial Management; Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Kristi Culpepper, Josh Nacey, and Christine Robertson.

#### **Election of Senate Co-Chair**

Ms. Culpepper said that pursuant to KRS 45.790, an election was needed for the positions of Senate and House Co-Chairs. Senator Leeper nominated Senator Girdler for the position of Senate Co-Chair. The motion was seconded by Senator Carroll. Senator McDaniel then made a motion that nominations cease and that Senator Girdler be elected as Senate Co-Chair by acclamation. The motion was seconded by Senator Leeper and approved by voice vote.

#### **Election of House Co-Chair**

Representative Rudy nominated Representative Sinnette for the position of House Co-Chair. The motion was seconded by Representative Sinnette. Representative Rudy then made a motion that nominations cease and that Representative Sinnette be elected House Co-Chair by acclamation. The motion was seconded by Representative Sinnette and approved by voice vote.

#### **Approval of Minutes**

Representative Rudy made a motion to approve the minutes of the December 18, 2012, meeting. The motion was seconded by Senator Leeper and approved by voice vote.

#### **Information Items**

Ms. Culpepper said there were four information items for members to review. The first item was a list of proposed legislation related to the committee's jurisdiction. The last three information items were quarterly status reports from the Administrative Office of the Courts, Commonwealth Office of Technology, Finance and Administration Cabinet, and universities that manage their own capital construction programs.

#### **Report Submitted by the University of Louisville (UL)**

The University of Louisville reported the purchase of two items of scientific research equipment. UL purchased an inverted Raman microscope, which can scan small regions for high speed mapping, with \$195,000 in plant funds and \$5,000 in gift funds. UL purchased an inVision imaging system, which can analyze compounds, proteins and human samples to aid in drug development. The James Graham Brown Cancer Center spent \$420,000 in federal grant funds to acquire the system.

#### **Lease Reports Submitted by the Finance and Administration Cabinet**

Scott Aubrey, Director, Division of Real Properties, presented three

items to the committee. The first item was a report of amortization of leasehold improvements for the Cabinet for Health and Family Services in McCracken County. Building modification costs of \$2,280 for the installation of hardware to support an AT&T external metro data line will be amortized through the lease expiration date of June 30, 2015. Two estimates were obtained for the improvements, and the lowest bid was accepted. No action was required.

The second item was a report of amortization of leasehold improvements for the Cabinet for Health and Family Services in Spencer County. Building modification costs of \$2,365 for the demolition of an interior wall and relocation of electrical and phone wiring will be amortized through the lease expiration date of June 30, 2015. No action was required.

The third item was a report of a lease renewal exceeding \$100,000 annually for the Department of Housing, Buildings, and Construction in Franklin County. The department will renew its lease at 101 Sea Hero Road in Frankfort at an annual cost of \$300,898. Representative Rudy made a motion to approve the lease renewal. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

#### **Kentucky Infrastructure Authority (KIA) Fund A Loan**

Sandy Williams, Financial Analyst, KIA, presented one Fund A loan request to the committee. The request was for a reallocation of funding for a previously approved loan to the City of West Liberty. KIA requested to substitute \$926,445 in unspent money that was received through the American Recovery and Reinvestment Act of 2009 (ARRA) for a portion of the city's existing \$3,937,950 KIA loan so the city can benefit from the principal forgiveness element of that program. A tornado hit West Liberty in March 2012. KIA also proposes to amend the original project by extending sanitary sewer service to the new Wrigley Elementary School.

In response to a question from Senator McDaniel, Ms. Williams said that the originally approved project would have increased the average water bill nearly 22 percent; however, this reallocation of ARRA funds will lower that percentage for customers because West Liberty will receive some principal forgiveness. The exact impact to rates was not known at the time.

Senator Carroll made a motion to approve the new project proposal and fund reallocation. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

#### **Kentucky Infrastructure Authority Fund F Loans**

Ms. Williams presented two Fund F loan requests. The first was a reallocation of funding type for the City of West Liberty. KIA proposed to substitute \$684,537 of unspent ARRA funds for a portion of the city's existing \$3,050,300 loan. The project had already been approved, and included installation of an alternate power supply, replacement of a water main, construction of a new storage tank, and replacement of water meters. No action was required.

The second Fund F loan request was for the City of Sturgis in Union County. The City of Sturgis requested a Fund F loan for \$3,000,000 for the Sturgis Water System/Union County Water District Consolidation project. The project involves the elimination of finished water production at the Sturgis Water Plant by constructing an inter-connect to purchase water from the Union County Water District.

In response to a question from Senator Carroll, Ms. Williams said that the Union County Fiscal Court had approved the project.

Senator Leeper made a motion to approve the loan. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

#### **KIA Infrastructure for Economic Development Fund Grants**

KIA reported two grants for the McLean County Fiscal Court for the Rumsey Sewer Project Debt Retirement Reauthorization and Reallocation. No action was required.

#### **Economic Development Bond Grant submitted by the Cabinet for Economic Development**

Katie Smith, Executive Director, Office of Compliance, Financial and Administrative Services, Cabinet for Economic Development, presented one Economic Development Bond project. The \$450,000 grant was made to Lexington-Fayette Urban County Government for the benefit of Bingham McCutchen LLP. The company agreed to create 250 new full-time jobs for Kentucky residents with an average hourly wage of \$37.00, including benefits, within three years of the date of KEDFA approval and to maintain those jobs for three additional years.

In response to a question from Senator Leeper, Ms. Smith said that the proposed facility would house support functions for the law firm of Bingham McCutchen, such as accounting, marketing, human resources, information technology, and sales.

Senator Carroll made a motion to approve the grant. The motion was seconded by Representative Sinnette and passed with five yes votes and one pass vote.

#### **New Bond Issues Submitted by the Office of Financial Management** Robin Brewer, Financial Analyst,



Office of Financial Management (OFM), and Ryan Barrow, Executive Director, OFM, presented three new bond issues. The first bond issue was Kentucky Asset/Liability Commission Funding Notes, 2013 General Fund First Series (Taxable). The par amount of the bonds will be \$153,475,000 and will finance the state's required contribution to the Kentucky Teachers' Retirement System Medical Insurance Trust Fund for Fiscal Years 2013 and 2014.

In response to a question from Senator McDaniel, Ms. Brewer said that the bonds were taxable, but were not considered pension obligation bonds. She said the issuance of these bonds had already been authorized by the General Assembly.

In response to a question from Senator Carroll, Ms. Brewer said she did not have the exact figure on the Commonwealth's total bonded indebtedness at this time, but would provide it to the committee.

Senator Carroll said that the General Assembly originally funded medical insurance benefits out of a surplus in the budget.

In response to a request for additional information from Senator Carroll, John Hicks, Deputy State Budget Director, said that 2010 House Bill 540 established a permanent pre-funding of retired teacher medical benefits. School districts are contributing for the first time, and active employees have increased their contributions. He said this is expected to be the last budget cycle in which this type of financing would be utilized.

Senator Carroll made a motion to approve the bond issue. The motion was seconded by Representative Sinnette and passed unanimously by roll call vote.

Senator McDaniel explained his vote by saying it was important to honor the commitments made to retirees, but that this was using deficit financing to balance the budget, and that systemic problems exist that need to be addressed. He said Kentucky had previously issued \$750 million of taxable bonds to further the solvency of the Kentucky Teachers' Retirement System and this increases the state's bonded indebtedness.

Senator Girdler said he echoed many of Senator McDaniel's comments and said he disagrees with this business practice, but that the state has an obligation to teachers and educators. He hopes that other long-term solutions can be found in the future.

The second bond issue presented was Northern Kentucky University General Receipts Refunding Bonds, 2013 Series A. This \$5,230,000 bond issue will refund the university's Consolidated Education Buildings Bonds, Series L (2004). The issue is

expected to produce \$735,326 in net present value savings. Senator Carroll made a motion to approve the bond issue. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

The third bond issue presented was Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Asset-Backed Notes, Series 2013-1. This \$566,500,000 (estimated) bond issue will refinance debt that was issued under the corporation's 2008 trust indenture and the corporation's borrowing through the federal Straight-A conduit program.

In response to a question from Senator McDaniel, Mr. Barrow said he would provide additional information regarding litigation connected to the Commonwealth's LIBOR-indexed swaps.

In response to a question from Senator Carroll, Mr. Barrow said that the expected interest rate would be the one-month LIBOR rate plus 60 basis points.

Senator Carroll made a motion to approve the bond issue. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

#### **New School Bond Issues with School Facilities Construction Commission Debt Service Participation**

Ms. Brewer said there were 35 school district bond issues being reported with SFCC debt service participation. Of these, 34 were refundings and one was for construction of a high school. None of the bond issues involve tax increases. Senator Carroll made a motion to approve the bond issues. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

#### **New School Bond Issues with 100-Percent Locally Funded Debt Service Participation**

Ms. Culpepper said there were 9 local school bond issues reported to the committee this month. Of these bond issues, 8 were refundings and one was for the purchase of 154 school buses. None of the bond issues involved a tax increase. No action was required.

With there being no further business, the meeting adjourned at 1:55 p.m.

### **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

Minutes of the 2nd Meeting of 2013

February 19, 2013

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

The Capital Projects and Bond Oversight Committee met on Tuesday, February 19, 2013, at 12:00 PM, in Room 169 of the Capitol Annex.

Representative Kevin Sinnette, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Kevin Sinnette, Co-Chair; Senators Julian M. Carroll, Bob Leeper, and Christian McDaniel; Representatives Robert R. Damron, Steven Rudy, and Jim Wayne.

Guests: Rebecca Weatherford, Kentucky Community and Technical College System (KCTCS); John Hicks, Deputy Budget Director, Governor's Office of Policy and Management; Scott Aubrey, Director, Division of Real Properties; Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; Robin Brewer, Financial Analyst, Office of Financial Management; Tom Midkiff, Financial Analyst, Office of Financial Management; Shawn Dyer, Tax Credit Allocation Administrator, Kentucky Housing Corporation.

LRC Staff: Kristi Culpepper, Josh Nacey, and Jennifer Luttrell.

#### **Approval of Minutes**

Senator Carroll made a motion to approve the minutes of the January 22, 2013, meeting. The motion was seconded by Senator Girdler and approved by voice vote.

#### **Information Items**

Ms. Culpepper said there were four information items for members to review. First, there was a list of proposed legislation related to the committee's jurisdiction.

Second, there was a report from Standard and Poor's (S&P) explaining that the rating agency had revised the outlook on the state's appropriation-supported debt from stable to negative. This outlook revision suggests that the state's credit rating may be downgraded going forward if current trends continue. According to S&P, its negative outlook reflects the rating agency's concern over pension funding levels, which have declined and are likely to continue declining due to lower-than-actuarially required funding of pension liabilities, and budgetary pressures associated with funding post-retirement benefits.

Third, there was a report from Moody's Investors Service, another rating agency, which recently revised its outlook on the entire higher education sector from stable to negative.

Finally, there was the committee's first status report on the Louisville-Southern Indiana Ohio River Bridges project. KRS Chapter 175B established a bi-state authority for this project. The authority is required to report to the committee before the first issuance of bonds and no less than semiannually thereafter. The project is not experiencing any delays and is expected to be complete in December

2016. Bonds are expected to be issued for the project in a few months.

In response to a question from Senator McDaniel, Robin Brewer, Financial Analyst, Office of Financial Management, replied that there was going to be a bill introduced that day that would address the issue of video enforcement of tolls for the Louisville-Southern Indiana Ohio River Bridges project.

#### **Correspondence**

Ms. Culpepper said there were two items of correspondence for committee members to review. The first was a letter from the Office of Financial Management (OFM) responding to questions committee members asked at the January meeting. Members wanted to know how much appropriation-supported debt the state has outstanding, what impact banks' manipulation of the LIBOR rate has had on the state's debt and investment portfolios, and whether the state has pursued any remedies.

As of December 31, 2012, the state had \$8.7 billion of appropriation-supported debt outstanding. The state also had \$1.7 billion in authorized but unissued debt. Both figures include debt backed by federal funds.

According to OFM, the Finance and Administration Cabinet has filed claims to participate in out-of-court settlements between UBS and 25 state attorneys general related to three LIBOR-based derivatives contracts: \$150,104 for a Turnpike Authority forward delivery agreement associated with the restructuring of a debt service reserve fund in 2001; \$218,163 for a cash secured interest rate swap agreement from 2001; and \$234,695 for a cash secured interest rate swap agreement for 2002.

The second item of correspondence are letters from the Auditor of Public Accounts certifying that statutory provisions related to the selection of underwriters, bond counsels, and financial advisors for the state's various debt-issuing authorities had been met.

#### **UK Medical Equipment**

Ms. Culpepper said the University of Kentucky had reported the purchase of two pieces of unbudgeted medical equipment from clinical revenues. The first item purchased was a digital mammography unit for \$359,220.

The second item purchased was an Eclipse Treatment Planning System for \$2,476,000. This piece of equipment will allow physicians to simulate radiation therapy and determine the appropriate treatment parameters, which minimizes the amount of radiation delivered to healthy tissue. These parameters are then used in the actual radiation therapy. No action was required.

#### **Lease Report Submitted by Kentucky Community and**

### **Technical College System (KCTCS)**

Rebecca Weatherford, Director, Property Management, presented a report of a new lease exceeding \$100,000 annually for KCTCS - Kentucky Fire Commission and Kentucky Board of Emergency Medical Services. The lease is located at 118 James Court in Lexington at an annual cost of \$173,400. Senator Carroll made a motion to approve the lease. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

### **Lease Reports Submitted by the Finance and Administration Cabinet – Reporting of Pool Projects in excess of \$600,000**

John Hicks, Deputy State Budget Director, presented two items to the committee.

The first item was the Ross Creek project, which involves the acquisition of 540 acres of land in Lee and Estill Counties and the design costs of a stream mitigation project on Rock Creek near the Kentucky River. The project will be funded with \$1,650,000 from the Fish and Wildlife Resources 2012-14 Fees-in-lieu-of Stream Mitigation Projects Pool. Construction costs for the project will be reported at a later date.

The second item was the KCTCS – Versailles Land Acquisition project. KCTCS has acquired two parcels near its central office facility for a potential expansion. The purchase will be funded with \$896,100 from KCTCS' 2012-14 Restricted Fund Property Acquisition Pool. No action was required.

### **Lease Reports Submitted by the Finance and Administration Cabinet – Lease Renewals**

Scott Aubrey, Director, Division of Real Properties, presented three items to the committee. The first item was a report of a lease renewal exceeding \$100,000 annually for the Cabinet for Health and Family Services in Fayette County. The department will renew its lease at 1165 Centre Parkway, Lexington, Kentucky, at an annual cost of \$439,028.

The second item was a report of a lease renewal exceeding \$100,000 annually for the Cabinet for Health and Family Services in Scott County. The department will renew its lease at 100 Mary Lynn Drive, Suite 16, Georgetown, Kentucky, at an annual cost of \$216,736.

The third item was a report of a lease renewal exceeding \$100,000 annually for the Department of Workers Claims in Fayette County. The department will renew its lease at 2780 Research Park, Lexington, Kentucky, at an annual cost of \$141,465.

Representative Damron questioned the cost of the lease for the Cabinet for Health and Family

Services in Scott County. The renewal price is 30 percent higher than the average cost per square foot for similar leases in other counties.

Senator Carroll made a motion to approve the lease renewals. The motion was seconded by Senator McDaniel and passed by roll call vote.

### **Kentucky Infrastructure Authority (KIA) Fund A Loan**

Sandy Williams, Financial Analyst, KIA, presented two Fund A loan requests to the committee. The first request was for The City of Frankfort for an \$8,000,000 Fund A loan for the Sewer Equalization Facilities project. The project involves the construction of a 10 million gallon equalization basin for the city's sanitary sewer system. The wastewater treatment plant (WWTP) is designed for 9.9 million gallons per day (MGD) of incoming sewer flow but can accommodate 23 MGD for short periods of time. However, during prolonged heavy rain events the WWTP exceeds its capacity, which contributes to combined and sanitary sewer overflows in the collection system. Upon completion, three sanitary sewer systems in or near residential areas are expected to be eliminated.

Completion of the project is a substantial step in the city's ongoing efforts to achieve compliance with the Kentucky Division of Enforcement's Consent Judgment and an Environmental Protection Agency (EPA) Administrative Order. The cost to implement the projects necessary to comply with the consent judgment is estimated in excess of \$75 million and will take over ten years to complete.

No new customers will be added to the system's current 13,715 customers. The average monthly bill of \$35.88 for 4,000 gallons will not change. The terms of the KIA Loan are 1.75 percent for 20 years at an annual payment of \$442,624.

The second request was for the Regional Water Resource Agency (RWRA) for a Fund A loan in the amount of \$1,655,565 for the extension of sanitary sewer service to 34 unserved residential properties in the Sunrise Drive area. The extension (approximately 4,000 linear feet of eight inch PVC) will facilitate additional expansion to other unserved areas as funding becomes available. The project also separates and redirects remaining storm flows that exist in the Old Hartford Road East combined sewer system.

This project will add 34 new customers to the system's current 28,641 customers. The average monthly bill of \$19.64 for 4,000 gallons will increase to \$23.33. Representative Rudy made a motion to approve the Fund A loans. The motion was seconded by Representative

Wayne and passed unanimously by roll call vote.

### **Kentucky Infrastructure Authority Fund F Loans**

Ms. Williams presented three Fund F loan requests. The first request was for the Madison County Utility District (MCUD) for an \$856,528 Fund F Loan to construct various waterline improvements. Approximately 24,500 linear feet of older three and four inch ductile iron lines will be replaced with six and eight inch PVC lines. This will fix numerous leaks and service outages and will substantially reduce the number of boil water advisories the district issues. The project will also loop a dead-end line in one location to improve water flow. The areas affected by this request include the Cedar View Hills Subdivision, Charles Norris Road, Bumstark Road, Hackett Pike, and Wild Goose Subdivision.

No new customers will be added to the system's current 10,256 customers. The average bill of \$27.85 for 4,000 gallons will not increase.

The second request was for The City of Danville for a \$4,000,000 Fund F loan for the Water Treatment Plant and Raw Water Intake project. The project involves the renovation and expansion of the city's water treatment plant and raw water intake, a capacity increase from 10 to 12 MGD and the addition of advanced treatment methods. The design will permit capacity to be increased to 15 MGD if required in the future. The project will ensure compliance with the EPA's Stage 2 Disinfectants / Disinfection By-Products Rule. The existing plant was constructed in 1924 with subsequent renovations or expansions in 1952, 1957, 1966, 1983, and 1990 and is deteriorating. The project includes the following components: new raw water pump station and intake line; new chemical feed system and storage building; new HVAC system; new clarification system; new filters; a one million gallon clearwell; and granular activated carbon post-filter contactors.

Approximately 26 percent (400 million gallons) of water sold is at an average of \$1.61 per thousand gallons to wholesale customers which include the Parksville Water District, Garrard County and Lake Village Water Associations, and Hustonville Water Works. The last wholesale rate adjustment was in the late 1990s. Wholesale rates are expected to increase about 15 percent at the beginning of fiscal 2015.

A cost of service study will be conducted in late fiscal 2014 to determine the final proposed amount which will require Public Service Commission approval. A retail rate increase of approximately 40 percent was effective in July 2011.

No new customers will be

added to the system's current 10,166 customers. The average bill of \$17.55 for 4,000 gallons will not increase.

The third was for The City of Vanceburg, for the benefit of the Vanceburg Electric Plant Board, for an \$850,000 Fund F loan for the Water Supply Well project. The project involves the construction of a new raw water production well, a Supervisory Control and Data Acquisition (SCADA) system, and the installation of approximately 1,550 radio-read meters. The well will enhance the water supply for the city and facilitate the future proposed interconnection of area water systems. The radio-read meters will be installed at rural customer locations that do not have other city utility services and will eventually reduce contract labor costs by about \$18,000 annually. The city uses two wells that are about 50 years old and has recently acquired additional property with the intention of utilizing it as an expansion of their well field.

There are also discussions of consolidating regional water systems with Vanceburg becoming the major supplier of water in the area.

No new customers will be added to the system's current 2,612 customers. The average bill of \$23.04 for 4,000 gallons will not change. Representative Wayne made a motion to approve the Fund F loans. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

### **Kentucky Infrastructure Authority Grants**

Ms. Williams presented two coal and one non-coal grants. The first coal grant was for Bell County for a water rehabilitation project with a total cost of \$643,551.

The second coal grant was for Letcher County for water line extensions for Bull Creek/Elk Creek (Carcassonne area) in the amount of \$500,000.

The non-coal grant was for Greenup County for sewer work and renovation in The City of South Shore in the amount of \$25,000. No action was required.

### **New Bond Issues Submitted by the Office of Financial Management**

Robin Brewer, Financial Analyst, Office of Financial Management (OFM), Tom Midkiff, Financial Analyst, OFM, and Shawn Dyer, Tax Credit Allocation Administrator, Kentucky Housing Corporation (KHC), reported a new bond issue for the Hillebrand House Project for the acquisition and rehabilitation of a multifamily rental housing development located at 1235 and 1249 South Third Street in Louisville, Kentucky. The par amount of the bonds was \$12,630,152. No action was required.



In response to a question from Senator McDaniel, Tom Midkiff replied that conduit bonds are private debt. KHC issues bonds on a conduit basis to provide developers with a tax-exempt interest rate.

#### **New School Bond Issues with School Facilities Construction Commission Debt Service Participation**

Ms. Brewer said there were 14 school district bond issues being reported with SFCC debt service participation. Four were refundings and ten were for new school construction and improvements. One of the projects involved a tax increase. Representative Rudy made a motion to approve the bond issues. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

#### **New School Bond Issues with 100-Percent Locally Funded Debt Service Participation**

Ms. Culpepper said six local school bond issues were reported to the committee. These bond issues have 100 percent local debt service support. Two bond issues were refundings and four financed improvements at existing facilities. None of the bond issues involved a tax increase. No action was required.

With there being no further business, the meeting adjourned at 12:43 p.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

Minutes of the 3rd Meeting of the 2013 Interim  
March 19, 2013

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

The 3rd meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, March 19, 2013, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Chris Girdler, Co-Chair; Representative Kevin Sinnette, Co-Chair; Senators Julian M. Carroll, Bob Leeper, and Christian McDaniel; Representatives Robert R. Damron, and Jim Wayne.

Guests: Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; Scott Aubrey, Director, Division of Real Properties; John Hicks, Deputy Budget Director, Governor's Office of Policy and Management; and Ryan Barrow, Executive Director, Office of Financial Management

LRC Staff: Kristi Culpepper, Josh Nacey, and Jennifer Luttrell.

### **Approval of Minutes**

Senator Carroll made a motion to

approve the minutes of the February 19, 2013, meeting. The motion was seconded by Representative Wayne and approved by voice vote.

### **Information Items**

Senator Girdler said there was one information item for members to review. There was a list of legislation related to the committee's jurisdiction.

### **Lease Report from the Finance and Administration Cabinet**

Scott Aubrey, Director, Division of Real Properties, presented a report on the amortization of leasehold improvements for the Energy and Environment Cabinet in Franklin County (PR-4733). The cabinet submitted a request for improvements to be made at the property at 115 Northgate Drive in Frankfort. The improvements include upgrading or replacing the shredding, baling, and dust collection system at the State Recycling Center and adding a sprinkler line to the shredding equipment.

The annual rental on the property is \$89,500. Building modification costs of \$24,290 will be amortized through the lease expiration date of June 30, 2015.

No action was required.

### **Kentucky Infrastructure Authority (KIA) Fund A Loan**

Sandy Williams, Financial Analyst, KIA, presented six Fund A loan requests to the committee. The first request was for Perry County for an \$875,000 Fund A loan to construct an 112,000 gallon per day wastewater treatment plant and collection lines near Chavies, Kentucky (approximately 12 miles north of Hazard). The system currently collects sewage and transports it to the Hazard sewage treatment plant. This project will not change that arrangement.

Ms. Williams said 160 new customers will be added to the system's current 639 customers. Because the system was operating at a loss, a rate increase was enacted that increased the average bill for 4,000 gallons from \$26.00 to \$31.20. The rate structure after the new plant is operational has yet to be determined. The terms of the KIA loan are 1.00 percent for 20 years at an annual payment of \$45,117.

In response to a question from Representative Wayne, Ms. Williams replied that KIA makes financing decisions on the loans. The Kentucky Division of Water reviews project plans and specifications to see if they meet environmental criteria and then recommends projects to the KIA Board of Directors. Ms. Williams said that she would find out if this project is related to the coal industry.

The second request was for the Lexington-Fayette County Government for five separate Fund A loans totaling \$56,742,393 for various projects in Lexington.

In 2006, the US Environmental Protection Agency (EPA) and the Kentucky Environmental and Public Protection Cabinet (EPPC) filed suit in federal court against the Lexington-Fayette Urban County Government alleging that the government had violated the Clean Water Act. A consent decree was entered into in January 2011, which requires the Lexington-Fayette Urban County Government to complete extensive studies, sewer improvement projects, and management plans within 13 years. The cost of the remedial measures stipulated in the consent decree is estimated at \$500 million. Sanitary sewer rates have been increased and a storm management fee has been adopted in response.

The five Fund A loans will finance some of the improvements required under the consent decree.

The first loan is for \$13,674,302 to replace sanitary sewer trunk lines in the Bob-O-Link and Wolf Run areas of the city with larger lines. Loan proceeds will also be used to construct a 108 million gallon wastewater flow equalization facility on Kilrush Drive. The estimated annual payment is \$840,636.

The second loan is for \$10,194,421 to replace sanitary sewer trunk lines in the areas of Eastgate, Century Hills, West Hickman, and Woodhill. The estimated annual payment is \$626,708.

The third loan is for \$4,657,640 for the Anniston-Wickland project, which involves constructing new storm sewers and appurtenances along Spring Station Drive to Bryan Station, and Various Storm Sewer Management Projects Phase II, which address large-scale flooding issues around the city. Funding for this project also includes \$575,000 in local funds. The estimated annual payment is \$286,331.

The fourth loan is for \$21,641,030 for the design and first-phase construction of a multi-phase wastewater storage facility at the Town Branch Wastewater Treatment Plant on Lisle Industrial Avenue. Funding for this project also includes \$10,159,970 of local funds. The estimated annual payment is \$1,330,395.

The fifth loan is for \$6,000,000 to construct a pump station, force main, and gravity sewers in the Expansion Area 2A planning region in Lexington. Funding for this project includes a \$3,100,000 2010 HB 608 grant. The estimated annual payment is \$368,854.

In response to questions from Senator McDaniel, Ms. Williams replied that approximately two-thirds of the funds available for this year's clean water revolving loan funding cycle are going to the Lexington-Fayette County Government and that close to \$200 million has been

committed to Sanitation District No. 1. She explained that the retained earnings for utilities were mainly for facilities, and typically with older utilities there would be larger retained earnings.

In response to questions from Representative Wayne, Representative Damron, and Senator Carroll, Ms. Williams replied that the reason districts choose KIA is because their interest rates are lower than what is available in the bond market. The applications were approved and ranked by the Division of Water based on their environmental benefits. She also stated that the Clean Water State Revolving Fund Program by federal law must retain interest rates at or below market rates, which are 2.75 percent, 1.75 percent, and 0.75 percent for this year. Lexington-Fayette County Government qualified for the 1.75 percent interest rate because the projects addressed consent decree.

Senator Carroll made a motion to approve the Fund A loans. The motion was seconded by Senator McDaniel and passed by roll call vote.

### **Kentucky Infrastructure Authority Fund B Loans**

Ms. Williams presented one Fund B loan request for The City of Elkton for \$320,000 for water line improvements. The first portion of the project includes approximately 1,400 linear feet of older four-inch cast iron line that will be replaced. A portion of the existing line has been taken out of service due to the inability to ensure safe drinking water due to rust deposits and corrosion. The second part of the project includes the construction of approximately 2,800 linear feet of new eight-inch PVC water line. The line will provide water to a new development-ready property, fix an inadequate water pressure problem in the area, and allow for the disconnection of shared lines between the City of Elkton and the Todd County Water District.

No new customers will be added to the system's current 913 customers. The average bill of \$36.63 for 4,000 gallons will not change. The terms of the KIA loan are 1.75 percent for 20 years with an estimated annual payment of \$19,672.

Senator Carroll made a motion to approve the Fund B loan. The motion was seconded by Senator McDaniel and passed by roll call vote.

### **Kentucky Infrastructure Authority Fund F Loans**

Ms. Williams presented five Fund F loan requests. The first request was for the City of Barlow for a \$200,000 increase to its existing \$230,000 Fund F loan. The increase is needed because of a discrepancy between the estimated cost per cubic yard of concrete (\$600 per cu. yd.) and the actual bid price of the concrete (\$1,000 per cu. yd.)



to be used in the construction of the clearwell. The original scope of the project remains unchanged.

No new customers will be added to the system's current 343 customers. The average bill of \$21.00 for 4,000 gallons will not increase. The terms of the KIA loan are 1.00 percent for 20 years with an estimated annual payment of \$14,910.

In response to a question from Senator McDaniel, Ms. Williams replied that the estimate was prepared by the consulting engineer based on the treatment plant project that the engineer had previously bid. The project was rebid.

Senator Girdler said the committee would defer taking action on the City of Barlow loan until all questions about the project are answered.

The second request was for the City of Harrodsburg for an \$80,000 increase to its existing \$438,000 Fund F loan. The increase is required to complete the Bellows Mill Road section of the project. When the entire project was originally bid, costs were higher than anticipated due to two road bores and cost increases from the original estimate for some items. Because of this, the city did not pursue the Bellows Mill component until it was certain that there would be no additional cost overruns on the other original project components.

The original project involved upgrading approximately 6,400 linear feet of water lines and extending 11 linear feet of water lines to provide adequate connection (looping) of the system, to improve service to customers, and to eliminate old deteriorating lines. These improvements will eliminate leaks, line breaks and improve pressure to customers.

No new customers will be added to the system's current 3,964 customers. The average bill of \$20.55 for 4,000 gallons will not change. The terms of the KIA loan are 1.00 percent for 20 years with an estimated annual payment of \$19,458.

The third request was for the City of Harrodsburg for a \$1,688,950 Fund F loan for improvements to water distribution and water storage tanks. The first project involves replacing approximately 24,000 linear feet of water lines in older sections of the system with eight inch PVC. Valves and fire hydrants will also be replaced. The water supply is affected when lines break, thereby creating a risk to public health. The second project involves refurbishing of a storage tank by removing the existing lead-based interior and exterior paint, repainting the tank, and proper disposal of the lead-based residue.

No new customers will be added to the system's current 3,964

customers. The average bill of \$20.55 for 4,000 gallons will not increase. The terms of the KIA loan are 1.75 percent for 20 years with an estimated annual payment of \$94,206.

Senator Carroll made a motion to approve the Fund F loans excluding the City of Barlow project. The motion was seconded by Senator McDaniel and passed by roll call vote.

#### **New Bond Issues reported by the Office of Financial Management**

Mr. Barrow presented two new bond issues. The first new bond issue was State Property and Buildings Commission (SPBC) Agency Fund Revenue Bonds, Project No. 105. This bond issue will provide permanent financing for the Dam 8 and Locks 1 and 2 projects, fund a debt service reserve and rate stabilization fund, and pay the costs of issuance. Representative Wayne made a motion to approve the bond issue. The motion was seconded by Senator Carroll and passed by roll call vote.

The second bond issue was Kentucky Housing Corporation Single Family Housing Revenue Bonds 2013 Series A. This bond issue will refund the outstanding bond series 2009 C-1, C-2, and C-3 for a net present value savings. Senator Carroll made a motion to approve the bond issues. The motion was seconded by Senator McDaniel and passed by roll call vote.

#### **Follow-up Report from the Office of Financial Management**

Mr. Barrow provided three follow-up reports on previously approved bond issues. The first follow-up report was for the Kentucky Asset/Liability Commission Funding Notes, 2013, General Fund First Series (Taxable). The notes will finance the state's required contribution to the Kentucky Teachers' Retirement System Medical Insurance Trust Fund for fiscal years 2013 and 2014.

In response to questions from Senator McDaniel and Senator Carroll, Mr. Hicks said this would be the final bond issue for this purpose.

The second follow-up report was for the Kentucky Higher Education Student Loan Corporation Student Loan Asset-Backed Notes, Series 2013-1. This bond issue will refinance debt that was issued under the corporation's 2008 trust indenture and the corporation's borrowing through the federal Straight-A conduit program.

The third follow-up report was for the Northern Kentucky University General Receipts Refunding Bonds, 2013 Series A. This bond issue refunded the university's Consolidated Education Buildings Bonds, Series L (2004). The issue produced \$831,657 (14.565 percent of refunded bonds) in net present value savings.

No action was required for these items.

#### **New School Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation**

Mr. Barrow said there were two school district bond issues being reported with SFCC debt service participation. One is a refunding and one is for improvements to an elementary and a high school. Neither of the bond issues involves tax increases. Representative Wayne made a motion to approve the bond issues. The motion was seconded by Senator Carroll and passed by roll call vote.

#### **New School Bond Issues with 100-Percent Locally-funded Debt Service Participation**

Ms. Culpepper said three local school bond issues were being reported. These bond issues have 100 percent local debt service support and involve no School Facilities Construction Commission participation. No action was required.

With there being no further business, the meeting adjourned at 1:58 p.m.

### **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Minutes of the December Meeting  
December 17, 2012

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

The December meeting of the Administrative Regulation Review Subcommittee was held on Monday, December 17, 2012, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Johnny Bell, Co-Chair; Senators David Givens, Alice Forgy Kerr, and Joey Pendleton; Representatives Robert R. Damron, and Jimmie Lee.

Guests: Representatives Stan Lee and Jim Gooch; Travis Powell, Sarah Levy, Council on Postsecondary Education; Tamara Biggs, KY Teachers' Retirement System; DeVon Hankins, Greg Harkenrider, Doug Hendrix, Finance Cabinet; Gary Morris, Department of Revenue; Michael Burleson, Board of Pharmacy; Connie Calvert, William Reynolds, Board of Optometric Examiners; Adam K. Rich, Board of Dentistry; Nathan Goldman, Paula Schenk, Board of Nursing; Jim Grawe, Tom Underwood, Board of Podiatry; William H. Martin, Zeb Weese, Heritage Land Conservation Fund Board; Barbara Pauley, Energy and Environment Cabinet; Amber Arnett, Justice and Public Safety Cabinet; Amy Barker, Brenn Combs, James L. Erwin, LaDonna Thompson,

Department of Corrections; Frank Goins, Department of Insurance; Randy White, Kentucky State Penitentiary; Ann D'Angelo, Michael Neal, Matt Osborne, Transportation Cabinet; Kevin Brown, Terry Holliday, Amy Peabody, David Wickersham, Department of Education; Patty Dempsey, The Arc of Kentucky; Beth Harrison, Kentucky TASH; Lucy Heskins, D'Arcy Robb, Kentucky P & A, Commonwealth Council on Developmental Disabilities; Wayne Young, Kentucky Assoc. of School Administrators; Sarah Richardson, Patrick Shirley, KATLC/OVR; Russ Coy, D.J. Wasson, Blanche Minor, Cecilia Webber, Department of Insurance; Roger Banks, Dawn Bellis, William Swope, Housing, Building & Construction; Courtney Bourne, Ryan Halloran, Office of Occupations & Professions; Stephanie Brammer-Barnes, Stephanie Hold, Mary Reinle Begley, CHFS-OIG; Dr. Stephen Hall, Claudia Johnson, DBHDID, Div. of Intellectual Disabilities; Stuart Owen, Department of Medicaid Services; Tim Arnold, Department of Public Advocacy; Katie & Will Bentley, parents; Josh Crabtree, Children's Law Center; Allie Rigsby, KY Statewide Youth Council; Wilson Sears, KY Assoc. of School Superintendents; Deborah Spalding, P & A, Office of Learning (KDE); Shannon Stiglets, KY School Boards Assoc.; Paul Walsburger; Mike Waford, KY Center for Instructional Discipline; Brian Brezasky, Sarah S. Nicholson, KY Hospital Assoc.; Mary L. Chandler, John Daniels, Central KY Wellness Center; Terry Braunsen, Wendell Foster's Campus for Developmental Disabilities; James Cheely, parent & president of The Arc of KY; William Dolan, Protection and Advocacy; Cathy Jo Edwards, Tina Jackson, self-advocates; Elizabeth Theisen-Jewell, Opportunity for Work & Learning; Harold L. Kleinert, Human Developmental Institute; Grant Logsdon, self-advocate; F. Patrick Reed, KACES; Sheila Schuster, KY Psychological Assoc.; Mark Scureman, for Elizabeth Scureman; Robert Smith, for Jennifer Smith; Ronald A. Spalding, Andrew Venetianer, R.E.A.C.H. of Louisville; Betsy Dunnigan, and Kevin Mudd, DBHDID.

LRC Staff: Dave Nicholas, Emily Caudill, Donna Little, Sarah Amburgey, Karen Howard, Betsy Cupp, and Laura Napier.

The Administrative Regulation Review Subcommittee met on Monday, December 17, 2012, and submits this report:

Administrative Regulations  
Reviewed by the Subcommittee:

COUNCIL ON  
POSTSECONDARY EDUCATION:  
Nonpublic Colleges



13 KAR 1:020. Private college licensing. Sarah Levy, director of licensing, and Travis Powell, general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, 4, 6, 8, 10, 14, and 16 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND  
ADMINISTRATION CABINET:  
Kentucky Teachers' Retirement  
System: General Rules

102 KAR 1:225. General compliance with federal tax laws. Tamela Biggs, staff attorney, represented the system.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 3 to correct citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: Office of  
Processing and Enforcement: Forms

103 KAR 3:060E. Kentucky Tax Amnesty Application. Doug Hendrix, staff attorney, and Gary Morris, policy advisor, represented the office.

GENERAL GOVERNMENT  
CABINET: Board of Pharmacy: Board

201 KAR 2:020 & E. Examination. Michael Burleson, executive director, represented the board.

In response to a question by Senator Givens, Mr. Burleson stated that these administrative regulations were primarily being amended for compliance with House Bill 1 from the 2012 Special Session of the General Assembly.

In response to a question by Representative Damron, Mr. Burleson stated that notification of these changes was sent to all licensees and that pharmacy schools were encouraged to notify graduating students so that those students could apply earlier in light of application processing changes. The board did not receive public comments during the public comment period.

201 KAR 2:030 & E. License transfer.

A motion was made and seconded to approve the following amendments: to amend Section 2 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:040. Registration of pharmacist interns.

In response to questions by Senator Givens, Mr. Burleson stated that the amendment to this administrative regulation was recommended by a working administrative regulation

committee, and revised the credit hour requirements. He stated that, in special circumstances, an intern could receive up to 400 hours of credit based on approval of a research project, which included a required 500-word essay approved by the board president.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 2:050 & E. Licenses and permits; fees.

In response to questions by Senator Givens, Mr. Burleson stated that this administrative regulation was amended to comply with new statutory requirements. New fees were established regarding the data bank and home medical equipment. The application fees were annual, as required by the authorizing statute.

201 KAR 2:061 & E. Procedures followed by the Kentucky Board of Pharmacy in the investigation and hearing of complaints.

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

201 KAR 2:205 & E. Pharmacist-in-charge.

201 KAR 2:350 & E. Home medical equipment service providers.

In response to a question by Senator Givens, Mr. Burleson stated that this administrative regulation was amended to comply with new statutory requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Optometric Examiners: Board

201 KAR 5:010 & E. Application for licensure; endorsement. Connie Calvert, executive director, and Dr. William Reynolds, president, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 5:030 & E. Annual courses of study required.

201 KAR 5:130 & E. Controlled substances.

Board of Dentistry: Board  
201 KAR 8:520. Fees and fines. Dr. Adam Rich, president, represented the board.

In response to questions by Representative Damron, Dr. Rich stated that the board received comments during the public comment period but most concerns were related to opposition to House Bill 1 from the 2012 Special Session of the General Assembly. Commenters stated concerns for dentists without computer and internet access to use the KASPER system and opposition to the initial physical examination required before prescribing drugs tracked by the KASPER system. The board was working to resolve all concerns.

In response to a question by Co-Chair Bowen, Dr. Rich stated that the board experienced noncompliance with some out-of-state dentists who failed to report violations in other states while maintaining Kentucky licensure. Dentists wishing to maintain Kentucky licensure were required to comply with the board's requirements just as Kentucky-practicing dentists. The fine was an attention getter to make sure dentists were aware that compliance with reporting out-of-state violations was vital to maintaining Kentucky licensure.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend Section 4 to delete provisions that were duplicative of 201 KAR 8:540; and (3) to amend Sections 4 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 8:532 & E. Licensure of dentists.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Sections 1, 2, 4 through 12, and 16 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 8:540 & E. Dental practices and prescription writing.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and formatting

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

Board of Nursing: Board  
201 KAR 20:056 & E. Advanced practice registered nurse licensure, program requirements, recognition of a national certifying organization. Nathan Goldman, general counsel, and Paula Schenk, executive director, represented the board.

In response to questions by Representative Damron, Mr. Goldman stated that the board received a lot of positive feedback from licensees during the public comment period. The board worked closely with licensees to develop these administrative regulations.

Representative Damron thanked the board for working hard to write appropriate administrative regulations.

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

201 KAR 20:057 & E. Scope and standards of practice of advanced practice registered nurses.

In response to a question by Representative Damron, Mr. Goldman stated that the board worked closely with licensees to develop the discretionary language regarding drug screening.

A motion was made and seconded to approve the following amendments: (1) to amend Section 9(8) to clarify that a prescribing APRN may obtain a baseline drug screen if the APRN considers it clinically appropriate or if the APRN believes that it is appropriate to see if the patient is actually taking the controlled substance; (2) to amend Section 9(12) to delete provisions for noncompliance, which are not authorized by statute; and (3) to amend Section 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:161 & E. Investigation and disposition of complaints.

201 KAR 20:215 & E. Continuing competency requirements.

Board of Podiatry: Board  
201 KAR 25:011 & E. Approved schools; examination application; fees. Jim Grawe, assistant attorney general, and Tom Underwood, executive director, represented the board.

In response to questions by Representative Damron, Mr. Grawe stated that all licensees were notified of the proposed changes to these administrative regulations. The board did not receive negative comments from licensees during the public comment period. Mr. Underwood stated that the

board developed a practical approach to regulatory implementation of House Bill 1 from the 2012 Special Session of the General Assembly.

In response to a question by Senator Givens, Mr. Grawe stated that the list of drugs of concern was developed by experts for the specific area of podiatry, and the list differed somewhat from similar lists from other specific professions. Mr. Underwood stated that podiatrists have a narrower scope of practice than some other specific professions; therefore, the list of drugs differed somewhat.

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

201 KAR 25:021 & E. Annual renewal of licenses, fees.

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

201 KAR 25:031 & E. Continuing education.

201 KAR 25:051 & E. Procedure for complaints and hearings involving licensees: temporary suspension.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 25:090 & E. Prescribing and dispensing controlled substances.

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

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Technical and Administrative Support: General Administrative Procedures

418 KAR 1:010. Definitions for 418 KAR Chapter 1. William H. Martin, president, Kentucky Heritage Land Conservation Fund Board; Barbara Pauley, attorney; and Zeb Weese, biologist consultant, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the

RELATES TO and STATUTORY AUTHORITY paragraphs to delete irrelevant citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:020. Administrative procedures of the board.

418 KAR 1:031. Repeal of 418 KAR 1:030.

418 KAR 1:040. Grant applications.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct statutory citations; (2) to amend Section 1 to specify required forms; and (3) to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:050. Procedures for acquisition of land.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add relevant citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:060. Management.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2, 3, 10, and 14 to specify the required forms; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 10 and 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

418 KAR 1:070. Remedies.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to clarify provisions; and (2) to amend Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

501 KAR 6:020. Corrections policies and procedures. Amber Arnett, staff attorney, and Amy Barker, assistant general counsel, represented the department.

A motion was made and seconded

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

Capital Punishment

501 KAR 16:290. Preliminary and post-execution procedures concerning condemned person. Amber Arnett, staff attorney, and Amy Barker, assistant general counsel, represented the department. Tim Arnold, Post-trial Division Director, Department of Public Advocacy, appeared in opposition to these administrative regulations.

Mr. Arnold stated that the Department of Public Advocacy (DPA) was opposed to these administrative regulations because a specific provision for the location and communication availability of defense counsel was omitted. Mr. Arnold reviewed some past executions and noted at least one (1) instance in which an execution was conducted without defense counsel availability and communication access. It was important during an execution for the defense counsel of the condemned person to have access to the condemned person and to communication in case of events such as a last minute stay of execution or reconsideration in the case of a voluntary execution. DPA recommended amending these administrative regulations to include these provisions.

In response to a question by Co-Chair Bell, Mr. Arnold stated that it was appropriate to put provisions for the availability and communication access for the condemned person's defense counsel into these administrative regulations because these administrative regulations not only provided requirements for execution drugs, but also established execution procedures. Because these administrative regulations were silent regarding defense counsel availability and communication access, requirements could be interpreted as allowing or prohibiting defense counsel availability and communication access. Ms. Barker stated that the Department of Corrections omitted these provisions because the department needed flexibility regarding where the defense counsel should be located and what office supplies would be available.

Senator Pendleton stated that he was opposed to the death penalty by lethal injection. It was a difficult issue, but he was opposed to capital punishment, which prohibited the offender from being forced to confront his or her actions and the result on society. Additionally, in some cases, there were reports after an execution of evidence such as DNA evidence

that later exonerated the executed person. Senator Pendleton requested to be recorded as voting in opposition to these administrative regulations.

Co-Chair Bowen suggested that this amendment seemed ancillary to these administrative regulations and should be inserted into a different administrative regulation by a simple amendment.

In response to a question by Representative Lee, Ms. Barker stated that the condemned person's defense counsel should be provided with a nearby location and access to communication based on internal policy. It was unlikely that a warden would refuse access and communication. Mr. Arnold stated that case law provided some assurances, but such a serious matter as an execution required specific provisions.

In response to a question by Representative Damron, Ms. Barker stated that the issue of the condemned person's defense counsel availability and communication access was addressed in the Statement of Consideration but that the Department of Corrections opted not to amend these administrative regulations in response to those public comments.

In response to a question by Co-Chair Bell, Ms. Barker stated that hundreds of public comments were received during the public comment period. Ms. Arnett stated that the Department of Corrections needed flexibility regarding the mechanics of access for the condemned person's defense counsel. She noted that the condemned person had the option to choose his or her defense counsel to be the execution witness; therefore, the defense counsel would be accessible during the execution.

In response to a question by Co-Chair Bowen, Ms. Arnett stated that other states used the one (1) drug execution system. Sometimes access to the one (1) drug was difficult; however, Kentucky opted for the one (1) drug system because that system was not cruel and unusual. If the one (1) drug was unavailable, Kentucky had a two (2) drug backup system. There was not usually an availability problem regarding the two (2) drug system.

501 KAR 16:310. Pre-execution medical actions.

501 KAR 16:330. Lethal injection protocols.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Driver Improvement

601 KAR 13:110. Driver education programs. Ann D'Angelo, assistant general counsel; Michael Neal, administrative branch manager; and Matt Osborne, advisor, represented the division.

In response to a question by



Co-Chair Bowen, Ms. D'Angelo stated that the vendor was established through a bid process authorized by KRS Chapter 45A.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Learning Support Services

704 KAR 7:160. Use of restraint and seclusion in public schools. Kevin Brown, associate commissioner and general counsel; Amy Peabody, assistant general counsel; and David Wickersham, assistant general counsel, represented the department. Katie Bentley and William Bentley, citizens; Josh Crabtree, representative, Children's Law Center; Patty Dempsey, representative, the Arc of Kentucky; Beth Harrison, co-chair, representative, Kentucky TASH; Lucy Heskins, staff attorney, Kentucky Protection and Advocacy; Allie Rigsby, youth leader, Kentucky Statewide Youth Council; D'Arcy Robb, public policy advisor, Kentucky Protection and Advocacy and the Commonwealth Council on Developmental Disabilities; Wilson Sears, executive director, Kentucky Association of School Superintendents; Deborah Spalding, assistant professor, Campbellsville University, and retired director of special education, Marion County; Shannon Stiglets, director, Kentucky School Boards Association; and Wayne Young, executive director, Kentucky Association of School Administrators, appeared in support of this administrative regulation. Representative Jim Gooch, Jr., Kentucky legislator, and Paul Walsburger, parent of a son with disabilities, appeared in opposition to this administrative regulation.

Ms. Dempsey stated that families were concerned about the restraint and seclusion issue. The Arc of Kentucky supported this administrative regulation.

Mr. Crabtree stated that the Children's Law Center supported this administrative regulation. He recounted examples of inappropriate application of restraint and seclusion, including a child repeatedly locked in a closet for over six (6) weeks, an autistic child who had cloth placed in his mouth to keep him quiet, and a six (6) year old who was locked in a closet unsupervised for long enough to remove dry wall and knock his teeth out. He stated that this administrative

regulation would be helpful in preventing those situations from occurring again.

Ms. Bentley, speaking for herself and her son, Will, recounted an incident in which her son, as a preschooler, was locked in a closet and restrained without her knowledge. He was nonverbal at the time and could not notify his parent of what had occurred. He was traumatized by the experience and wanted the Subcommittee to be aware that his teacher had harmed him.

Ms. Harrison stated that Kentucky TASH supported this administrative regulation to protect the vulnerable student.

Ms. Heskins stated that Kentucky Protection and Advocacy supported this administrative regulation. In 2009, U.S. Education Secretary Ernie Duncan reported on the abuse and misuse of restraint and seclusion in schools. There were over 100 reports of this abuse in Kentucky. This administrative regulation did not prohibit the breaking up of altercations, but specified when restraint and seclusions were appropriate. This administrative regulation prohibited the use of supine restraints and prone restraints. These restraints were implicated in some deaths. This administrative regulation required that families be informed if staff performed restraint or seclusion on the student. It also required training for all school staff, with additional training for the core response team.

Ms. Robb stated that Kentucky Protection and Advocacy and the Commonwealth Council on Developmental Disabilities supported this administrative regulation. There were "real-world" examples of maintaining a stable learning environment while still reducing restraint and seclusion.

Ms. Spalding stated that, prior to this administrative regulation, there was a lack of specific procedures for restraint and seclusion. Trainers and leaders were needed with parental involvement to maintain good results.

Mr. Rigsby stated that the Kentucky Statewide Youth Council supported this administrative regulation, which empowered teachers. Each school determined a leader to monitor the use of restraint and seclusion. As a child, Mr. Rigsby was secluded for three weeks in a broom closet during school hours for refusing to complete math work. His parents were not notified. This administrative regulation reduced restraint and seclusion and required family notification.

Mr. Walsburger, parent of a son with disabilities, stated that his son was restrained and secluded at five (5) years old. The child was traumatized and angered, which led to worse behavior. His son was secluded as a

flight risk for refusing to come back to the classroom from recess, even though the child was in a full leg cast. At times when restraint and seclusion were removed, his son did better in school. Likewise, his son's behavior worsened when restraint and seclusion were reinstituted. His son is in seventh grade now and is an A student. Restraint and seclusion should not be used under any circumstances.

Mr. Young stated that school administrators recognized the need for and supported this administrative regulation.

Mr. Sears stated that agreement had been reached to ensure safe schools for Kentucky children.

Ms. Stiglets, director stated that agreement had been reached on this administrative regulation. She thanked the department for working to reach consensus.

In response to a question by Senator Givens, Mr. Young stated that requirements pertaining to when restraint or seclusion is contraindicated were specific enough for the present. If more specificity was needed in the future, that could be amended once more information was known. Currently, the provision was intended to prevent third party intervention. Senator Givens encouraged the department to add specificity when enough information was available.

Representative Gooch noted that he was not a member of the Administrative Regulation Review Subcommittee and that his remarks did not necessarily reflect on those of this Subcommittee. He stated that bad behavior from students or even from adults who abuse restraint and seclusion methods was unacceptable. Classifying some students who are "exempt" from behavioral standards may be the result of Section 3 of this administrative regulation. It was inappropriate to teach children that they are entitled to different behavior standards. Representative Gooch believed this administrative regulation was going in a bad direction and may be a disservice to child development. Mr. Sears stated that this administrative regulation supported positive reinforcement and dealing with behaviors in ways other than restraint and seclusion whenever possible.

Co-Chair Bell stated that seclusion was a terrible practice. There had been some accidental deaths nationwide due to unsupervised seclusion. Isolation had a negative psychological and sociological effect. Co-Chair Bell encouraged the department to move away from seclusion as a means of behavior modification and classroom order maintenance. If seclusion was used, it needed to be well supervised. Mr. Sears stated that there had been a few instances of extreme seclusion, but

most of its use was a mild form, such as a student sitting in a cloakroom for a few minutes if talking too much and causing a disruption in the classroom. This administrative regulation required that the use of seclusion be supervised.

In response to a statement by Co-Chair Bell, Ms. Stiglet stated that this administrative regulation required use of the least extreme use of restraint or seclusion to modify behavior. This administrative regulation also required parental notification and supervision in cases of seclusion. Additionally, the seclusion area had to have all dangerous items removed.

Representative Lee stated that seclusion was a useful method of behavior modification. For example, an area with calm lighting may adjust a student's mood.

Senator Pendleton stated that superintendents in his district appreciated the compromises and work the department did to get this administrative regulation properly amended.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220, including to state that this administrative regulation does not prohibit the lawful exercise of law enforcement duties by sworn law enforcement officers; (2) to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Sections 1, 3, and 4 to delete all instances of the modifier, "serious," in the phrase "imminent danger of physical harm to self or others"; and (4) to amend Section 3 to: (a) clarify that physical restraint may be used to protect property as permitted pursuant to KRS Chapter 503; and (b) specify that school personnel shall not impose physical restraint on a student if it is known that physical restraint is contraindicated based on the student's disability, health care needs, or medical or psychiatric condition. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Assistive Technology Loan Corporation: Corporation

789 KAR 1:010. General eligibility criteria for assistive technology loans. Sarah Richardson, administrative specialist, and Patrick Shirley, administrative specialist, represented the corporation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add relevant citations; (2) to amend Section 1 to delete an unnecessary definition; (3) to amend



Section 3 to clarify provisions; and (4) to amend Sections 3, 4, 5, 6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**PUBLIC PROTECTION CABINET:** Department of Insurance: Property and Casualty Division: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:051. Repeal of 806 KAR 5:050. DJ Wasson, administrative coordinator, represented the division.

Financial Standards and Examination Division: Investments

806 KAR 7:110. Derivative instruments.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend Section 1 to cite to statutory definitions, as required by KRS 13A.222(4)(d); and (3) to amend Sections 2, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Division of HVAC: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:060. Requirements for approval of continuing education courses and providers. Dawn Bellis, general counsel, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, and 5 to clarify provisions; and (2) to amend the RELATES TO paragraph and Sections 1, 2, 3, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Occupations and Professions: Secondary Metals Recyclers

830 KAR 1:010. Forms for Application, Certificate of Registration and Fees. Courtney Bourne, executive director, and Ryan Halloran, assistant attorney general, represented the office.

In response to a question by Co-Chair Bowen, Mr. Halloran stated that the office did not receive comments during the public comment period. The office worked with industry representatives to develop this administrative regulation. Industry seemed supportive of this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to specify that the application fee is \$100; (2) to

amend the RELATES TO paragraph to include additional relevant citations; and (3) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 and 2; and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Department for Medicaid Services: Division of Community Alternatives: Medicaid Services

907 KAR 1:145. Supports for community living services for an individual with an intellectual or developmental disability. Dr. Stephen Hall, commissioner; Claudia Johnson, division director; and Stuart Owen, regulation coordinator, represented the department. Tina Jackson, advocate; Dr. Harold Kleinert, director, Human Development Institute; F. Patrick Reed, CEO, KACES; Robert Smith, advocate; and Andrew Venetianer, representative, R.E.A.C.H. of Louisville, appeared in support of these administrative regulations. Terry Braunson, CEO, Wendell Foster's Campus for Developmental Disabilities; James Cheely, parent and president, the Arc of Kentucky; William Dolan, attorney, Kentucky Protection and Advocacy; Cathy Jo Edwards, advocate; Grant Logsdon, advocate; Sheila Schuster, licensed psychologist, Kentucky Psychological Association; and Mark Scureman, parent, appeared in opposition to these administrative regulations.

Representative Lee stated that the cabinet had put an incredible amount of work into the SCL administrative regulations. The administrative regulations were based on a waiver from the Centers for Medicare and Medicaid Services. The changes showed the importance of supportive employment supports and workshops and were developed in the best interest of recipients.

Dr. Kleinert presented a brief PowerPoint presentation regarding the National Core Indicators Data for Kentucky. The survey data demonstrated that Kentucky performed well in client safety; however, Kentucky needed to improve in other areas, such as community engagement, physical activity, and access to employment. He stated that the waiver helped fund jobs for lasting employment. The waiver did not provide community inclusion but helped to connect clients to access so that the client could develop community ties individually.

Mr. Reed stated that KACES was initially opposed to these administrative regulations; however, the division worked with stakeholders to improve

requirements and avoid negative unintended consequences. The division added specificity to vague requirements, and KACES was satisfied with the amended versions of these administrative regulations.

Ms. Jackson stated that the Council for Developmental Disabilities supported these administrative regulations. The waiver offered new services and opportunities for enhanced community inclusion. The council was comfortable with the day training changes, and the reimbursement rate was commensurate with other states.

Mr. Smith stated that he appeared as an advocate for his daughter with disabilities. He noted that the division was helpful in working with stakeholders and followed up on everything the division agreed to amend. He appreciated that the option to remain in an institution was not deleted, and his daughter and his family had a good quality of life that would not exist without this program.

Mr. Venetianer stated that he represented R.E.A.C.H. of Louisville, Kaleidoscope Adult Health Services, and was part of the Arc of Kentucky tag team. Mr. Venetianer was concerned about what would happen to adult day programs and other programs. He was worried that other programs would lose funding to fund new programs authorized by these administrative regulations. Representative Lee stated that adult day programs were important and would continue to be funded. These administrative regulations were to provide new programs in addition to, not in lieu of, existing programs. Mr. Venetianer stated that he was satisfied with the proposal in light of the answers to his questions.

Dr. Schuster stated that the Kentucky Psychological Association was not opposed to these administrative regulations; however, she was concerned that psychological services were being singled out and drastically cut. These services were being cut at a point when the client was preparing for the stressors associated with entering employment and community living. Rates were being cut twenty-four (24) percent, which was in addition to the fact that travel and other time was not being reimbursed.

Ms. Logsdon assisted her son with his testimony. Mr. Logsdon stated that he had disabilities but lived in his own apartment. He did not go to an adult day program. He was in the process of building his own home, which would be completely disability accessible. Mr. Logsdon applauded the efforts to expand community access; however, he was concerned about the definition of eligible clients. He preferred that the definition be expanded to include developmental disabilities, independent of intellectual disabilities. SCL waiver clients lived in a perpetual

state of anxiety regarding ongoing qualification for services. If a client unexpectedly no longer qualified, for example due to testing at or above a seventy (70) IQ, family members often had to cease employment to care for the individual. He asked what would happen if the caregiver died. Ms. Johnson responded that the definition had not changed. Level of care services should not change unless a client's qualification changed.

Mr. Braunson stated that he supported ninety-nine (99) percent of the provisions in these administrative regulations; however, he did have some specific concerns. The concerns were not financial but ethical in nature. He disagreed with "conflict-free case management." Long-term relationships existed with clients and administrators beyond just relationships with the case managers. Clients may be harmed, and these administrative regulations were not necessarily the best practices. Options, intended to be expanded, may actually be reduced. Mr. Braunson stated his belief that the division had "overinterpreted" federal guidelines and definitions. These administrative regulations failed to produce professional case managers and ignored the rights of individuals with disabilities. Co-Chair Bowen stated that the division's response to the issues pertaining to case management was that the same individuals who deliver services could not also be the ones to review and evaluate services. Ms. Johnson stated that the division had developed training for case managers.

Mr. Dolan stated that it was difficult to defend and appeal an SCL waiver denial because these administrative regulations provided for too much interpretation on the part of the division. The division was equipped with expansive resources if an SCL waiver was denied; however, clients often had minimal resources with which to defend themselves or appeal. Dr. Kleinert stated that these administrative regulations did not amend provisions pertaining to keeping or losing eligibility status; however, these administrative regulations also did not alleviate anxiety about losing services if eligibility was determined to change. Kentucky Protection and Advocacy supported expanding the definition for eligibility. Representative Lee stated that the point regarding anxiety over losing services was valid, but funding was limited. There were many on the waiver waiting list who qualified based on both developmental and intellectual disability criteria. If these administrative regulations were expanded to include more clients, it would be an empty gesture because funding could not support the expanded



number of clients. Additionally, there were federal guidelines that must be complied with to ensure continued federal matching funds.

Mr. Cheely stated that he was the father of a twenty-four (24) year-old son with disabilities and president of the Arc of Kentucky. The definition for eligibility was vague and created anxiety about ongoing access to care. Training programs were required, but the waiver program did not fund the cost of the training. Prospective client employees were required to cover the cost of background checks, although that was not the case for most employees outside the waiver program. Mr. Cheely applauded the goal of adequate wage for adequate work, but had concerns that it may not always be achievable. These administrative regulations provided for too much interpretation, which already varied within the division itself.

Ms. Edwards stated that she was concerned that services would be cut for some currently eligible clients. Some clients that currently received continuous care may be reduced to forty (40) hours of care per week. Many parents had not made preparation for such changes and expected their children to always be waiver eligible. She asked what would occur if a parent in such a case died and then the client was no longer waiver eligible.

Mr. Scureman stated that his daughter had intellectual disabilities. He was opposed to these administrative regulations and noted that these administrative regulations did not fulfill the needs of all waiver clients. Some of the requirements seemed to be unfunded mandates. He was worried that new programs would absorb the funding for successful existing programs. He was worried that adult day programs may be lost, and stated that some program administrators were worried about cabinet retribution if negative comments were submitted.

Ms. Johnson stated that the waiver program began many years ago with the goal of moving clients from institutionalized facilities into communities. To qualify for the waiver program, a client had to meet specific developmental and intellectual criteria.

Mr. Owen stated that, if the definition for eligibility was amended to expand eligibility, it would represent a fundamental change in the existing waiver program and would require approval from CMS.

Co-Chair Bell expressed concern that these administrative regulations may obscure a cost-saving motive on the part of the division. He did not feel that the agency representatives fully answered questions from commenters.

Mr. Hall emphasized that these

administrative regulations did not change the definition for eligibility or the criteria on which those determinations were made. These administrative regulations were not the result of cost-saving measures.

In response to a question by Senator Pendleton, Representative Lee stated that clients would not have services removed as a result of these administrative regulations.

Senator Pendleton strongly encouraged the 2013 Regular Session of the General Assembly to consider mental health issues and to ensure funding for services for the treatment of mental illness.

Co-Chair Bowen stated that there were still many unanswered questions regarding these administrative regulations. He encouraged the division to continue to work to amend, fine tune, clarify, and improve these administrative regulations.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 1 to align the definitions between this administrative regulation and 907 KAR 12:010; (3) to amend Section 2 to clarify when an extension may be received based on a demonstration of good cause; and (4) to amend Sections 1, 2, 4, 5, 9, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:155. Payments for supports for community living services for an individual with an intellectual or developmental disability.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1, 2, 4, 6, 7, 8, 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection and with agreement of the agency, the amendments were approved.

Division of Community Alternatives: Supports for Community Living Waiver

907 KAR 12:010. New supports for community living waiver service and coverage policies.

Representative Lee explained the amendments he proposed. This administrative regulation required that a client have a relationship with a case manager for longer than one (1) year in order to retain that case manager. Representative Lee's

amendments deleted the specific time parameter of "longer than one (1) year." Additionally, the amendments expanded the training period to one (1) year for existing service providers. The amendments also provided that technology assisted residential services were not restricted only to a provider owned or leased location.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 1 to align the definitions between this administrative regulation and 907 KAR 1:145; (3) to amend Section 2 to clarify when an extension may be received based on a demonstration of good cause; (4) to amend Section 3 to specify that an SCL provider, employee, or volunteer may use or possess a medically necessary and legally prescribed controlled substance; (5) to amend Section 5 to clarify that if a participant does not wish to continue receiving the service, the service shall be terminated; (6) to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; (7) to amend Section 4 to remove the requirement that the relationship with a case manager be at least one (1) year in length; (8) to amend Section 5 to specify that: (a) employees providing a participant directed service on the effective date of this administrative regulation shall complete the required training within one (1) year; and (b) new providers of those services shall complete the training within six (6) months of the date of hire; (9) to amend Section 4(20) to require that technology assisted residential services shall be furnished: (a) in the participant's residence, rather than a provider-owned or leased residence; and (b) to three (3) or fewer participants who reside, rather than previously resided, in the residence with twenty-four (24) hour staff support; and (10) to amend the material incorporated by reference to reflect these other amendments. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 12:020. Reimbursement for new supports for community living waiver services.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 through 6, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A.

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

Department for Mental Health and Mental Retardation Services: Division of Administration and Financial Management: Institutional Care

908 KAR 3:050. Per diem rates. Betsy Dunnigan, deputy commissioner, and Kevin Mudd, division director, represented the department.

In response to a question by Senator Givens, Ms. Dunnigan stated that funding for financial discrepancies would be balanced with General Fund dollars. If patients had private assets, some of the balance would be paid by private funds.

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

Other Business: Resolutions honoring Senator Joey Pendleton and Representative Danny Ford were read and approved. The Subcommittee meeting adjourned in honor of these two (2) statesmen and with thanks for their many years of service. A moment of silence was observed on behalf of the community of Sandy Hook, Connecticut.

The following administrative regulations were deferred to the January 7, 2013, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Medical Licensure: Board

201 KAR 9:001 & E. Definitions for terms used in 201 KAR Chapter 9.

201 KAR 9:081 & E. Disciplinary proceedings.

201 KAR 9:200 & E. National Practitioner Data Bank reports.

201 KAR 9:210 & E. Criminal background checks required for all new applicants.

201 KAR 9:220 & E. Restriction upon dispensing of Schedule II controlled substances and Schedule III controlled substances containing Hydrocodone.

201 KAR 9:230 & E. Required registration in the KASPER system; legal requirements for prescribing controlled substances in the Commonwealth of Kentucky; enforcement.

201 KAR 9:240 & E. Emergency orders and hearings; appeals and other proceedings.

201 KAR 9:250 & E. Registration and oversight of pain management facilities.

201 KAR 9:260 & E. Professional standards for prescribing and



dispensing controlled substances.

201 KAR 9:310 & E. Continuing medical education.

Kentucky Applied Behavior Analysis Licensing Board: Board

201 KAR 43:050. Requirements for supervision.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:055. Scope and applicability of the KPDES Program.

401 KAR 5:060. KPDES application requirements.

Water Quality Standards

401 KAR 10:001. Definitions for 401 KAR Chapter 10.

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:420 & E. Pain management facilities. Mary Begley, inspector general; Stephanie Brammer-Barnes, policy analyst; and Stephanie Hold, director, represented the office. Mary Chandler, patient and citizen; John Daniels, owner, Central Kentucky Wellness Center; and Derek Humfleet, attorney, appeared in opposition to this administrative regulation and 902 KAR 55:110.

Senator Pendleton expressed thanks to the office for resolving some of the issues pertaining to these administrative regulations. He requested that the division be vigilant in maintaining the KASPER system, which was an important tool for fighting drug abuse in the Commonwealth.

Representative Damron also thanked the office and emphasized the excellent job the office had performed in educating providers and addressing problems quickly as they arose.

Mr. Daniels stated that he had some concerns with specific parts of these administrative regulations. These administrative regulations helped compliant pain management facilities; however, there was disparity between requirements for pain management facilities owned by physicians and those not owned by physicians. Staffing requirements were likely to overburden pain management facilities trying to comply with these requirements because there were few prescribers who met the stringent certification standards. Many facilities may have to close, which would leave legitimate patients without care.

Senator Kerr stated that the lack of parity hinted that deferral would be a good idea. These administrative

regulations could be compared and discussed along with those administrative regulations for the Kentucky Board of Medical Licensure in January 2013. Mr. Humfleet stated that pain management facilities were regulated by both the Kentucky Board of Medical Licensure and the Cabinet for Health and Family Services. Ms. Begley stated that the authorizing statute required nonphysician-owned facilities to be regulated by the cabinet.

In response to a question by Co-Chair Bowen, Mr. Daniels stated that Tennessee allowed pain management facilities to be nonphysician owned. Indiana did not have pain management statutes yet and was reviewing allowing joint ownership of facilities. Ohio did not seem to authorize nonphysician-owned pain management facilities.

Senator Pendleton recommended deferral of these administrative regulations so that they could be considered along with the Kentucky Board of Medical Licensure administrative regulations. He stated that it was wrong to degrade our senior citizens by forcing them to take and pay for unnecessary drug testing. Pain management facilities should not be singled out for special treatment.

Representative Damron stated that the media and some medical communities have obscured what is actually required by House Bill 1 of the 2012 Special Session of the General Assembly. The initial administrative regulations from the Kentucky Board of Medical Licensure may have been overburdensome and maybe House Bill 1 of the 2012 Special Session of the General Assembly needed amendment; however, these administrative regulations as amended after comments required the minimum stringency necessary to comply with the authorizing statutes as they now existed.

In response to questions by Representative Damron, Ms. Begley stated that the office did not have specific information on how many pain management facilities would be impacted by these administrative regulations, but the office was currently researching this issue. Ms. Begley noted that, regardless of deferral or research information, the office was required to continue enforcing House Bill 1 of the 2012 Special Session of the General Assembly. She estimated that eleven (11) or twelve (12) pain management facilities would be impacted by these administrative regulations. The division had included a grace period for pain management facilities to continue operating until the division had more information and was able to better proceed.

Representative Lee stated that he would also like to have these administrative regulations deferred to the January 2013 meeting of the

Subcommittee. He was concerned that many physicians would stop prescribing necessary pain medicine out of fear or misunderstanding of these administrative regulations. He agreed that House Bill 1 of the 2012 Special Session of the General Assembly needed further amendment. Additionally, he called for parity with administrative regulations from the Kentucky Board of Medical Licensure. It was crucial to balance protecting people from drug addiction with treating patients with legitimate needs.

In response to a question by Representative Lee, Ms. Begley stated that, if the division suspected inappropriate prescribing, the concern was directed to the specific regulating board for investigation and enforcement.

In response to a question by Co-Chair Bowen, Ms. Begley stated that a “nonphysician-owned pain management facility” was one that was wholly, 100 percent, owned by a nonphysician, as required by the authorizing statute.

Senator Givens stated that these administrative regulations indirectly impacted prescribing issues because they worked in concert with requirements from the specific boards. There were legal concerns with certain parts of House Bill 1 of the 2012 Special Session of the General Assembly. Additionally, interpretation and enforcement may be diverging from the authorizing statute, especially regarding certification issues. Ms. Begley responded that the office expanded on the requirements in the authorizing statute only to the extent that the office provided a grace period for continuing operation of pain management facilities. Mr. Humfleet stated that the authorizing statute required residency and certification.

Co-Chair Bell formally requested deferral of these administrative regulations as amended to the January 2013 Subcommittee meeting. Ms. Begley agreed. These administrative regulations as amended were deferred to the January 2013 meeting of the Subcommittee.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 to 12 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) delete provisions that restated statutory provisions. Without objection, and with agreement of the agency, the amendments were

approved.

Division of Audits and Investigations: Controlled Substances  
902 KAR 55:110 & E. Monitoring system for prescription controlled substances.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 7, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 10 to clarify that a practitioner or pharmacist who obtains KASPER data or a report and who in good faith believes that a person, including a patient, has violated the law in attempting to obtain a prescription for a controlled substance is authorized to report the suspected improper or illegal use of a controlled substance to law enforcement or the appropriate licensing board. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Child Care: Day Care

922 KAR 2:090. Child-care center licensure.

922 KAR 2:100. Certification of family child-care homes.

922 KAR 2:110. Child-care center provider requirements.

922 KAR 2:190. Civil penalties.

The Subcommittee adjourned at 5 p.m. until January 7, 2013.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January Meeting  
January 7, 2013

### Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 7, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Senators Perry Clark, David Givens, Alice Forgy Kerr, and Representatives Johnny Bell, Robert Damron, Jimmie Lee, and Tommy Turner.

Guests: Whitney A. Crowe, Education Professional Standards Board; Beau Barnes, Kentucky Teachers' Retirement System; Tom Crawford, DeVon Hankins, Doug Hendrix, Bethany Rice, Finance and Administration Cabinet; Dr. Preston Nunnelley, Michael Rodman, Lloyd Vest, Kentucky Board of Medical Licensure; Ryan Halloran, George Purvis, Board of Speech-Language Pathology and Audiology; Ryan Halloran, Board of Licensure and Certification for Dieticians and



Nutritionists; Shelli Deskins, Ryan Halloran, Kentucky Applied Behavior Analysis Board; William Balda, Margaret Everson, Dr. Jon Gassett, Tim Slone, Dr. Karen Waldrop; Department of Fish and Wildlife Services; Peter Goodmann, R. Bruce Scott, Division of Water; James McKenzie, Michael Mullins, Department for Natural Resources; Amy Barker, Department of Corrections; Susan Allred, Kevin Brown, David Couch, Kentucky Department of Education; Dawn M. Bellis, William Swope, Department of Housing, Buildings and Construction; Stephanie Brammer-Barnes, Mary Reinle Begley, Virginia Carrington, Elizabeth Caywood, Ijeoma Eneje, Dr. Stephen Hall, Stephanie Hold, Mary Beth Jackson, Diona Mullins, Stuart Owen, Connie Smith, Chandra Venetozzi, Cabinet for Health and Family Services; Bill Doll, Kentucky Medical Association; and John Daniels and Derek Humfleet, Central Kentucky Wellness Center.

LRC Staff: Dave Nicholas, Donna Little, Emily Caudill, Sarah Amburgey, Emily Harkenrider, Karen Howard, Betsy Cupp, and Laura Napier.

Administrative Regulations  
Reviewed by the Subcommittee:

E D U C A T I O N A L  
PROFESSIONAL STANDARDS  
BOARD: Assessment

16 KAR 6:010. Examination  
prerequisites for teacher certification.  
Whitney A. Crowe, staff attorney,  
represented the board.

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

Advanced Certification and Rank  
16 KAR 8:030. Continuing  
Education Option for certificate  
renewal and rank change.

A motion was made and seconded  
to approve the following amendments:  
(1) to amend the NECESSITY,  
FUNCTION, AND CONFORMITY  
paragraph and Sections 3, 4, 6, 7,  
and 8 to comply with the drafting  
and formatting requirements of KRS  
Chapter 13A; and (2) to amend Section  
4 to clarify that the performance  
indicators are listed in the CEO  
Professional Development Portfolio  
Rubric incorporated by reference.  
Without objection, and with agreement  
of the agency, the amendments were  
approved.

FINANCE AND  
ADMINISTRATION CABINET:  
Kentucky Teachers' Retirement  
System: General Rules

102 KAR 1:310. Benefit eligibility  
conditions for members providing

part-time and substitute services. Beau  
Barnes, deputy executive secretary  
of operations and general counsel,  
represented the system.

A motion was made and seconded  
to approve the following amendments:  
(1) to amend the RELATES TO and  
NECESSITY, FUNCTION AND  
CONFORMITY paragraphs to correct  
statutory citations; and (2) to amend  
the NECESSITY, FUNCTION,  
AND CONFORMITY paragraph  
and Sections 1 and 2 to comply with  
the drafting requirements of KRS  
Chapter 13A. Without objection, and  
with agreement of the agency, the  
amendments were approved.

102 KAR 1:340. Calculation of  
final average salary when there is a  
corresponding change in length of  
employment during any of the final  
three (3) years immediately prior to  
retirement.

A motion was made and seconded  
to approve the following amendments:  
(1) to amend the TITLE and Section  
1 to comply with the drafting and  
formatting requirements of KRS  
Chapter 13A; and (2) to amend  
the NECESSITY, FUNCTION,  
AND CONFORMITY paragraph to  
clearly state the necessity for and  
function served by this administrative  
regulation, as required by KRS  
13A.220. Without objection, and  
with agreement of the agency, the  
amendments were approved.

Department of Revenue: Office  
of Property Valuation: Ad Valorem  
Tax; Administration

103 KAR 5:220 & E. Installment  
payment plan guidelines for third  
party purchasers of certificates of  
delinquency. Tom Crawford, director;  
Doug Hendrix, staff attorney; and  
Bethany Rice, attorney, represented  
the office.

A motion was made and seconded  
to approve the following amendments:  
(1) to amend Section 1 to cite to  
statutory definitions; (2) to amend  
the RELATES TO and STATUTORY  
AUTHORITY paragraphs and  
Sections 1 through 6 and 8 to comply  
with the drafting and formatting  
requirements of KRS Chapter 13A;  
and (3) to amend the NECESSITY,  
FUNCTION, AND CONFORMITY  
paragraph to clearly state the necessity  
for and function served by this  
administrative regulation, as required  
by KRS 13A.220. Without objection,  
and with agreement of the agency, the  
amendments were approved.

GENERAL GOVERNMENT  
CABINET: Board of Medical  
Licensure: Board

201 KAR 9:001 & E. Definitions  
for terms used in 201 KAR Chapter  
9. Dr. Preston Nunnelley, president;  
Michael Rodman, executive director;  
and Lloyd Vest, general counsel,  
represented the board.

In response to a question by Co-

Chair Bowen, Mr. Vest stated that this  
administrative regulation clarified  
terms used in the authorizing statute.  
There had been confusion regarding  
certain terms. Co-Chair Bowen stated  
that it appeared that this administrative  
regulation defined terms used only  
in the statute, not in this chapter  
of administrative regulations,  
which would be a violation of KRS  
13A.222(4)(e). Mr. Vest stated that  
the statute authorized the agency  
to promulgate an administrative  
regulation to govern prescribing and  
dispensing; therefore, the board had  
authority to define terms related to  
prescribing and dispensing.

Co-Chair Bell stated that this  
administrative regulation was needed  
and if it did not continue through the  
process, there may be disruptions in  
continuity of care for patients. Mr.  
Vest stated that this administrative  
regulation had universal support.  
The concern was that, without these  
definitions, continuity of care for  
patients would be negatively impacted.  
Because these provisions were  
codified as a criminal statute, failure  
to clarify these definitions could result  
in inappropriate criminal liability,  
the threat of which may discourage  
physicians from prescribing  
appropriate pain medication.

In response to a question from  
Co-Chair Bowen, Subcommittee staff  
stated that KRS 13A.222(4)(d) and (e)  
established requirements for definitions  
in administrative regulations.  
Terms defined in an administrative  
regulation were required to be used  
in that administrative regulation or  
chapter of administrative regulations,  
but many of the terms defined in this  
administrative regulation were not  
used in this chapter. Additionally, some  
of the definitions seemed to modify  
provisions of the statute, which would  
violate KRS 13A.120(2)(i).

Representative Damron stated  
that the Subcommittee's focus should  
be on protecting the intent of the  
General Assembly and protecting  
citizens. There was an ongoing process  
to fine tune House Bill 1 from the  
2012 Special Session of the General  
Assembly, and it appeared to need more  
revision to address concerns that arose  
in conjunction with this administrative  
regulation package; however, it was  
important to allow this administrative  
regulation to continue through the  
normal administrative regulation  
process because failure to do so may  
be detrimental to healthcare for the  
citizens. Representative Damron  
directed the board to proactively  
cooperate with revision to House  
Bill 1 from the 2012 Special Session  
of the General Assembly during the  
2013 Regular Session of the General  
Assembly. If the board failed to do  
so, the Subcommittee had authority  
to recall this administrative regulation

for consideration. Senator Givens  
reiterated that this administrative  
regulation would be recalled if  
necessary.

In response to questions by  
Representative Lee, Mr. Vest agreed  
to assist in revision to House Bill 1  
from the 2012 Special Session of the  
General Assembly and stated that  
the process was already underway to  
propose amendments. Dr. Nunnelley  
stated that patients periodically  
needed to be released from long-term  
use of prescription pain medicine,  
and that sometimes happened after  
reassessment, which may indicate why  
some physicians stopped prescribing  
pain medication after passage of  
this legislation. Additionally, some  
physicians were concerned about legal  
liability pursuant to the new statutory  
provisions. Physicians were obligated  
in the interest of patient health to  
titrate gradually from pain medicine  
that had been prescribed for long-  
term use. There was a narrow line  
the board had to consider in drafting  
administrative regulations: the balance  
between preventing drug abuse and  
appropriately treating those patients  
who legitimately needed long-term  
pain management. This administrative  
regulation was not perfect, but was  
much better with the amendments  
being considered.

Co-Chair Bowen emphasized  
the overarching concern with this  
administrative regulation, which was  
that the emergency administrative  
regulation became effective with very  
little notification to stakeholders. Dr.  
Nunnelley restated that the board was  
committed to resolving issues with  
House Bill 1 from the 2012 Special  
Session of the General Assembly  
during the 2013 Regular Session of the  
General Assembly. Senator Kerr noted  
that Dr. Nunnelley was a professional  
of integrity and could be depended  
on to follow through with working to  
revise the legislation.

A motion was made and  
seconded to approve the following  
amendments: (1) to amend the TITLE  
and NECESSITY, FUNCTION,  
AND CONFORMITY paragraph  
to specify that this administrative  
regulation establishes definitions for  
terms used in KRS 218A.172, rather  
than for 201 KAR chapter 9; and (2)  
to add a definition of "patient when  
functioning within the scope of a  
hospice program". Without objection,  
and with agreement of the agency, the  
amendments were approved.

201 KAR 9:081 & E. Disciplinary  
proceedings.

A motion was made and seconded  
to approve the following amendments:  
(1) to amend the STATUTORY  
AUTHORITY paragraph to add a  
statutory citation; (2) to amend the  
NECESSITY, FUNCTION, AND  
CONFORMITY paragraph to state the



necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1 to: (a) alphabetize the definitions as required by KRS 13A.222(4)(e); and (b) add a definition of “relating to a controlled substance”; (4) to amend Section 2 relating to grievances and investigations, to require the board to provide specified information to a party who wants to register a grievance against a physician; (5) to amend Section 3 relating to reports and recommendations to specify that the panel chair or inquiry panel, rather than the executive director, may make determinations to issue a complaint; (6) to amend Section 7 to specify that a notice shall be issued as required by KRS 13B.050; (7) to amend Section 8 to specify that: (a) a hearing officer shall be appointed in accordance with KRS 13B.030 and 13B.040; (b) the board’s general counsel or assistant general counsel shall act as the prosecuting attorney; and (c) the provisions of KRS Chapter 13B shall govern the conduct of each proceeding; (8) to delete the provisions of Section 9, relating to meetings of the board and panels, as those are internal proceedings that are excluded from administrative regulations by KRS 13A.010(2)(a); (9) to amend Section 10 to move a definition from this section to Section 1, as required by KRS 13A.222(4)(d) and (e); (10) to create a new Section 11 to incorporate by reference documents relating to the filing of a grievance; and (11) to amend Sections 1 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:200 & E. National Practitioner Data Bank reports.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:210 & E. Criminal background checks required for all new applicants.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the

NECESSITY, FUNCTION, AND CONFORMITY paragraph to state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:220 & E. Restriction upon dispensing of Schedule II controlled substances and Schedule III controlled substances containing Hydrocodone.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend the TITLE and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:230 & E. Required registration in the KASPER system; legal requirements for prescribing controlled substances in the Commonwealth of Kentucky; enforcement.

In response to a question by Senator Givens, Mr. Vest stated that the initial proposal for this administrative regulation, which was reflected in the emergency administrative regulation, was based on the board’s desire to place the statutory requirements and the regulatory provisions all in the administrative regulation to avoid having to use two (2) sets of law in concert. Because KRS 13A.120(2)(e) prohibited repeating statutory language in an administrative regulation, the ordinary administrative regulation was amended to comply. Differences between the emergency administrative regulation and the ordinary administrative regulation were not substantive.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 and 2 to: (a) delete provisions that repeated or summarized existing statutory provisions; and (b) require a licensee to have both a valid DEA permit and KASPER registration

as required by KRS 218A.202 to prescribe or dispense a controlled substance; and (4) to amend Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:240 & E. Emergency orders and hearings; appeals and other proceedings.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1, relating to the authority to issue an emergency order, to: (a) delete provisions that repeated or summarized statutory provisions; and (b) authorize an inquiry panel or the panel’s chair to issue an emergency order in accordance with KRS 311.592 and 13B.125; (4) to amend Section 3, relating to emergency orders of suspension following a felony indictment, to clarify that if the board receives verifiable information that a licensee has been indicted for a felony that relates to a controlled substance, an emergency order shall be issued to suspend or restrict that licensee’s Kentucky license to prohibit the licensee from prescribing, dispensing, or otherwise utilizing a controlled substance in Kentucky, until further order following the final resolution of the criminal charges in the indictment; (5) to amend Section 5, relating to emergency hearings, to: (a) delete provisions that repeated KRS 13B.090(5); (b) require that the emergency hearing be conducted as required by KRS Chapter 13B and Section 5(6) of this administrative regulation; (c) delete provisions that provided that refusal of the affected physician to answer board questions shall be considered an interference with the board’s ability and a rescission of the physician’s request for an emergency hearing; and (d) delete provisions that required the affected physician to reimburse the contractual reviewer (the board’s expert witness) as a pre-requisite for cross-examining the reviewer; (6) to amend Section 6, relating to judicial review, to: (a) delete provisions that repeated or summarized statutory provisions; and (b) require that judicial review of a final order comply with KRS 13B.140, 13B.150, 13B.160, and 311.593; and (7) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:250 & E. Registration and oversight of pain management facilities.

In response to a question by Co-Chair Bowen, Mr. Vest stated that the agency proposed substantive amendments because the board realized this administrative regulation needed clarification. This administrative regulation governed pain management facilities.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1(3) to clarify as part of the definition of “pain management facility” that each separate operating location of a physician’s practice that meets the criteria established by the statutory definition shall be considered a separate pain management facility; (2) to amend Section 4(5) to require that the required registration and annual fee be submitted by September 1, rather than August 1, of each year, to be consistent with similar changes made in the Amended After Comments version; (3) to amend Section 5(5) to require a facility to notify the board within fourteen (14), rather than ten (10), days of each change in physician staffing of the facility, to be consistent with similar changes made in the Amended After Comments version; (4) to amend Section 6(3) to: (a) correct a formatting error; and (b) to specify that any violation of KRS 218A.175(3) or that section regarding on-site supervision shall constitute a violation of KRS 311.595(12) and (9); (5) to amend Section 7 to require a pain management facility to maintain any daily sign-in sheets maintained by the practice and to permit assess to those daily sign-in sheets by a board employee or agent; and (6) to amend Section 8 to provide that the board may establish proof that a clinic, practice, or facility is a pain management facility by looking at any selected thirty (30) day period to determine if: (a) the majority of patients receiving medical treatment from the clinic, practice, or facility received controlled substances or a prescription for controlled substances; and (b) one of the requirements of KRS 218A.175(1)(a) were present during that thirty (30) day period. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:260 & E. Professional standards for prescribing and dispensing controlled substances. Bill Doll, attorney, represented Jackson Kelly PLLC’s client, Kentucky Medical Association, and appeared in opposition to this administrative regulation.

Mr. Doll stated that this administrative regulation and House Bill 1 from the 2012 Special Session of the General Assembly needed parity in order to perform their



purposes to protect against drug abuse and appropriately treat patients with long-term pain management issues. Physicians were discouraged from treating patients with long-term pain management issues because of concerns regarding civil and criminal liability. Mr. Doll advocated using clinical guidelines and advisory opinions to guide decisions regarding the appropriateness of prescribing long-term pain medication. Punitive measures resulted in stifling physicians from prescribing needed medication. The bill's provisions have had overburdensome unintended consequences.

In response to comments by Mr. Doll, Mr. Vest stated that the Kentucky Board of Medical Licensure had not historically used some of the discretion authorized by the General Assembly in the board's authorizing statutes. This discretion was left unused in efforts to provide flexibility to physicians. The board attempted to find a balance between the prevention of drug abuse and appropriate treatment of patients with long-term pain management issues. This administrative regulation protected citizens from potential drug abuse, while still providing physicians the flexibility that they needed. This administrative regulation was consistent with federal standards.

In response to a question by Representative Lee, Mr. Rodman stated that the board would follow up with information regarding how many specialty pain management physicians were certified in Kentucky.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1, relating to applicability, to specify that: (a) a physician who is authorized to prescribe or dispense a controlled substance shall comply with KRS 218A.172 and this administrative regulation; and (b) the standards of acceptable and prevailing medical practice for prescribing and dispensing a controlled substance in Kentucky shall include: 1. The standards for Schedule II controlled substances and Schedule III controlled substances with hydrocodone established in KRS 218A.172; and 2. this administrative regulation; (4) to amend Section 4(2) (h)5. to prohibit a physician from prescribing any controlled substance to a patient if, after screening, the physician determined that the controlled substance prescribed to the patient will be used or is likely

to be used other than medicinally or other than for an accepted therapeutic purpose; (5) to amend Section 8, relating to educational materials, to delete the statement that educational materials were incorporated by reference; and (6) to amend Sections 1 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 9:310 & E. Continuing medical education.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1 to require that a licensee submit the Continuing Medical Education Certification Form by the renewal deadline established in another administrative regulation; (4) to amend Section 4 to specify the requirements for requesting an extension of time for meeting the continuing medical education requirements; (5) to amend Section 6 to specify the continuing medical education requirements for each cycle that is affected by the effective date of House Bill 1, July 20, 2012; (6) to amend Section 10 to incorporate by reference the required forms relating to continuing medical education requirements; (7) to amend the two (2) forms incorporated by reference to conform to the substantive provisions of this administrative regulation; and (8) to amend Sections 1 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Speech-Language Pathology and Audiology: Board

201 KAR 17:090. Continuing education requirements. Ryan Halloran, assistant attorney general, and George Purvis, audiologist and board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 10 to delete effective dates that would have preceded the effective date of the administrative regulation; and (2) to amend Section 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 17:110. Telehealth and telepractice.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY,

FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure and Certification for Dietitians and Nutritionists: Board

201 KAR 33:015. Application; approved programs. Ryan Halloran, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Applied Behavior Analysis Licensing Board: Board

201 KAR 43:050. Requirements for supervision. Shelli Deskins, chair, and Ryan Halloran, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clearly establish the standards for supervisors; and (2) to amend Sections 4, 5, 7, 8, 9, and 11 through 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:142. Spring wild turkey hunting. Margaret Everson, assistant attorney general; Dr. Jon Gassett, commissioner; and Dr. Karen Waldrop, wildlife division director, represented the department.

301 KAR 2:185. Hunter education.

301 KAR 2:221 & E. Waterfowl seasons and limits.

301 KAR 2:222 & E. Waterfowl hunting requirements on public lands.

A motion was made and seconded to approve the following amendments: to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:224 & E. Waterfowl hunting zones.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:055. Scope and applicability of the KPDES Program. Peter Goodmann, assistant director, and R. Bruce Scott, commissioner, represented the division.

In response to questions by Senator Givens, Mr. Scott stated that the requirement that the cabinet shall consult with U.S. EPA's regional administrator before approval of innovative technology was not a new requirement, but was inadvertently omitted from Section 10(3) of this administrative regulation during the previous revision. U.S. EPA had federal authority to approve or disapprove of the innovative technology after the cabinet's consultation.

401 KAR 5:060. KPDES application requirements.

Department for Natural Resources: Division of Mine Reclamation and Enforcement: Surface Effect of Noncoal Mining

405 KAR 5:032. Permit requirements. James McKenzie, assistant director, and Michael Mullins, regulation coordinator, represented the division.

In response to a question by Co-Chair Bell, Mr. McKenzie stated that this administrative regulation did not relate to stockpiles and silos. This administrative regulation revised the format for submission of maps.

A motion was made and seconded to approve the following amendments: to amend Sections 8, 21, 26, and 27 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

501 KAR 6:040. Kentucky State Penitentiary. Amy Barker, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and policy KSP 13-02-13 to correct the amount a nonindigent inmate shall pay for replacement eye glasses from the original charge of \$15.50 to the actual cost charged by the supplier. Without objection, and with agreement of the agency, the amendments were approved.

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

701 KAR 5:110. Use of local monies to reduce unmet technology need. Susan Allred, associate commissioner; Kevin Brown, general counsel; and David Couch, associate commissioner, represented the department.

In response to a question by



Representative Damron, Ms. Allred stated that there was not a request for a public hearing; therefore, the department canceled the public hearing. The department received written comments from the public during the public comment period. The comments concerned changing “strive” to “shall.” Additionally, there was a comment that this administrative regulation was an unfunded mandate. This administrative regulation was about innovation and trying not to limit alternative options. Training was necessary to ensure a quality program. Mr. Brown stated that this was the second version of this administrative regulation and was developed after stakeholder input. Mr. Couch stated that the department made changes in response to public comments. This version was to improve the existing program.

In response to a question by Co-Chair Bowen, Mr. Brown stated that it was not unusual for the department not to get many public comments during the public comment period because the department had public hearings at the board level prior to filing an administrative regulation with LRC.

In response to a question by Senator Givens, Mr. Couch stated that this administrative regulation provided for leveraging from all funding sources in order to cover costs for unmet technology needs. This provision was in place since the 1990s.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 3 to: (a) correct the name of the 2013 - 2018 KETS Master Plan; and (b) specify that the department shall assist districts in selecting equipment, software, and services which will reduce the unmet technology need; and (3) to amend Sections 4 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Alternative Education Programs  
704 KAR 19:002. Alternative Education Programs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct citations; (2) to amend Section 1 to: (a) define “child with a disability” and “individual education program” consistent with other administrative regulations; and (b) clarify in the definition of “involuntary placement” that it is not made at the request of the parent or emancipated student; (3) to amend Section 2 to clarify the role

of districts for alternative education programs; and (4) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION  
CABINET: Department of Housing, Buildings and Construction: Division of Fire Prevention: Standards of Safety  
815 KAR 10:060. Kentucky standards of safety. Dawn Bellis, general counsel, and William Swope, state fire marshal, represented the division.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:075 & E. Certificate of Need nonsubstantive review. Diona Mullins, policy advisor, and Chandra Venettozzi, health data administrator, represented the cabinet.

In response to a question by Co-Chair Bowen, Ms. Mullins stated that no one appeared at the public hearing, but written comments were received during the public comment period.

In response to questions by Senator Givens, Ms. Mullins stated that the statute changed in the 2012 Regular Session of the General Assembly. The statutory revision required the criteria that were established in this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 1 to correct statutory citations; and (2) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Inspector General  
: Division of Health Care: Health Services and Facilities

902 KAR 20:420 & E. Pain management facilities. Stephanie Brammer-Barnes, policy analyst; Mary Begley, inspector general; and Stephanie Hold, assistant director, represented the division. John Daniels, owner, and Derek Humfleet, attorney, represented Central Kentucky Wellness Center, and appeared but waived commenting on these administrative regulations. Lloyd Vest, general counsel, Kentucky Board of Medical Licensure, appeared to answer questions related to these administrative regulations and those administrative regulations promulgated by the board, as the division’s administrative regulations and those of the board closely relate.

Representative Lee stated that he was concerned about negative unintended consequences that may result from these administrative

regulations. Those patients who legitimately need long-term pain management may not get the treatment they need if there are not enough certified physicians who can comply with pain management facility ownership requirements.

In response to a question by Senator Givens, Ms. Begley stated that the division was currently regulating eight (8) nonphysician-owned pain management facilities, which were spread fairly equally throughout the state, rather than being concentrated in one area. There may be other such facilities operating, but they would be operating illegally because they did not register before the deadline established by the law. If the division encountered these illegally operating facilities, it referred them to the cabinet’s Office of Legal Services for closure action.

Co-Chair Bell stated that House Bill 1 from the 2012 Special Session of the General Assembly had dramatically reduced drug abuse; however, there had also been negative unintended consequences. Some legitimate pain management needs were going unmet. In some cases, heroin was becoming more prevalently used by patients who could no longer get access to legitimate medications for their needs. Ms. Begley stated that the eight (8) facilities regulated by the division were not the only pain management facilities in the state. There were still facilities that were physician owned and therefore were regulated by the Kentucky Board of Medical Licensure, not the division. Mr. Vest stated that the Kentucky Board of Medical Licensure strove to maintain an adequate number of physicians able to serve long-term pain management patients. He added that House Bill 1 from the 2012 Special Session of the General Assembly explicitly required that pain management facilities be wholly physician owned unless the facility met the limited requirements to be nonphysician owned.

In response to a question by Representative Lee, Mr. Vest stated that KBML would have jurisdiction over a pain management facility that was wholly physician owned. Ms. Begley stated that if a facility was not physician owned, the division standards were different from those of the Kentucky Board of Medical Licensure for wholly physician-owned facilities. KRS 218A.175 required that a physician who wholly owned a pain management facility was required to have certification in pain management. Mr. Vest stated that this was another portion of House Bill 1 from the 2012 Special Session of the General Assembly that needed to be amended during the 2013 Regular Session of the General Assembly in order to achieve parity among related

administrative regulations.

In response to a question by Co-Chair Bowen, Mr. Vest stated that he was unaware of a legitimate pain management facility that closed as a result of House Bill 1 from the 2012 Special Session of the General Assembly.

A motion was made and seconded at the December 17, 2012 meeting of the Subcommittee to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 12 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) delete provisions that restated statutory provisions. Without objection, and with agreement of the agency, the amendments were approved.

Division of Audits and Investigations: Controlled Substances  
902 KAR 55:110 & E. Monitoring system for prescription controlled substances.

A motion was made and seconded at the December 17, 2012 meeting of the Subcommittee to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 7, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 10 to clarify that a practitioner or pharmacist who obtains KASPER data or a report and who in good faith believes that any person, including a patient, has violated the law in attempting to obtain a prescription for a controlled substance is authorized to report the suspected improper or illegal use of a controlled substance to law enforcement or the appropriate licensing board. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Division of Healthcare Facilities Management: Psychiatric Residential Treatment Facility Services and Reimbursement

907 KAR 9:005 & E. Level I and II psychiatric residential treatment facility service and coverage policies. Dr. Stephen Hall, commissioner, and Stuart Owen, regulation coordinator, represented the division.

In response to a question by Representative Lee, Mr. Owen stated that the amendment proposed by Representative Lee provided a per diem payment for each eligible child. For the purposes of calculating occupancy, the amendment would allow payment of the per diem in



some cases in which the child may be physically absent, for example, if the child had a therapeutic pass or was attempting to be discharged from a facility. Sometimes a child may be in the process of being discharged and need to return soon because of distress with the discharge process. This administrative regulation raised the reimbursement amount for a hospital bed day. Fifty (50) percent of the rate would be paid if occupancy was at least eighty-five (85) percent. Representative Lee added that managed care organizations (MCOs) were not obligated to pay for more days than previously required pursuant to this administrative regulation.

In response to a question by Senator Givens, Mr. Owen stated that it was not possible to estimate a fiscal impact because this was a new level of care category. Utilization was usually covered by managed care. MCOs were involved in conversations prior to the newest version of this administrative regulation and were reluctant to pay for empty beds, but the therapeutic pass was a useful program. Dr. Hall stated that in cases of a therapeutic pass or attempted discharge, the child's belongings remained in the child's bedroom at the facility. This process assisted with transitioning children and preventing distress if a child needed to return to the facility.

Co-Chair Bell stated that children often had to be readmitted after an attempt to discharge. There were several MCOs in his district that had outstanding payments that needed to be reconciled.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to: (a) revise the definition of "active treatment" to delete "psychiatrist" from the list of individuals who can provide treatment as psychiatrists are already included in the listing under qualified mental health professionals; (b) define "mental health associate" consistent with the definition in 902 KAR 20:320; and (c) clarify the definitions of "review agency" and "telemedicine"; (2) to amend Section 8 to: (a) require, rather than authorize, the department to cover bed reserve days and therapeutic pass days; (b) require, rather than authorize, the department to allow a recipient to exceed the limit for those days if the department determines it is in the best interest of the recipient; (c) delete the requirement that the psychiatric residential treatment facility have an occupancy rate of at least fifty (50) percent; and (d) specify that an absence due to: 1. an admission to a hospital type facility shall count as an absence for census purposes; and 2. a therapeutic pass day shall not count as an absence for census purposes; (3) to amend Sections 1 through 4,

6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 9:010 & E. Reimbursement for Level I and II psychiatric residential treatment facility services.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 6 to: (a) require that the department's reimbursement for a bed reserve day for a recipient not enrolled in a managed care organization shall be: 1. Seventy-five percent, rather than fifty percent, of the established rate if the facility's occupancy percent is at least eighty-five percent, rather than ninety-five percent; and 2. Fifty percent, rather than twenty-five percent, if the occupancy percent is less than eighty-five percent, rather than between fifty (50) percent and ninety-five (95) percent; (b) require that the department's reimbursement for a therapeutic pass day for a recipient not enrolled in a managed care organization shall be: 1. 100% of the rate if the facility's occupancy rate is at least fifty (50) percent; or 2. Fifty (50) percent if the occupancy percent is below fifty (50) percent; and (c) specify that an absence due to: 1. an admission to a hospital-type facility shall count as an absence for census purposes; and 2. a therapeutic pass day shall not count as an absence for census purposes; and (3) to amend Sections 2, 3, 8, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division for Behavioral Health: Substance Abuse

908 KAR 1:400. Procedures for substance abuse prevention. Ijeoma Eneje, regulation coordinator, and Connie Smith, branch manager, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: K-Tap, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:055. Hearings and

appeals. Virginia Carrington, branch manager, and Elizabeth Caywood, policy analyst, represented the division.

921 KAR 2:060. Delegation of power for oaths and affirmations.

Food Stamp Program

921 KAR 3:030. Application process.

921 KAR 3:042. Supplemental Nutritional Assistance Program Employment and Training Program.

921 KAR 3:050. Claims and additional administrative provisions.

921 KAR 3:060. Administrative disqualification hearings and penalties.

Division of Child Care: Day Care

922 KAR 2:090. Child-care center licensure. Elizabeth Caywood, policy analyst, and MaryBeth Jackson, director, represented the division.

Co-Chair Bowen stated that it was surprising that the guidelines were not previously a part of these administrative regulations.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 4, 5, 6, and 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 2:100. Certification of family child-care homes.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete language that conflicts with the authorizing statute; (2) to amend Section 20 to correct an edition date; and (3) to amend the RELATES TO paragraph and Sections 1, 2, 11 through 14, and 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 2:110. Child-care center provider requirements.

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

922 KAR 2:120. Child-care center health and safety standards.

A motion was made and seconded to approve the following amendments: (1) to amend Section 12 for clarification; and (2) to amend the RELATES TO paragraph and Sections 1 through 5, 7, 9, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 2:180. Requirements

for registered child care providers in the Child Care Assistance Program.

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

922 KAR 2:190. Civil penalties.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the February 11, 2013, meeting of the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Teacher Scholarship Loan Program

11 KAR 8:030. Teacher scholarships.

GENERAL GOVERNMENT CABINET: Board of Licensure for Massage Therapy: Board

201 KAR 42:070. Endorsement.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services: Board

202 KAR 7:520. Allocation of block grant funding assistance for emergency medical services.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:001. Definitions for 401 KAR Chapter 10.

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

TRANSPORTATION CABINET: Office of the Secretary: Department of Aviation: Airport Zoning Commission

602 KAR 50:030. Jurisdiction of the Kentucky Airport Zoning Commission.

602 KAR 50:050. Airport zoning map.

Department of Highways: Traffic

603 KAR 5:050. Uniform traffic control devices.

The Subcommittee adjourned at 3:35 p.m. until February 11, 2013 at 1 p.m.



## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February Meeting  
February 11, 2013

### Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 11, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Joe Bowen, and Sara Beth Gregory; Representatives Robert R. Damron, Jimmie Lee, and Tommy Turner.

Guests: Jennifer Jones, Kentucky Retirement Systems; Larry Disney, Jim Gawe, Kentucky Real Estate Appraisers Board; Peter Goodmann, Randall Payne, Bruce Scott, Division of Water; Ann D'Angelo, Susan Chaplin, John Houlihan, Randall Royer, Alice Wilson, Jeff Wolfe, Transportation Cabinet; Dawn Bellis, Greg Feck, David Moore, Housing, Buildings and Construction; Lane Boldman, Sierra Club; Tom Fitzgerald, Kentucky Resources Council; Beverly May, Ted Withrow, Kentuckians for the Commonwealth; and Art Williams, Kentucky Conservation Committee.

LRC Staff: Dave Nicholas, Donna Little, Emily Caudill, Sarah Amburgey, Emily Harkenrider, Karen Howard, Betsy Cupp, and Laura Napier.

Administrative Regulations  
Reviewed by the Subcommittee:

FINANCE AND  
ADMINISTRATION CABINET:  
Kentucky Retirement Systems:  
General Rules

105 KAR 1:140. Employer's administrative duties. Jennifer Jones, Interim General Counsel, represented the systems.

In response to questions by Co-Chair Harris, Ms. Jones stated that the systems went live with the new electronic system approximately eighteen (18) months ago. This administrative regulation was intended to clarify the electronic contribution process now that it had been in place long enough to fine tune procedures.

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

GENERAL GOVERNMENT  
CABINET: Kentucky Real Estate Appraisers Board: Board

201 KAR 30:030. Types of appraisers required in federally-related transactions; certification and licensure. Larry Disney, executive director, and James Gawe, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. Disney stated that the Consumer Protection Act required Kentucky to adopt federal requirements, which were being established in these administrative regulations. These administrative regulations were not more stringent than the federal requirements because most affected appraisers worked at the federal level for Freddie Mac or Fannie Mae; therefore, more stringent requirements would be unnecessary.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and Sections 2 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the STATUTORY AUTHORITY paragraph to add a citation; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:050. Examination and experience requirement.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:070. Grievances.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a statutory citation; and (2) to amend Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:110. Appraiser roster, transmission, fees, deletions, notification, and hearing.

In response to questions by Representative Lee, Mr. Disney stated that affected stakeholders had been advised of the fee increase. The fee amount was established at the federal

level, and all fees were transferred to the federal subcommittee. The board did not have the ability to retain any portion of the fees.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Sections 1 and 3 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:190. Educational requirements for certification.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND  
ENVIRONMENT CABINET:  
Department for Environmental  
Protection: Division of Water: Water  
Quality Standards

401 KAR 10:001. Definitions for 401 KAR Chapter 10. Peter Goodmann, assistant director; Randall Payne, environmental scientist III; and R. Bruce Scott, commissioner, represented the division.

401 KAR 10:026. Designation of uses of surface waters.

T R A N S P O R T A T I O N  
CABINET: Office of Audits: Division  
of Road Fund Audits: Motor Carriers

601 KAR 1:146. Fair market rental or lease value of vehicles operated pursuant to a U-drive-it permit. Ann D'Angelo, assistant general counsel; Randall Royer, director of road fund audits; and Alice Wilson, executive director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of the Secretary:  
Department of Aviation: Airport  
Zoning Commission

602 KAR 50:030. Jurisdiction of the Kentucky Airport Zoning Commission. Ann D'Angelo, assistant general counsel; Susan Chaplin, attorney; and John Houlihan, administrator, represented the commission.

In response to a question by Co-Chair Harris, Mr. Houlihan stated that the local planning and zoning

committees established protections for airspace. The commission worked with the Federal Aviation Administration to establish protections pertaining to fly zone safety and navigation, such as preventing obstructions near airport take off and landing areas.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

602 KAR 50:050. Airport zoning map.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to clarify that the commission's adoption of the airport zoning map shall serve as the official designation of the area of the commission's jurisdiction and to add language requiring the commission to keep a copy of the map, in accordance with KRS 183.867; (2) to amend Section 3 to add language stating that the commission, rather than the airport administrator, shall notify a local zoning body of a new designation of jurisdiction, in accordance with KRS 183.867; (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (4) to amend Sections 1, 2, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A and for clarity. Without objection, and with agreement of the agency, the amendments were approved.

Department of Highways: Traffic  
603 KAR 5:050. Uniform traffic control devices. Ann D'Angelo, assistant general counsel, and Jeff Wolfe, director, represented the department.

PUBLIC PROTECTION  
CABINET: Department of Housing,  
Buildings and Construction: Division  
of Building Codes Enforcement:  
Kentucky Building Code

815 KAR 7:070. The Kentucky Certified Building Inspector Program. Dawn Bellis, general counsel, and Gary Feck, director, represented the division.

In response to a question by Co-Chair Harris, Ms. Bellis stated that these administrative regulations did not relate to sprinkler system requirements.



A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend Sections 1 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 7:110. Criteria for expanded local jurisdiction.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Plumbing: Plumbing

815 KAR 20:195. Medical gas piping installations. Dawn Bellis, general counsel, and David Moore, director, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the March 12, 2013, meeting of the Subcommittee:

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Board of Emergency Medical Services: Board

202 KAR 7:520. Allocation of block grant funding assistance for emergency medical services.

202 KAR 7:530. Emergency Medical Services data collection, management, and compliance.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards. Peter Goodman, assistant director; Randall Payne, environmental scientist III; and R. Bruce Scott, commissioner, represented the division. Lane Boldman, Sierra club; Tom FitzGerald, director, Kentucky Resources Council; Beverly May, Kentuckians for the Commonwealth; Art Williams, executive director, Kentucky Conservation Committee; and Ted Withrow, Kentuckians for the Commonwealth, appeared in opposition to this administrative regulation.

Mr. FitzGerald stated that Kentucky Resources Council was

opposed to the proposed agency amendment to this administrative regulation because the division was proposing substantive changes without a public hearing and stakeholder input. The agency amendment revised requirements regarding limits of the pollutant, selenium. Kentucky Resources Council requested that this administrative regulation at least be deferred to the March meeting of this Subcommittee. This was only the second time in thirty-three (33) years that the division proposed a Kentucky-specific limit for a pollutant, rather than adopting the federal guidance limit.

Co-Chair Bell stated that KRS 13A.320(2)(b)4. required an agency amendment at the Subcommittee to "be filed with the regulations compiler at least three (3) workdays prior to the meeting..." The proposed agency amendment complied with KRS 13A.320(2)(b)4.

In response to a question by Senator Bowen, Mr. FitzGerald stated that Kentucky Resources Council was opposed both to the way this amendment was proposed and to the limits themselves. Technical changes proposed at the Subcommittee were philosophically appropriate, but filing a substantive change without proper public review circumvented the intent of the KRS Chapter 13A process. The process was even more important than the council's objection to the actual selenium limits being proposed because the integrity of the entire administrative regulation process was at stake.

Mr. Williams stated that the Kentucky Conservation Committee agreed with Kentucky Resources Council that the proposed agency amendment circumvented the public input process. The Kentucky Conservation Committee requested that this administrative regulation be deferred to the March meeting of the Subcommittee.

Ms. May stated that Kentuckians for the Commonwealth was opposed to the proposed selenium limit amendments because the requirements were so complicated and cumbersome as to preclude coal companies from being held responsible for selenium contamination. Ms. May lived near Wilson Creek, which had experienced selenium contamination from coal mining activities.

Ms. Boldman stated that data and letters had been entered into the record regarding the science of selenium testing. This administrative regulation did not comply with the Clean Water Act, which required forty-five (45) days for public consideration of amendments. The selenium limit was too high to protect fish and wildlife and would allow for harmful bioaccumulation of selenium. The

limit was unenforceable.

Mr. Withrow stated that he was a member of Kentuckians for the Commonwealth and a former employee of the Division of Water. He stated that selenium was lethal in an aquatic environment in the limits proposed in the agency amendment. The science was flawed. The division would not be in a position to test fish tissue because the fish would not survive the proposed limit. Stakeholders did not have adequate time for a meaningful review of the proposed limit changes, and deferral to the March meeting of the Subcommittee was requested. Mr. Withrow closed by reading the mission statement of Kentuckians for the Commonwealth, which included varied goals of the group, not just of an environmental nature.

In response to a question by Representative Lee, Mr. FitzGerald stated that this administrative regulation was being processed uniquely because the standard in the proposed agency amendment was so drastically different as to render the previous public hearing and public comment period moot, at least as related to selenium. The process was not transparent. Experts had not discussed and debated the issue, and the science was not properly peer reviewed.

Senator Bowen requested that Mr. Withrow repeat the mission statement of Kentuckians for the Commonwealth and stated that he was offended by a specific portion of the mission statement. Senator Bowen believed that the phrase, "when companies and wealthy pay their fair share of taxes" insinuated that these groups were not currently paying their fair share of taxes. As a businessman, Senator Bowen was offended by that broad-sweeping accusation.

Mr. FitzGerald stated that he had earlier in his testimony understated the significance of the selenium limit change. The proposed change was over ten (10) times higher than the previous standard.

Co-Chair Bell emphasized the need to balance environmental concerns and Kentucky's need for jobs.

Mr. Scott stated that Mr. FitzGerald was correct that this was the second time in recent memory that the division proposed a Kentucky-specific limit, rather than using U.S. EPA's guidance limit. The federal program required a forty-five (45) day public comment period; however, that requirement was explicitly waived if a state had a codified public comment process such as that established in KRS Chapter 13A. The division filed its proposed agency amendment prior to the three (3) workday deadline established by KRS 13A.320(2)(b)4. The division

welcomed and encouraged public comments. The selenium standard was not unenforceable because a five and zero tenths micrograms per liter (5.0 µg/L) trigger threshold was part of the agency amendment. The standard was significant with the addition of the trigger threshold. The acute level for selenium was adopted in 1990, but that standard had been vacated at the federal level in 1996. Most surrounding states had deleted that standard. During the public comment period, U.S. EPA was the only commenter opposed to the initial amendment to delete the standard altogether. The division agreed to defer pursuant to the stakeholders' requests; however, response to stakeholder comments would not be submitted in a formal Statement of Consideration because that part of the process was over.

Representative Lee thanked the division for agreeing to defer and encouraged all agencies to provide for as much public input as possible.

Representative Turner requested that, if this administrative regulation was deferred, staff would follow up with any selenium data and impact studies available from the Department of Fish and Wildlife Resources.

Co-Chair Bell clarified that drinking water (domestic water supply) standards were separate from water quality standards for selenium. The division should strive for consensus with stakeholders with regard to selenium.

A motion was made and seconded to defer consideration of this administrative regulation to the March meeting of the Subcommittee. Without objection, and with agreement of the agency, deferral was approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Maternal and Child Health: Kentucky Early Intervention System

902 KAR 30:001. Definitions for 902 KAR Chapter 30.

Department for Medicaid Services: Commissioner's Office: Payment and Services

907 KAR 3:170. Telehealth consultation coverage and reimbursement.

Other Business: Subcommittee staff announced the following resignations: Senator Givens and Senator Kerr resigned from the Subcommittee, and Senator Bowen resigned as Subcommittee Co-Chair. Subcommittee staff welcomed new Subcommittee members, Senators Sara Beth Gregory and Ernie Harris and Representative Tommy Turner.

Senator Bowen made a motion, seconded by Senator Gregory, to nominate Senator Harris as Senate Co-Chair and to cease nominations. Senator Harris was elected Senate Co-Chair by unanimous voice acclamation of those



members present.

Co-Chair Harris stated that this was his first opportunity to serve on this Subcommittee, and he looked forward to learning more about administrative regulations.

Co-Chair Bell welcomed Co-Chair Harris and thanked Senator Bowen for his service as Senate Co-Chair.

Senator Gregory also welcomed the opportunity to serve on this Subcommittee and stated that administrative regulations were an important part of Kentucky governance.

Representative Turner thanked Co-Chair Bell for recognizing him and appreciated the opportunity to serve on this Subcommittee.

The Subcommittee adjourned at 2:15 p.m. until March 12, 2013, at 10 a.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the March Meeting  
March 12, 2013

### Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, March 12, 2013, at 9:00 AM, in Room 154 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Joe Bowen, Perry B. Clark, and Sara Beth Gregory; Representatives Robert R. Damron, and Jimmie Lee.

Guests: Becky Gilpatrick, Melissa Justice, Kentucky Higher Education Assistance Authority; Beau Barnes, Kentucky Teachers' Retirement System; Sharon Eli Mercer, Board of Nursing; Virginia Moore, Timothy Owen, Michael West, Board of Interpreters for Deaf and Hard of Hearing; Margaret Everson, Karen Waldrop, Department of Fish and Wildlife Resources; Kevin Brown, Robin Chandler, David Cook, Amy Peabody, David Wickersham, Department of Education; Dawn Bellis, Libby Simpson, Tina Quire, Department of Housing, Buildings and Construction; Stephanie Brammer-Barnes, Mary Reinle Begley, Allison Lile, Stuart Owen, and Chandra Venetozzi, Cabinet for Health and Family Services.

LRC Staff: Dave Nicholas, Donna Little, Emily Caudill, Sarah Amburgey, Emily Harkenrider, Karen Howard, Betsy Cupp, and Laura Napier.

The Administrative Regulation Review Subcommittee met on Tuesday, March 12, 2013, and submits this report:

Administrative Regulations

Reviewed by the Subcommittee:

KENTUCKY HIGHER  
EDUCATION ASSISTANCE  
AUTHORITY: Division of Student  
and Administrative Services:  
Authority

11 KAR 4:080. Student Aid applications. Becky Gilpatrick, director, Student Aid Services, and Melissa F. Justice, senior associate counsel, represented the authority.

FINANCE AND  
ADMINISTRATION CABINET:  
Kentucky Teachers' Retirement  
System: General Rules

102 KAR 1:230. Limitations on benefits. Beau Barnes, deputy executive secretary, represented the system.

In response to a question by Co-Chair Bell, Mr. Barnes stated that stakeholders were generally supportive of this administrative regulation, which did not relate to Social Security offsets.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to make technical corrections; and (2) to amend Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT  
CABINET: Board of Nursing: Board

201 KAR 20:220. Nursing continuing education provider approval. Sharon Eli Mercer, nursing practice consultant, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:381. Repeal of 201 KAR 20:200 and 201 KAR 20:380.

Board of Interpreters for the Deaf and Hard of Hearing: Board

201 KAR 39:030. Application; qualifications for licensure; and certification levels. Timothy Owens, chair, and Michael West, assistant attorney general, represented the board.

In response to a question by Representative Lee, Subcommittee Staff stated that the suggested amendment specifically clarified deadline dates.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify that EIPA certification may be used for licensure if applying before July 1, 2013; and (2) to amend Section 2 to further update the application form. Without objection, and with agreement

of the agency, the amendments were approved.

201 KAR 39:050. Renewal of licenses, extension of temporary licenses and reinstatement.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to specify the expiration date for temporary licenses and the deadline to request an extension; (2) to amend Section 5 to further update application forms; and (3) to amend Sections 4 and 5 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:132. Elk depredation permits, landowner cooperator permits, and quota hunts. Karen Waldrop, director, Wildlife Division, and Margaret Everson, assistant attorney general, represented the department.

In response to a question by Senator Bowen, Ms. Waldrop stated that Kentucky had an excellent environment for elk. The population was thriving, and the calves seemed to be doing well. The state had over 10,000 elk, which did not tend to migrate out of the state.

In response to questions by Representative Damron, Ms. Waldrop stated that the department was working to develop new administrative regulations to address damage caused by elk to farms and other property. The department was taking other measures in addition to developing administrative regulations. Landowners were allowed to take action if elk were caught causing damage. The commission would meet in June and was planning to discuss proposals to further address elk damage. There was a delicate balance between those who have damage caused by elk and the tourism and enjoyment of the animals. The department had moved elk populations from areas of historic nuisance.

In response to a question by Representative Damron regarding if deferral would be beneficial, Co-Chair Bell stated that the department seemed confident that the elk damage issues would be readily resolved. Representative Damron stated that, if those issues were not resolved satisfactorily, this administrative regulation could be recalled by the Subcommittee for further consideration.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete the definition for "at-large" and add definitions for "at-large north" and "at-large south"; (2) to amend Section to: (a) establish that a drawn hunter

was authorized to hunt in up to three (3) areas of limited entry or at-large areas; and (b) establish that a drawn hunter who did not apply for or was not drawn for a LEA shall be assigned to one (1) of the at-large portions of the elk zone; and (3) to amend Section 7 to revise the boundaries of Straight Creek LEA. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

301 KAR 2:195 & E. Falconry, raptor take, and raptor propagation.

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

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

701 KAR 5:140. Districts of Innovation. Kevin C. Brown, general counsel; David Cook, director of innovation; and Amy Peabody, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6 and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 3 to establish a process for amending an approved plan. Without objection, and with agreement of the agency, the amendments were approved.

Office of Instruction

704 KAR 3:095. The use of response-to-intervention in Kindergarten through Grade 3.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION  
CABINET: Department of Housing,  
Buildings and Construction: Division  
of Building Codes Enforcement:  
Electrical

815 KAR 35:060. Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060. Dawn Bellis, general counsel; Libby Simpson, building codes enforcement; and Tina Quire, electrical



licensing, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1, 2, 4, 5, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to clarify that the required applicant photo shall have been taken within the past six (6) months. Without objection, and with agreement of the agency, the amendments were approved.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Office of Health Policy: Data Reporting and Public Use Data Sets

900 KAR 7:030 & E. Data reporting by health care providers. Allison Lile, health data administrator, and Chandra Venetozzi, health data administrator, represented the cabinet.

Office of Inspector General: Division of Audits and Investigations: Controlled Substances

902 KAR 55:015 & E. Schedule I substances. Mary Begley, inspector general, and Stephanie Brammer-Barnes, policy analyst, represented the cabinet.

In response to a question by Co-Chair Bell, Ms. Begley stated that this administrative regulation governed illegal substances classified as Schedule I, which included cocaine and heroin, for example. Ms. Brammer-Barnes stated that House Bill 8 of the 2013 Regular Session of the General Assembly supported this administrative regulation and was awaiting the Governor's signature.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 1, 3, and 5 to make minor clarifications; and (3) to amend Sections 1 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Commissioner's Office: Payment and Services

907 KAR 3:170. Telehealth consultation coverage and reimbursement. Stuart Owen, regulation coordinator, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to move substantive provisions from the NECESSITY, FUNCTION, AND CONFORMITY paragraph to Section 2; (3) to amend Sections 1 through 5 and 8 to comply with the drafting

and formatting requirements of KRS Chapter 13A; (4) to amend Section 1 to establish a definition for "telehealth practitioner"; (5) to amend Section 3 to clarify when specified services will be covered by the department; (6) to amend Section 4 to specify when individual psychotherapy will be covered as a telehealth consultation in a community mental health center; and (7) to amend Section 5 to clarify the reimbursement provisions for a telehealth consultation. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the April 9, 2013, meeting of the Subcommittee:

**ENERGY AND ENVIRONMENT CABINET:** Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Board of Education: Department of Education: School Administration and Finance

702 KAR 3:130. Internal accounting.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Office of Health Policy: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services.

Department for Public Health: Division of Maternal and Child Health: Kentucky Early Intervention System

902 KAR 30:001. Definitions for 902 KAR Chapter 30.

Department for Medicaid Services: Commissioner's Office: Medicaid Services

907 KAR 1:711E. Repeal of 907 KAR 1:705 and 907 KAR 1:710.

Other Business: Co-Chair Harris stated that he was thankful the Cabinet for Health and Family Services deferred consideration of 900 KAR 5:020, relating to the state health plan. He had just been informed about an amendment possibility the prior evening and needed additional time to consider substantive changes to administrative regulations. He believed that deferring that administrative regulation specifically and any administrative regulations in general that had last-minute substantive changes was the best course of action.

Co-Chair Bell stated that he echoed what Co-Chair Harris had stated and that substantive amendments made after the public hearing and public comment period caused myriad problems if made after the Statement of Consideration was

filed or if a Statement of Consideration was not applicable. He, too, was thankful for the deferral of 900 KAR 5:020 and the selenium administrative regulation (401 KAR 10:031) from the prior month's meeting in order to give the public a chance to have input into the process and to comment on the proposed changes.

Representative Lee reiterated Co-Chair Bell's statement that substantive amendments made at the Subcommittee meeting caused problems and added that, if substantive amendments were made at the Subcommittee meeting and if there was protest from a member of the public, the Subcommittee would request the agency to defer in order to address stakeholder concerns.

Senator Bowen congratulated Co-Chair Harris on successfully chairing his first Administrative Regulation Review Subcommittee meeting.

The Subcommittee adjourned at 9:35 a.m. until April 9, 2013 at 1 p.m.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

Minutes of the Meeting  
of the 2012 Interim

December 12, 2012

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

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Wednesday, December 12, 2012, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Senators Vernie McGaha, Gerald A. Neal, and Ken Winters; Representatives Linda Belcher, Bill Farmer, and Mary Lou Marzian.

Guests: Robyn Oatley and Cindy Heine, Prichard Committee; Erin Klarer, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation; Beth Roberts, Committee for Mathematics Achievement; Clyde Caudill, Jefferson County Public Schools and Kentucky Association of School Administrators; Jim Thompson, Education and Workforce Development Cabinet, and Marty White, CLC.

LRC Staff: Ben Boggs, Janet Stevens, Ken Warlick, and Lisa Moore.

### **Adopt Minutes of October 29, 2012 Meeting**

Representative Belcher moved to accept the minutes, and Representative Winters seconded the motion. The motion carried by voice vote.

### **Unbridled Learning Accountability Model: First Year**

## **Results**

Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE), said as required in Kentucky legislation, in the 2011-2012 school year, the Commonwealth began a new assessment and accountability model entitled Unbridled Learning: College/Career Readiness for All. The Kentucky Board of Education (KBE) has developed an accountability model that is balanced. It incorporates all aspects of school and district work and is organized around the KBE's four strategic priorities: next-generation learners, next-generation professionals, next-generation support systems, and next-generation schools and districts. In the first year of reporting, next-generation learners is the basis of the new model; other components are scheduled to enter the model in future years. He said all data for the assessment and accountability system are located within the new School Report Card on the KDE website.

Dr. Holliday said that in February 2012, the United States Department of Education granted Kentucky flexibility under the No Child Left Behind (NCLB) Act. He said this flexibility allows Kentucky to use the Unbridled Learning model to report both state and federal level accountability measures.

Dr. Holliday said in the spring of 2012, Kentucky public schools completed tests collectively named the Kentucky Performance Rate for Educational Progress (K-PREP) in five content areas: reading, mathematics, science, social studies, and writing. KDE is still working on developing the standards for science and social studies to meet the requirements in Senate Bill 1 (2009 RS). The final draft of the science standards is expected in January 2013. By 2014-2015, Senate Bill 1 should be fully implemented. It is four years late, but KDE made the changes with a very low budget.

Mr. Ken Draut, Associate Commissioner, Office of Assessment and Accountability, said the next-generation Unbridled Learning accountability model includes student achievement growth measures, emphasis on college and career readiness, high school graduation rates, student achievement in the five content areas, and increased focus on the lowest-performing schools. Additionally, the new accountability model holds all schools and districts accountable for improving student performance and creates three performance classifications that determine consequences and guide interventions and supports.

Mr. Draut said school and district classifications for 2011-2012 are based on: (1) achievement, including the content areas of reading, mathematics,



science, social studies, and writing; 2) gap, the percentage of proficient and distinguished for the non-duplicated gap group for all five content areas; 3) growth in reading and mathematics, including the percentage of students at typical or higher levels of growth; 4) college readiness, as measured by the percentage of students meeting benchmarks in three content areas on EXPLORE at middle school and by ACT benchmarks, college placement tests, and career measures at high school; and 5) graduation rate, as based on the Averaged Freshman Graduation Rate (AFGR).

Mr. Draut explained the state profile 2012 overall and component scores for the Kentucky elementary, middle, and high schools. Students' reading and math scores were lower which was expected as the new standards are just recently implemented. The same drop should occur with science and social studies as they are aligned in the future. Specific tables for each category identified above are located in the meeting materials in the Legislative Research Commission (LRC) library.

Dr. Holliday said school district information can be found via the School Report Card located on the KDE website. The data is transparent and easy to access. Kentucky is making progress toward meeting the goals of Senate Bill 1. He said 47 percent of 2012 high school students graduated college and career ready. Kentucky is above national norms in every category. The National Assessment of Educational Progress (NAEP) reports were positive, except for weak scores in sixth grade language mechanics. Other states are interested in looking at Kentucky's School Report Card and adopting common core assessments.

Responding to a question from Senator Westwood, Dr. Holliday said this is a baseline year for language arts and mathematics scores. However, it cannot be considered baseline for science and social studies as the standards are not yet aligned.

Responding to a question from Representative Farmer, Mr. Draut said the test vendors who provide the test scores account for the majority of the data sources in the School Report Card. However, schools must input the data on attendance and graduation rates. There are processes to double check their entries if they are out of line with past trends, and KDE will perform audits as necessary.

Responding to Representative Belcher, Mr. Draut said the special education students' math and reading scores triggered the majority of the focus schools that will receive assistance to increase student achievement with this group of students. Dr. Holliday said the KDE added the growth component so that

low scoring students can contribute points to the accountability index by showing growth from year to year without the students having to reach "proficient." He said the use of readers by special needs students during assessments will still be allowed for those deemed appropriate.

#### **Office of Education Accountability's Proposed 2013 Study Agenda**

Ms. Marcia Ford Seiler, Director, Office of Education Accountability (OEA), said OEA began a study of virtual learning in 2012. After losing two research staff this year, OEA was unable to complete the study. The topic of digital and blended learning has been combined with the issue of performance-based credits for a more comprehensive study. The three topics for the 2013 are superintendent hiring, termination, and contracts; performance based credits; and standardized assessments.

Ms. Seiler said the study regarding standardized assessment results may require presentation in 2014, depending upon the availability of data. OEA staff will keep EAARS co-chairs apprised on the availability of data and when the report will be ready.

Ms. Seiler said in addition to the three studies, OEA will also prepare the annual District Data Profiles and the bi-annual Compendium of State Education Rankings.

Senator Winters moved to accept the 2013 OEA study topics, and Representative Belcher seconded the motion. The motion carried by voice vote.

#### **Office of Education Accountability's Report "Governance of Education Data Security in Kentucky"**

Ms. Brenda Landy, Research Analyst, OEA, said the study compared the protections in place to ensure education data security in the Commonwealth to those recommended by recognized data security authorities. The study found that while many important data security provisions are in place, the Commonwealth lacks the comprehensive approach to data security necessary to prevent and respond to breaches. This concern is not unique to the Commonwealth. Despite their essential roles, sensitive contents, and financial value, state education databases across the nation have weak security and privacy protections, according to a Fordham University study. In general, more value is placed on the acquisition and use of technology and education data than on protections necessary to ensure security.

Ms. Landy said data security protections can reduce affordability and usability. As with any area of risk management, the potential threats

must be weighed against the cost of risk reduction. While the ideal level of data security is unclear, it is important that the General Assembly and the public be aware of potential risks and the steps necessary to reduce them.

Ms. Landy said ensuring the privacy of education data has long been a concern, but protections are more important than ever because of the proliferation of data collected and the variety of ways data are now stored, transmitted, and used. The Commonwealth has pursued an aggressive agenda to ensure that public education in Kentucky is supported by a broad and complex education technology infrastructure. The Commonwealth is a recognized leader in adopting new technologies for education. While these technologies offer exciting potential for educators, students, and parents, they complicate data security challenges. Data systems are becoming more accessible and less centrally controlled, and data may be stored out-of-state or even out of the country, on computers shared by many other clients, with internet access from anywhere in the world. She said at least half a dozen outside contractors access or store Kentucky's education information.

Ms. Landy said education data systems are not commonly perceived as potential targets; the KDE reports that it has not detected a significant, system-wide security breach in at least the past 20 years. However, there have been smaller incidents to occur such as students changing grades and attendance data, or those due to human error like mailings that include students' social security numbers, EXPLORE scores mailed to wrong families, and contractor website data and backups erased. The personal information in education systems is worth more than people realize. Research suggests that personal data in Kentucky's student information system could be sold on the underground market for an estimated \$1 million. Young students' social security numbers are valuable because it takes years to catch the identification theft.

Ms. Landy said the report identifies specific data security concerns such as weak passwords, storage of personal data on mobile devices, and a large contract in which data ownership issues were not clarified. While these issues can each be addressed individually, they point to a broader need for a comprehensive approach to education data security in the Commonwealth. The accountability and authority for ensuring education data security are currently diffused among several entities at the state level. The General Assembly has given the Commonwealth Office of Technology

(COT) statutory authority to oversee governance and implementation of technology, including data security, for state agencies. However, in practice, Kentucky's P-12 data systems are located and managed independently of COT.

Ms. Landy said as for systems managed by school districts, the KDE has taken the lead in advising and assisting districts in all matters related to education technology, including data security. However, there is no clear statutory authority to ensure that district-level data security plans are developed, implemented, audited, and enforced.

Ms. Landy read the six recommendations provided by the OEA. Mr. David Couch, Office of Knowledge, Information, and Data Services, KDE, presented the KDE's responses to the recommendations. A memorandum with the responses from Mr. Kevin Brown, Associate Commissioner and General Counsel, was distributed to members. The recommendations and response are located in the meeting materials in the LRC library.

Mr. Couch said the KDE generally agrees with the recommendations provided in the study, and believe they are widely applicable. KDE agrees that data security is of unique importance in the educational setting and that the department should continue to place a high priority on measures to enhance data security. Further, the KDE appreciated the report's recognition of the potential fiscal impact on local school districts and the department.

Mr. Couch said KDE strongly disagrees with the tenor of the report, which lacks context in some areas, and emphasizes issues not addressed in the report's recommendations. KDE's current efforts address the vast majority of the security issues present, and that the core security issues are not technical, but remain primarily behavioral, such as end users not protecting passwords. KDE disagrees with the report's assertion that cloud-based computing is inherently less secure than on-site computing. KDE also disagrees with the assertions regarding the relationship to and services obtained from the COT.

Responding to a question from Senator Westwood, Mr. Couch said cloud-based computing is the future and COT should examine its benefits.

Responding to a question from Representative Graham regarding the disposal of student records by retiring teachers, Mr. Couch said electronic files were not as much of a concern as paper files. Ms. Seiler said the Department of Library and Archives has a document shredder for that purpose. Representative Graham said school districts should address the



issue of discarding confidential student information with retiring teachers.

Responding to Representative Farmer, Mr. Couch said it is important for security to remove email accounts as soon as people leave their jobs. This prevents lurking and viewing private information after an employee is gone. Ms. Seiler said it is important to change computer passwords at work every three months.

Responding to Senator Westwood, Ms. Landy said no serious system wide breach has been detected. Since Kentucky does not have system wide reporting, it's not certain there has not been a breach. She said there are many kinds of cyber-criminals. They are constantly working on malware and malicious software that can turn computers into zombies and remotely use them without the person ever knowing. Senator Westwood appreciated that OEA's recommendations were cost conscious.

Responding to questions from Senator McGaha, Mr. Couch said security audits are valuable but probably not needed every year. The Municipal Uniform Information System (MUNIS) is audited every year, but it is very expensive. Ms. Seiler noted one of the OEA's recommendations was to look at the costs incurred of annual security audits.

Mr. Couch said KDE is supportive of the breach law. KDE uses the term should instead of shall because it does not have the authority of law. He said determining cap limits on notifications is a common problem for states as well as how to notify people that a breach has occurred. Senator McGaha encouraged KDE to report to the EAARS next year on the subject and try to get the proposal enacted into law. It was noted that Senator Mike Wilson will be the EAARS co-chair.

Responding to a question from Senator Westwood, Ms. Landy said three years is the amount of time to keep documents after a student has left school. Documents can be shredded and computer files erased after an audit. Teachers need to be aware of the timeframe.

Responding to a question from Representative Farmer, Ms. Landy said she does not know of a person responsible for purging or eliminating data to ensure the data is in fact gone. She noted the Kentucky Higher Education Assistance Authority (KHEAA) has a system component that can flag the user if a student social security number is included in a document to be dispersed. Mr. Couch said to never store medical or top secret information on mobile phone or individual computers. Personal and confidential data should always be uploaded to a centralized server.

Senator McGaha moved to accept the OEA report, and Representative Farmer seconded the motion. The motion carried, and the report was accepted by voice vote.

With no further business before the committee, the meeting adjourned at 2:45 PM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**  
**Committee Minutes**  
December 11, 2012

**Call to Order and Roll Call**  
The Government Contract Review Committee met on Tuesday, December 11, 2012, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:  
**Members:** Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Paul Hornback; Representatives Brent Housman and Brent Yonts.

**Guests:** Hiren Desai, Felicia Cummings-Smith, Judith Peercy, Toyah Robey, Jennifer Stafford, Jerry Frantz, Bobbie Hughes, Jamie Goins, Bill Harris, Steve Byers, Russ Salsman, Amy Barnes, Lynsey Womack, Kathy Burke, Michele Blevins, Claudia Johnson, David Gayle, Todd Trapp, Leslie Stamper, Col. Steve Bullard, Mike Hardin, Travis Powell, Joe Barrows, Gene Kiser, and Peter Goodman.

**LRC Staff:** Kim Eisner, Charles Booker, and Becky Brooker.

**RESOLUTIONS**  
Co-Chair Vernie McGaha read a resolution honoring Representative Brent Housman. Senator Julian Carroll moved to adopt the resolution. Representative Brent Yonts seconded the motion. The resolution was adopted.

Senator Paul Hornback read a resolution for Co-Chair Vernie McGaha. Senator Paul Hornback moved to adopt the resolution. Representative Brent Yonts seconded the motion. The resolution was adopted.

A motion was made by Representative Yonts to approve Minutes of the November 2012 meeting of the committee. Senator McGaha seconded the motion, which passed without objection.

**NOVEMBER DEFERRED ITEM**  
**EDUCATION, DEPARTMENT OF**  
Kentucky Association of School Administrators, 1200000397. Hiren Desai and Felicia Cummings-Smith discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll

seconded the motion, which passed without objection.

**DEFERRED ITEM**  
**TRANSPORTATION CABINET:**  
International Municipal Sign Association, 13000001097. A motion was made by Representative Yonts to defer the contract to the January 2013 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**  
**CABINET FOR HEALTH AND FAMILY SERVICES:**  
Conliffe Sandmann & Sullivan, 1300001263.  
**C O R R E C T I O N S .**  
**DEPARTMENT OF:**  
Transitions Incorporated, 1300001087; Big Brothers Big Sisters of Kentuckiana Incorporated, 1300001107.  
**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**  
Med Care Pharmacy, LLC, 1300001199.  
**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**  
Dade Moeller & Associates Incorporated, 1300001166.  
**DEPARTMENT FOR NATURAL RESOURCES:**  
R M Johnson Engineering Incorporated, 1300000965.  
**DEPARTMENT OF**

**ENERGY DEVELOPMENT AND INDEPENDENCE:**  
Kentucky School Board Association, 1300001180.  
**DEPARTMENT OF HOUSING, BUILDING, AND CONSTRUCTION:**  
Code Administrative Associates of Kentucky, 1300000997.  
**EDUCATION, DEPARTMENT OF:**  
Multi, 1300000301; Mike Wilson, 1300001029; Jeffrey Eastham, 1300001030; Patrick Law Firm, 1300001031; Vaughn Murphy PLLC, 1300001032; Janet M. Hall, 1300001033; Embry Merritt Shaffar Womack, PLLC, 1300001034.  
**EDUCATIONAL TELEVISION, KENTUCKY:**  
Brian Vincent, 1300001099; Diana Rhea Deen, 1300001100.  
**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**  
CMTA Incorporated, 1300000458.  
**HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:**  
Zarzaur & Schwatz PC, 1300001104.  
**KENTUCKY STATE UNIVERSITY:**  
Marcia D. Boyd, KSU-13-12.  
**NORTHERN KENTUCKY UNIVERSITY:**  
McGladrey, LLP, 2013-623.  
**STATE POLICE, DEPARTMENT OF:**  
Michael Carnahan, 1300001254; Samuel R. Little, 1300001255; Robert G. Massie, 1300001256; Danny Clark, 1300001257; Kevin B. Guier, 1300001258; John L. Pratt, 1300001259.  
**TRANSPORTATION CABINET:**  
GRW Engineers Incorporated, 1300001196; H A Spalding Incorporated, 1300001215; HDR Engineering Incorporated, 1300001218; Parsons Brinckerhoff Incorporated, 1300001224; Johnson Depp and Quisenberry, 1300001260; Gresham Smith and Partners, 1300001306; Neel-Schaffer, Incorporated, 1300001307.  
**UNIVERSITY OF KENTUCKY:**  
Lockett & Farley, A131100; Stengel-Hill Architecture, A131120; Witt/Kieffer, K13-168; Scientific Certification Systems, K13-169.  
**UNIVERSITY OF LOUISVILLE:**  
Advances in Education, 13-139; Honkamp Krueger & Company, P.C., 13-141.  
**WESTERN KENTUCKY UNIVERSITY:**  
Multi, 121434.  
**WORKFORCE INVESTMENT, OFFICE OF:**  
Dr. Chua Corazon, 1300000930.  
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**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION**

CABINET FOR HEALTH AND FAMILY SERVICES:

Conliffe Sandmann and Sullivan, 1300001263.

C O R R E C T I O N S .

DEPARTMENT OF:

Transitions Incorporated, 1300001087; Big Brothers Big Sisters of Kentuckiana Incorporated, 1300001107.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Med Care Pharmacy, LLC, 1300001199.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Dade Moeller & Associates Incorporated, 1300001166.

DEPARTMENT FOR NATURAL RESOURCES:

R M Johnson Engineering Incorporated, 1300000965.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Kentucky School Board Association, 1300001180.

DEPARTMENT OF HOUSING, BUILDING, AND CONSTRUCTION:

Code Administrative Associates of Kentucky, 1300000997.

EDUCATION, DEPARTMENT OF:

Multi, 1300000301; Mike Wilson, 1300001029; Jeffrey Eastham, 1300001030; Patrick Law Firm, 1300001031; Vaughn Murphy PLLC, 1300001032; Janet M. Hall, 1300001033; Embry Merritt Shaffar Womack, PLLC, 1300001034.

EDUCATIONAL TELEVISION, KENTUCKY:

Brian Vincent, 1300001099; Diana Rhea Deen, 1300001100.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

CMTA Incorporated, 1300000458.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:

Zarzaur & Schwatz PC, 1300001104.

KENTUCKY STATE UNIVERSITY:

Marcia D. Boyd, KSU-13-12.

NORTHERN KENTUCKY UNIVERSITY:

McGladrey, LLP, 2013-623.

STATE POLICE, DEPARTMENT OF:

Michael Carnahan, 1300001254; Samuel R. Little, 1300001255; Robert G. Massie, 1300001256; Danny Clark, 1300001257; Kevin B.

Guier, 1300001258; John L. Pratt, 1300001259.

TRANSPORTATION CABINET:

GRW Engineers Incorporated, 1300001196; H A Spalding Incorporated, 1300001215; HDR Engineering Incorporated, 1300001218; Parsons Brinckerhoff Incorporated, 1300001224; Johnson Depp and Quisenberry, 1300001260; Gresham Smith and Partners, 1300001306; Neel-Schaffer, Incorporated, 1300001307.

UNIVERSITY OF KENTUCKY:

Luckett & Farley, A131100; Stengel-Hill Architecture, A131120; Witt/Kieffer, K13-168; Scientific Certification Systems, K13-169.

UNIVERSITY OF LOUISVILLE:

Advances in Education, 13-139; Honkamp Krueger & Company, P.C., 13-141.

WESTERN KENTUCKY UNIVERSITY:

Multi, 121434.

WORKFORCE INVESTMENT, OFFICE OF:

Dr. Chua Corazon, 1300000930.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION**

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

UK Research Foundation, 1300000791.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

University of Kentucky Research Foundation, 1300001183.

EARLY CHILDHOOD ADVISORY COUNCIL:

Scott County Board of Education, 1300000789.

EDUCATION, DEPARTMENT OF:

Morehead State University, 1300000891; Eastern Kentucky University, 1300000894; Madison County Board of Education, 1300000970; Eastern Kentucky University, 1300001209.

EDUCATION, OFFICE OF THE SECRETARY:

Council on Postsecondary Education, 1300000885.

FISH & WILDLIFE, DEPARTMENT OF:

University of Louisville Stream Institute Civil & Environmental Engineering, 1300000327; University of Louisville Research Foundation, 1300000507; Murray State University, 1300000841.

INFRASTRUCTURE AUTHORITY:

Mountain Water District, 1300001249; Clay County Fiscal Court, 1300001289; City of Hanson, 1300001295; City of Hyden, 1300001300; Breathitt County Water

District, 1300001302; Breathitt County Water District, 1300001303; Breathitt County Water District, 1300001305; Floyd County Fiscal Court, 1300001341.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1300000312; Multi, 1300001145.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Muhlenberg County Fiscal Court, 1300000801; Pulaski County Fiscal Court, 1300001109; Ohio County Fiscal Court, 1300001114; Harlan County Fiscal Court, 1300001137; Harlan County Fiscal Court, 1300001146; Knox County Fiscal Court, 1300001167; Union County Fiscal Court, 1300001172; Clay County Fiscal Court, 1300001174; Leslie County Fiscal Court, 1300001177; Pike County Fiscal Court, 1300001178; Pike County Fiscal Court, 1300001181; Pike County Fiscal Court, 1300001200; Pike County Fiscal Court, 1300001201; Pike County Fiscal Court, 1300001202; City of Richmond, 1300001213; Muhlenberg County Fiscal Court, 1300001217; City of Uniontown City Treasurer, 1300001223; University of Louisville Research Foundation, 1300001266; Clinton County Fiscal Court, 1300001292.

POST SECONDARY EDUCATION, COUNCIL ON:

Southern Regional Education Board, 1300001020.

STATE POLICE, DEPARTMENT OF:

Kentucky Medical Service, 1300000379.

TRANSPORTATION CABINET: Kentucky Department of Fish and Wildlife Resources, 1300000936.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION**

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1200000784; Morehead State University, 1200000785; Morehead State University, 1200001292.

A G R I C U L T U R E , DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011666.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Four Rivers Behavioral Health, 1200001065; Pennyroyal Mental Health, 1200001066; Green River Regional Mental Health Mental Retardation Board, 1200001067; Lifeskills Incorporated, 1200001068; Communicare Incorporated, 1200001069; Seven Counties Services, 1200001070; Northern Kentucky

Regional Mental Health Mental Retardation Board, 1200001071; Comprehend Incorporated, 1200001072; Pathways Incorporated, 1200001073; Mountain Comp Care Center, 1200001074; Kentucky River Community Care, 1200001075; Cumberland River Mental Health Mental Retardation Board Incorporated, 1200001076; Lake Cumberland Mental Health Mental Retardation Board, 1200001077.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentucky Domestic Violence Association, 1200001640.

EDUCATION, DEPARTMENT OF:

Daviess County Board of Education, 1200001888; Treasurer Green County Board of Education, 1200001892; Treasurer Jefferson County Board of Education, 1200001903; Treasurer Trigg County Board of Education, 1200001904; Treasurer Danville Independent Board of Education, 1200001906; Treasurer Jefferson County Board of Education, 1200001911; Treasurer Jefferson County Board of Education, 1200001914; Treasurer Daviess County Board of Education, 1200001915; Treasurer Jefferson County Board of Education, 1200001926; Treasurer Jefferson County Board of Education, 1200001943; Treasurer Jefferson County Board of Education, 1200001946; Treasurer Jefferson County Board of Education, 1300000215; Treasurer Jefferson County Board of Education, 1300000216; University of Louisville Research Foundation, 1300000392; Treasurer Jefferson County Board of Education, 1300000404; Treasurer Jefferson County Board of Education, 1300000585; Treasurer Jefferson County Board of Education, 1300000586; Treasurer Jefferson County Board of Education, 1300000587; Treasurer Jefferson County Board of Education, 1300000718.

FAIR BOARD:

Louisville Fire Department, 1300000385.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Fulton, 1000000965; Marshall County Fiscal Court, 1000001167; City of Hanson, 1000003233; City of Livermore, 1100000529; Carlisle County Fiscal Court, 1100001745; Hardin County Fiscal Court, 1100001750; Adair County Fiscal Court, 1100002019; Campbell County Fiscal Court, 1100002020; City of Livermore, 1100002055; Graves County Fiscal Court, 1100002320; City of Benton, 1100002321; Calloway County Fiscal Court, 1100002616; City of Jeffersontown, 1200001433; City of



Bardwell, 1200001470.  
WORKFORCE INVESTMENT,  
OFFICE OF:  
Western Kentucky Assist  
Technology Center, 1200003156;  
Redwood School and Rehabilitation  
Center, 1200003158.

THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS WERE SELECTED  
FOR FURTHER REVIEW  
EASTERN KENTUCKY  
UNIVERSITY

J&M Global Solutions, 14-028.  
Judith Peercy discussed the contract  
with the committee. A motion was  
made by Representative Yonts to  
consider the contract as reviewed.  
Senator Carroll seconded the motion,  
which passed with Representative  
Housman and Senators McGaha and  
Hornback voting NO.

EDUCATION, DEPARTMENT  
OF

Assessment Solutions Group,  
1300001269. Hiren Desai, Toyah  
Robey, and Jennifer Stafford discussed  
the contract with the committee. A  
motion was made by Senator McGaha  
to consider the contract as reviewed.  
Representative Yonts seconded  
the motion, which passed without  
objection.

FAIR BOARD  
Clifford Rippetoe, 1300001162;  
Scarlett W. Mattson, 1300001273;  
David H. Snowden, 1300001282. Jerry  
Frantz discussed the contracts with  
the committee. A motion was made  
by Senator Hornback to consider the  
contracts as reviewed. Representative  
Yonts seconded the motion, which  
passed without objection.

JUVENILE JUSTICE,  
DEPARTMENT OF

Management Registry Service,  
1300001286. Bobbie Hughes and  
Jamie Goins discussed the contract  
with the committee. A motion  
was made by Senator McGaha to  
consider the contract as reviewed.  
Representative Yonts seconded the  
motion, which passed with Senator  
Gibson voting NO.

THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS AMENDMENTS  
WERE SELECTED FOR  
FURTHER REVIEW

UNIVERSITY OF KENTUCKY  
Grant Cooper & Associates,  
K13-142. Bill Harris and Steve  
Byers discussed the contract with the  
committee. A motion was made by  
Representative Yonts to consider the  
contract as reviewed. Senator Carroll  
seconded the motion, which passed  
without objection.

THE FOLLOWING  
MEMORANDA OF  
AGREEMENTS WERE  
SELECTED FOR FURTHER  
REVIEW

OFFICE OF THE GOVERNOR,  
DEPARTMENT FOR LOCAL  
GOVERNMENT

City of Saint Charles,  
1300000873; Bell County Fiscal  
Court, 1300001247. Russ Salsman,  
Amy Barnes, and Lynsey Womack  
discussed the contracts with the  
committee. A motion was made by  
Representative Yonts to consider  
the contracts as reviewed. Senator  
Carroll seconded the motion, which  
passed with Senator Gibson electing  
to abstain (PASS) and Representative  
Housman voting NO.

THE FOLLOWING  
MEMORANDA OF  
AGREEMENTS AMENDMENTS  
WERE SELECTED FOR  
FURTHER REVIEW

DEPARTMENT FOR  
BEHAVIORAL HEALTH,  
DEVELOPMENTAL AND  
INTELLECTUAL DISABILITIES

Four Rivers Behavioral Health,  
1200001791; Pennyroyal Mental  
Health, 1200001792; Green River  
Regional Mental Health Mental  
Retardation Board, 1200001793;  
Lifeskills Incorporated, 1200001794;  
Communicare Incorporated,  
1200001795; Seven Counties  
Services, 1200001796; Comprehend  
Incorporated, 1200001798; Pathways  
Incorporated, 1200001799; Mountain  
Comprehensive Care Center,  
1200001800; Kentucky River  
Community Care, 1200001801;  
Cumberland River Mental  
Health Mental Retardation Board  
Incorporated, 1200001802; Lake  
Cumberland Mental Health Mental  
Retardation Board, 1200001803;  
Bluegrass Regional Mental Health  
Mental Retardation, 1200001804.  
Kathy Burke, Michele Blevins,  
and Claudia Johnson discussed the  
contracts with the committee. A  
motion was made by Representative  
Housman to consider the contracts  
as reviewed. Representative Yonts  
seconded the motion, which passed  
without objection.

DEPARTMENT FOR  
COMMUNITY BASED SERVICES

Lake Cumberland CSO  
Incorporated, 1200001498. David  
Gayle and Todd Trapp discussed the  
contract with the committee. A motion  
was made by Senator Hornback to  
defer the contract to the January  
2013 meeting of the committee.  
Representative Housman seconded  
the motion, which passed with  
Representative Horlander voting NO.

EDUCATION, DEPARTMENT  
OF

Treasurer Paris Independent  
Board of Education, 1200001885.  
Hiren Desai, Toyah Robey, and Jennifer  
Stafford discussed the contract with  
the committee. A motion was made  
by Senator McGaha to consider the  
contract as reviewed. Representative

Yonts seconded the motion, which  
passed without objection.

THE FOLLOWING  
MEMORANDA OF  
AGREEMENTS FOR \$50,000 &  
UNDER WERE SELECTED FOR  
FURTHER REVIEW

MILITARY AFFAIRS,  
DEPARTMENT OF

Kentucky Wing Civil Air Patrol,  
1300001210. Leslie Stamper and  
Col. Steve Bullard discussed the  
contract with the committee. A motion  
was made by Senator Hornback to  
consider the contract as reviewed.  
Representative Yonts seconded  
the motion, which passed without  
objection.

WESTERN KENTUCKY  
UNIVERSITY

Kentucky State Police, 2013-004.  
Per the agency's request, this contract  
was withdrawn.

EXEMPTION REQUESTS  
KENTUCKY DEPARTMENT  
OF FISH & WILDLIFE:

The Kentucky Department of Fish  
& Wildlife requested an exemption  
from the two year contracting  
restrictions; 100% Federal Funds.  
Mike Hardin discussed the exemption  
requested with the committee. A  
motion was made by Senator Carroll  
to defer the request to the January 2013  
meeting of the committee. Senator  
McGaha seconded the motion, which  
passed with Representative Yonts  
voting NO.

COUNCIL ON  
POSTSECONDARY EDUCATION:

The Council on Postsecondary  
Education requested a continued  
exemption from the two year  
contracting restrictions of the Biennial  
Time Limit for 100% Federally  
Funded Grant Agreements including  
GEAR UP, Improving Educator  
Quality (IEQ) and Kentucky Adult  
Education. Travis Powell discussed the  
exemption request with the committee.  
A motion was made by Representative  
Yonts to grant the exemption through  
December 31, 2013. Senator Carroll  
seconded the motion, which passed  
without objection.

DEPARTMENT OF MILITARY  
AFFAIRS, OFFICE OF THE  
ADJUTANT GENERAL

The Department of Military  
Affairs, Office of the Adjutant  
General requested an exemption  
from committee's routine review  
process for federally funded Chemical  
Stockpile Emergency Program  
(CSEPP) agreements and will provide  
the committee with quarterly reports.  
Leslie Stamper and Col. Steve Bullard  
discussed the exemption with the  
committee. A motion was made by  
Representative Yonts to grant the  
exemption through December 31,  
2013. Senator Carroll seconded  
the motion, which passed without  
objection.

DEPARTMENT OF MILITARY  
AFFAIRS DIVISION OF  
EMERGENCY MANAGEMENT

The Department of Military  
Affairs Division of Emergency  
Management requested an exemption  
from committee's routine review  
process for FEMA funded MOAs  
and Grants for declared emergencies  
and will provide the committee with  
quarterly reports. Leslie Stamper  
and Col. Steve Bullard discussed the  
exemption with the committee. A  
motion was made by Representative  
Yonts to grant the exemption through  
December 31, 2013. Senator McGaha  
seconded the motion, which passed  
without objection.

COMMERCIAL MOBILE  
RADIO SERVICE EMERGENCY  
TELECOMMUNICATIONS BOARD  
(CMRS)

The Commercial Mobile  
Radio Service Emergency  
Telecommunications Board (CMRS)  
requested an exemption from  
committee's routine review process  
for all Purchase Orders (Master  
Agreements) issued as instruments  
of obligation for grant funds awarded  
by the CMRS Board and will provide  
quarterly reports. Joe Barrows  
discussed the exemption with the  
committee. A motion was made by  
Representative Yonts to grant the  
exemption through December 31,  
2013. Senator Carroll seconded  
the motion, which passed without  
objection.

OFFICE OF HOMELAND  
SECURITY:

The Office of Homeland  
Security requested an exemption from  
committee's routine review process for  
all agreements issued as instruments  
of obligation for funds under State  
and Federal Homeland Security Grant  
Programs and will provide quarterly  
reports. Gene Kiser discussed the  
exemption with the committee. A  
motion was made by Representative  
Yonts to grant the exemption through  
December 31, 2013. Senator Carroll  
seconded the motion, which passed  
without objection.

ENERGY AND  
ENVIRONMENT CABINET,  
DIVISION OF WATER:

The Energy and Environment  
Cabinet, Division of Water requested  
a continued exemption from two year  
contracting restrictions for Nonpoint  
Source MOAs and PSCs; 100%  
federally funded. Peter Goodman  
discussed the exemption with the  
committee. A motion was made by  
Representative Yonts to grant the  
exemption through December 31,  
2013. Senator Carroll seconded  
the motion, which passed without  
objection.

ENERGY AND  
ENVIRONMENT CABINET:

The Energy and Environment



Cabinet requested a continued exemption from two year contracting restrictions for the remaining phases of the Map Modernization Management Support and Risk Mapping Grant; 100% federally funded. Peter Goodman discussed the exemption with the committee. A motion was made by Representative Yonts to grant the exemption through December 31, 2013. Senator Carroll seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET, DIVISION OF CONSERVATION:

The Energy and Environment Cabinet, Division of Conservation requested an exemption from two year contracting restrictions for Nonpoint Source MOAs and PSCs; 100% federally funded. Peter Goodman discussed the exemption with the committee. A motion was made by Representative Yonts to grant the exemption through December 31, 2013. Senator Carroll seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 11:53AM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

January 14, 2013

**Call to Order and Roll Call**

The Government Contract Review Committee met on Monday, January 14, 2013, at 10:00 AM, in Room 171 of the Capitol Annex. Kim M. Eisner, Committee Staff Administrator, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and Christian McDaniel; Representatives Brad Montell and Brent Yonts.

Guests: Jason Dunn, Virginia Carrington, David Gayle, Anna Whites, Mike Hardin, Scott King, Benjy Kinman, Jim Erwin, Julie Brewer, Lynda Thomas, Connie Neal, Leslie Brown, Connie Payne, Stacy Phillips, Cassandra Weiss, and Amy Monroe.

LRC Staff: Kim Eisner, Charles Booker, and Becky Brooker.

**ELECTION OF SENATE MEMBER CO-CHAIR**

Ms. Kim Eisner opened the floor for nominations from a Senate member for the position of co-chair.

Senator McDaniel made a motion to nominate Senator Gregory as co-chair. Senator Hornback seconded the motion.

Senator Carroll made a motion that nominations for co-chair cease and that Senator Gregory be elected

by acclamation. Senator McDaniel seconded the motion. Senator Gregory was elected by acclamation and presided for the remainder of the meeting.

A motion was made by Representative Yonts to approve Minutes of the December 2012 meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

**DECEMBER DEFERRED ITEMS**

TRANSPORTATION CABINET: International Municipal Sign Association (IMSA), 1300001097. A motion was made by Representative Yonts to defer the contract to the February 2013 meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Lake Cumberland CSO Incorporated, 1200001498. Jason Dunn, Virginia Carrington, David Gayle, and Anna Whites discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

**DECEMBER AGENDA ITEM #12: EXEMPTION REQUEST/ KENTUCKY DEPARTMENT OF FISH AND WILDLIFE:**

The Kentucky Department of Fish & Wildlife requested an exemption from the two year contracting restrictions for the Fees-in-lieu of Mitigation (FILO) Program. Mike Hardin, Scott King, and Benjy Kinman discussed the exemption request with the committee. A motion was made by Representative Yonts to grant the exemption through December 31, 2015. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception

of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS:**

Little Mendelson, 1300001350.

**ATTORNEY GENERAL, OFFICE OF THE:**

Baron & Budd, PC, 1300001063; Bailey Perrin Bailey, PLLC, 1300001163; Parry, Deering, Futscher, & Sparks, PSC, 1300001371.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

AMS Temporaries Incorporated, 1300001454; Crown Services Incorporated, 1300001455.

**DEPARTMENT FOR NATURAL RESOURCES:**

Tichenor and Associates, 1300001203; Secon Incorporated, 1300001297.

**DEPARTMENT FOR PUBLIC HEALTH:**

Mayo Medical Laboratories d/b/a Mayo Collaborative Services, 1300000678; National Jewish Health, 1300001318.

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:**

Adanta Group, 1300001021.

**EASTERN KENTUCKY UNIVERSITY:**

Access Wellness Group, 14-025; Stoll Keenon Ogden, PLLC, 14-030.

**EDUCATIONAL TELEVISION, KENTUCKY:**

Kathy Osmus, 1300001372; Catherine Fillmore-Hoyt, 1300001375; Steven G. Shaw, 1300001376.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Senler Campbell & Associates Incorporated, 1300001179; Vaughn & Melton, 1300001299.

**FISH & WILDLIFE, DEPARTMENT OF:**

Copperhead Environmental Consulting Incorporated, 1300001188.

**JUSTICE CABINET:**

William C. Ralston, 1300001399.

**KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:**

SCATE Incorporated KCT-

PS-554; Horizon Group International, KCT-PS-555; Fox Valley Technical Community College, WiscOnline, KCT-PS-556.

**KENTUCKY STATE UNIVERSITY:**

SEM Works, 13-13.

**KY HORSE RACING AUTHORITY:**

Rood & Riddle Equine Hospital, 1300001485.

**TRANSPORTATION CABINET:**

HMB Professional Engineers Incorporated, 1300001320; H A Spalding Incorporated, 1300001392; American Engineers Incorporated, 1300001393; WMB Incorporated, 1300001394; CDM Smith Incorporated, 1300001400; DLZ Kentucky Incorporated, 1300001429; E A Partners, PLC, 1300001430.

**UNIVERSITY OF KENTUCKY:**

Bender Associates Architects, A131130.

**WESTERN KENTUCKY UNIVERSITY:**

Standard Parking Corporation, 121350; Ross Tarrant Architects, 121435.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:**

Patient Services Incorporated, 1200001815.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Child Care Council of Kentucky, 1200002082.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

Coyle & Associates, 1200002500.

**DEPARTMENT FOR NATURAL RESOURCES:**

Bowser Morner Associates Incorporated, 0900012877; Tee Engineering Company Incorporated, 1300000962.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Sherman Carter Barnhart, 0700003932; Hastings & Chivetta Architects, 0700004255; EOP Architects, PSC, 1100002570; Architectural Investments, 1200001704; BFMJ Incorporated, 1200002456; ATC Associates Incorporated, 1200002604.

**JUVENILE JUSTICE, DEPARTMENT OF:**

Commonwealth Research Consulting Incorporated, 1200003541.

**KENTUCKY HOUSING CORPORATION:**

Crowe Horwath, LLP, 2013-16.

**KENTUCKY LOTTERY CORPORATION:**

Affiliated Forensic Laboratory, 13-12-019-2.



MOREHEAD STATE UNIVERSITY:  
Scannell & Kurz Incorporated  
13-019.

NORTHERN KENTUCKY UNIVERSITY:  
Multi, 2014-563-1; Pinnacle  
Environmental, 846-13.

PUBLIC ADVOCACY DEPARTMENT FOR:  
Erwin Wayne Lewis,  
1200003669.

TRANSPORTATION CABINET:  
HDR Engineering Incorporated,  
0700005909; Community  
Transportation Solutions,  
0900012152; Stantec Consulting  
Services Incorporated, 1000000578;  
GRW Aerial Surveys Incorporated,  
1100000704; HRV Conformance  
Verification, 1100000720; HDR  
Engineering Incorporated,  
1100001906; HDR Engineering  
Incorporated, 1200000534; J M  
Crawford & Associates Incorporated,  
1200001322; Frost Brown Todd,  
LLC, 1300000015; GRW Engineers  
Incorporated, C-01125603-2; Johnson,  
Depp, & Quisenberry, C-01167628-6.  
UNIVERSITY OF LOUISVILLE:  
Studio Kremer Architects, 13-  
130.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:  
Morehead State University,  
1300001425; Morehead State  
University, 1300001507.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:  
Department of Local Government,  
1300001344; Department of Local  
Government, 1300001345.

ENERGY AND ENVIRONMENT CABINET, OFFICE OF THE SECRETARY:

McCracken County Fiscal Court,  
1300001407.

INFRASTRUCTURE AUTHORITY:

Perry County Fiscal Court,  
1300001373; City of Sturgis,  
1300001386; Muhlenberg County  
Water District, 1300001447; Perry  
County Fiscal Court, 1300001501;  
Perry County Fiscal Court,  
1300001502.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Johnson County Fiscal Court,  
1300000946; Lee County Fiscal  
Court, 1300001280; City of Hardin,  
1300001310; City of Edmonton,  
1300001364; Harlan County Fiscal  
Court, 1300001365; Christian  
County Fiscal Court, 1300001385;

City of Elkhorn City, 1300001411;  
City of Prestonsburg, 1300001415;  
Henderson County Fiscal Court,  
1300001434; Morgan County Fiscal  
Court, 1300001449; City of Morehead,  
1300001500.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:  
Multi, 0900011602; Multi,  
0900011666.

CORRECTIONS, DEPARTMENT OF:  
University of Kentucky Research  
Foundation, 1200002586.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

University of Kentucky  
Research Foundation, 1200001394;  
Northern Kentucky Regional Mental  
Health Mental Retardation Board,  
1200001797.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Eastern Kentucky University,  
1200001467; Community Action  
Kentucky Incorporated, 1200001485;  
Kentucky Association of Sexual  
Assault Programs, 1200001486;  
Community Action of Southern  
Kentucky Incorporated, 1200001507.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Barren County Board of  
Education, 1300000226; Project  
Unite, 1300000230.

EDUCATION, DEPARTMENT OF:

Boyle County Board of  
Education, 1200001899; Kentucky  
Valley Educational Cooperative,  
1200002706; Eastern Kentucky  
University, 1200002904; Western  
Kentucky University Research  
Foundation, 1200002906; Fayette  
County Treasurer, 1300000245.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Martin County Fiscal Court,  
0800010600; City of Irvine,  
0800010717; Hart County Fiscal  
Court, 1000002168; City of Florence,  
1000003294; Henry County Fiscal  
Court, 1000004185; City of Frankfort,  
1100000662; City of Auburn,  
1100000663; City of Brownsville,  
1100000664; City of Millersburg,  
1100000697; City of Mt. Sterling,  
1100000700; Housing Authority of  
Henderson, 1100000881; City of  
Glasgow, 1100001449; Christian  
County Fiscal Court, 1100001709;  
Henderson County Fiscal Court,  
1100001744; Crittenden County Fiscal  
Court, 1100001970; City of Eddyville,  
1100002024; City of Providence,

1200000206; City of Calvert City,  
1200000451; Harlan County Fiscal  
Court, 1200000990; Martin County  
Economic Development Authority,  
1200001281.

TRANSPORTATION CABINET:  
University of Kentucky Research  
Foundation, 1200002761.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF

Correctcare Incorporated,  
1300001272. Jim Erwin and Julie  
Brewer discussed the contract with  
the committee. A motion was made by  
Representative Yonts to consider the  
contract as reviewed. Representative  
Horlander seconded the motion, which  
passed without objection.

EDUCATIONAL TELEVISION, KENTUCKY

Janna Chiang, 1300001363.  
Lynda Thomas discussed the contract  
with the committee. A motion was  
made by Representative Yonts to  
consider the contract as reviewed.  
Representative Horlander seconded  
the motion, which passed with Senator  
Hornback voting NO.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR COMMUNITY BASED SERVICES

Kentucky Housing Corporation,  
1300001283. Jason Dunn, Virginia  
Carrington, and David Gayle discussed  
the contract with the committee. A  
motion was made by Senator Carroll  
to consider the contract as reviewed.  
Representative Yonts seconded  
the motion, which passed with  
Representative Montell voting NO.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

ADMINISTRATIVE OFFICE OF THE COURTS

Communicare Incorporated  
Adult, 1200002876; River Valley  
Behavioral Health, 1200002892.  
Connie Neal, Leslie Brown, and  
Connie Payne discussed the contracts  
with the committee. A motion was  
made by Representative Yonts to  
consider the contract as reviewed.  
Representative Horlander seconded  
the motion, which passed without  
objection.

EXEMPTION REQUESTS CABINET FOR HEALTH AND FAMILY SERVICES:

The Cabinet for Health and  
Family Services requested a  
continued exemption for all local  
health department Memoranda of  
Agreements and Amendments from  
the committee's routine review

process and will provide quarterly  
reports. Stacy Phillips and Cassandra  
Weiss discussed the exemption request  
with the committee. A motion was  
made by Representative Yonts to grant  
the exemption through December  
31, 2013. Representative Horlander  
seconded the motion, which passed  
without objection.

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment  
Cabinet requested an exemption  
from the two year contracting  
restrictions and an exemption from the  
committee's routine review process  
for the Division of Abandoned Mine  
Lands Waterline Memoranda of  
Agreements and will provide quarterly  
reports. Amy Monroe discussed the  
exemption request with the committee.  
A motion was made by Representative  
Yonts to grant the exemption through  
December 31, 2013. Representative  
Horlander seconded the motion, which  
passed without objection.

With no further business before  
the committee, the meeting adjourned  
at 11:25 AM.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

February 12, 2013

### Call to Order and Roll Call

The Government Contract  
Review Committee met on Tuesday,  
February 12, 2013, at 4:00 PM, in  
Room 131 of the Capitol Annex.  
Representative Dennis Horlander,  
Chair, called the meeting to order, and  
the secretary called the roll.

Present were:

Members: Senator Sara Beth  
Gregory, Co-Chair; Representative  
Dennis Horlander, Co-Chair;  
Senators Paul Hornback and Christian  
McDaniel; Representatives Jesse  
Crenshaw, Brad Montell, and Brent  
Yonts.

Guests: Kimberly Wilson, Steve  
Byers, Joe Crabtree, David Melanson,  
Tony Glisson, Kent Draut, Tom  
Stratton, Charlie Harman, Lisa Beran,  
Ellen Benzing, Marcheta Sparrow,  
Felicia Cummings-Smith, Sammie  
Lambert, and Mike Mangeot.

LRC Staff: Kim Eisner, Charles  
Booker, and Becky Brooker.

A motion was made by  
Representative Yonts to approve  
Minutes of the January 2013 meeting  
of the committee. Senator McDaniel  
seconded the motion, which passed  
without objection.

### JANUARY 2013 DEFERRED ITEM

TRANSPORTATION CABINET:  
International Municipal Sign  
Association, 13000001097. A motion  
was made by Representative Yonts to  
defer the contract to the March 2013  
meeting of the committee. Senator  
Gregory seconded the motion, which



passed without objection.

**DEFERRED ITEMS**  
**WESTERN KENTUCKY**  
**UNIVERSITY**

Trustwave, 121352. A motion was made by Representative Yonts to defer the contract to the March 2013 meeting of the committee. Representative Crenshaw seconded the motion, which passed without objection.

**WESTERN KENTUCKY**  
**UNIVERSITY**

Fern River Incorporated, 121437. A motion was made by Representative Yonts to defer the contract to the March 2013 meeting of the committee. Representative Crenshaw seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Gregory seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator Gregory seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator Gregory seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator Gregory seconded the motion, which passed without objection.

**THE FOLLOWING**  
**PERSONAL SERVICE**  
**CONTRACTS WERE REVIEWED**  
**WITHOUT OBJECTION:**

**C O R R E C T I O N S .**  
**DEPARTMENT OF:**

Chrysalis House Incorporated, 1300001398; Hope Center, 1300001426.

**DEPARTMENT FOR**  
**BEHAVIORAL HEALTH,**  
**DEVELOPMENTAL AND**  
**INTELLECTUAL DISABILITIES:**

Guardian Angel Staffing Agency, 1300001456; Guardian Healthcare Providers, 1300001457; Nursestaffing Group Kentucky, LLC, 1300001458; Supplemental Health Care, 1300001459.

**DEPARTMENT FOR INCOME**

**SUPPORT:**

Sanjoydeb Mukherjee, 1300001523.

**EDUCATIONAL TELEVISION,**  
**KENTUCKY:**

Marsha Hellard, 1300001515.

**FINANCE AND**  
**ADMINISTRATION CABINET -**  
**DIVISION OF ENGINEERING:**

Biagi Chance Cummins London Titzer Incorporated, 1300001446; Facility Commissioning Group, 1300001452.

**HORSE PARK, KENTUCKY:**  
Baker & Dorton, PLLC, 1300001444.

**JUSTICE CABINET:**  
Baptist Health Madisonville Incorporated, 1300001528.

**KENTUCKY COMMUNITY &**  
**TECHNICAL COLLEGE SYSTEM:**  
National Center for Higher Education Management Systems, 558.

**KENTUCKY HIGHER**  
**EDUCATION STUDENT LOAN**  
**CORPORATION:**

Deloitte & Touche, LLP, 13-009.

**KENTUCKY LOTTERY**

**CORPORATION:**  
Affiliated Forensic Laboratory Incorporated, 13-12-019-2.

**KY HORSE RACING**  
**AUTHORITY:**

Wilson Shirley III, 1300001618.

**MOREHEAD STATE**

**UNIVERSITY:**  
Strand Associates Incorporated, 13-021.

**STATE POLICE, DEPARTMENT**  
**OF:**

David Decker, 1300001562.

**TRANSPORTATION CABINET:**  
Core Solutions, LLC, 1300001379; Strand Associates Incorporated, 1300001505; Charles R. Hines, 1300001553; T H E Engineers Incorporated, 1300001555; QK4, 1300001567; Strand Associates Incorporated, 1300001568; J M Crawford & Associates Incorporated, 1300001569; J M Crawford & Associates Incorporated, 1300001570; Baumgardner & Associates, PSC, 1300001571; Palmer Engineering Company, 1300001582; Strand Associates Incorporated, 1300001589; Stantec Consulting Services Incorporated, 1300001652; Burgess & Niple Incorporated, 1300001653; Lochner H W Incorporated Consulting, 1300001654.

**UNIVERSITY OF KENTUCKY:**  
TargetX.Com, LLC, K13-170; National Diversity Solutions, LLC, K13-171.

**WESTERN KENTUCKY**  
**UNIVERSITY:**

The Wyly/Kellogg International Group, 121351; Trustwave, 121352; THP Limited Incorporated, 121436.

**WORKFORCE INVESTMENT,**  
**OFFICE OF:**

Thomas P. Miller & Associates, 1300001448; Thomas P. Miller &

Associates, 1300001487.

**THE FOLLOWING**  
**PERSONAL SERVICE**  
**AMENDMENTS WERE**  
**REVIEWED WITHOUT**  
**OBJECTION:**

**AUDITOR OF PUBLIC**  
**ACCOUNTS, OFFICE OF THE:**

Tichenor & Associates, 1300000492; Kem Duguid & Associates, PSC, 1300000569; Ray, Foley, Hensley & Company, PLLC, 1300000693; Ray, Foley, Hensley & Company, PLLC, 1300000693.

**COMMISSION FOR**  
**CHILDREN WITH SPECIAL**  
**HEALTH CARE NEEDS:**

CDM Services Incorporated, 1200001714.

**DEPARTMENT FOR**  
**COMMUNITY BASED SERVICES:**

Goldberg & Simpson, PSC, 1200002425.

**DEPARTMENT FOR**  
**ENVIRONMENTAL PROTECTION:**

Coyle & Associates, 1200002500.

**DEPARTMENT FOR INCOME**

**SUPPORT:**

Jay E. Athy, Ph.D., 1200001227.

**DEPARTMENT FOR NATURAL**  
**RESOURCES:**

Multi, 1200003386.

**FINANCE AND**  
**ADMINISTRATION CABINET -**  
**DIVISION OF ENGINEERING:**

Omni Architects, 0600002677; Stantec Consulting Services Incorporated, 0700003463; The Alexander-Harris, LLC, 0700003518; Hastings & Chivetta Architects, 0700004255; Arrasmith Judd Rapp Chovan Incorporated, 0900011608; Amec E & I Incorporated, 1000002150; URS Corporation, 1100002668; Ross Tarrant Architects Incorporated, 1200000613; BFMJ Incorporated, 1200002456; K Norman Berry Associates, C-01028813-5.

**KENTUCKY LOTTERY**  
**CORPORATION:**

PDT Communications Limited, 13-10-027.

**MEDICAL LICENSURE,**  
**BOARD OF:**

Multi, 1200002107.

**MILITARY AFFAIRS,**  
**DEPARTMENT OF:**

Hasan H. Ahmad, 1300000394.

**MOREHEAD STATE**  
**UNIVERSITY:**

Provations Group, 13-010.

**TRANSPORTATION CABINET:**  
GRW Engineers Incorporated, 0600002125; Michael Baker Jr., Incorporated, 0700004078; GRW Engineers Incorporated, 0700004081; WMB Incorporated, 0700006292; URS Corporation, 0900012389; J. M. Crawford & Associates Incorporated, 1000002872; Florence & Hutcheson, 1100003011; Stantec Consulting Services Incorporated, 1200001750; American Engineers Incorporated, C-03060711-1; Presnell Associates

Incorporated d/b/a Qk4, C-04536741-1; DLZ Kentucky Incorporated, C-99005073-12; Parsons Brinckerhoff Incorporated, C-99110767-4.

**UNIVERSITY OF KENTUCKY:**  
Sasaki Associates, A131070;

LaZerCAD, LLC, K12-145; Finley L. Edmonds Incorporated, K13-114.

**VETERANS AFFAIRS,**  
**DEPARTMENT OF:**

Multi, 1200003001.

**THE FOLLOWING**  
**MEMORANDA OF**  
**AGREEMENTS WERE**  
**REVIEWED WITHOUT**  
**OBJECTION:**

**ADMINISTRATIVE OFFICE**  
**OF THE COURTS:**

Four Rivers Behavioral Health Corporate Office, 1300001349; Lifeskills Corporation Offices, 1300001352; Morehead State University, 1300001380.

**A G R I C U L T U R E ,**  
**DEPARTMENT OF:**

University of Kentucky Research Foundation, 1300001314; University of Kentucky Research Foundation, 1300001315; Multi, 1300001504; Daviess County Fair, 1300001518; Allen County Fiscal Court, 1300001520; Multi, 1300001593; Multi, 1300001595.

**C O R R E C T I O N S .**  
**DEPARTMENT OF:**

University of Kentucky Research Foundation, 1300001431.

**DEPARTMENT FOR**  
**ENVIRONMENTAL PROTECTION:**

City of Bowling Green, 1200002151; City of Radcliff, 1300001424; Crittenden County Board of Education, 1300001526.

**DEPARTMENT FOR NATURAL**  
**RESOURCES:**

University of Kentucky, 1300001321; Finance & Administration Cabinet, 1300001343.

**ECONOMIC DEVELOPMENT**  
**- OFFICE OF THE SECRETARY:**

Kenton County Fiscal Court, 1300001265.

**EDUCATION, DEPARTMENT**  
**OF:**

Kentucky Center for the Arts, 1300000933; NKU Research Foundation, 1300001096; NKU Research Foundation, 1300001453; University of Louisville Research Foundation, 1300001565; Kentucky Association of School Administrators, 1300001586; Boys & Girls Club Incorporated, 1300001603; Bullitt County Board of Education, 1300001604; Campbell County Board of Education, 1300001607; Fulton Independent Board of Education, 1300001608; Knott County Board of Education, 1300001609; Paducah Independent Board of Education, 1300001623; Todd County Board of Education, 1300001625; YMCA of Greater Cincinnati, 1300001626.



INFRASTRUCTURE  
AUTHORITY:

Muhlenberg County Water District #3, 1300001556; Lawrence County Fiscal Court, 1300001564; City of Dawson Springs, 1300001628.

KENTUCKY HOUSING  
CORPORATION:

Community Action Kentucky Incorporated, 2012-5

OFFICE OF THE GOVERNOR,  
DEPARTMENT FOR LOCAL  
GOVERNMENT:

Clay County Fiscal Court, 1300000921; Breathitt County Board of Education, 1300001168; Floyd County Board of Education, 1300001442; Hopkins County Fiscal Court, 1300001470; Daviess County Fiscal Court, 1300001471; Perry County Fiscal Court, 1300001472; Union County Fiscal Court, 1300001535; Webster County Fiscal Court, 1300001536; Perry County Fiscal Court, 1300001539; Perry County Fiscal Court, 1300001540; Perry County Fiscal Court, 1300001546; City of Pineville, 1300001561; Calloway County Fiscal Court, 1300001579; Union County Fiscal Court, 1300001590; Elliott County Board of Education, 1300001596; Perry County Fiscal Court, 1300001612; City of Hazard, 1300001613.

THE FOLLOWING  
MEMORANDA OF AGREEMENT  
AMENDMENTS WERE  
REVIEWED WITHOUT  
OBJECTION:

ADMINISTRATIVE OFFICE  
OF THE COURTS:

CHS MHMR Division of Mental Health, 1000001177.

AGRICULTURE,  
DEPARTMENT OF:

UK Research Foundation, 1200003674; Murray State University, 1200003675; Murray State University, 1200003677.

DEPARTMENT FOR AGING &  
INDEPENDENT LIVING:

Bluegrass Regional Mental Health Mental Retardation, 1200001078; Pennyryle Area Development District, 1200003479.

DEPARTMENT FOR  
BEHAVIORAL HEALTH,  
DEVELOPMENTAL AND  
INTELLECTUAL DISABILITIES:

Lifeskills Incorporated, 1200001794; Seven Counties Services, 1200001796

DEPARTMENT FOR  
COMMUNITY BASED SERVICES:

Northern Kentucky Community Action, 1200001445; Big Sandy Area Development District, 1200001469.

DEPARTMENT FOR PUBLIC  
HEALTH:

University of Kentucky Research Foundation, 1200001983; University of Kentucky Research Foundation, 1200002270.

EDUCATION, DEPARTMENT  
OF:

Jefferson County Board of Education, 1200001946; West Kentucky Education Cooperative Special Education, 1200002710; Ohio Valley Educational Cooperative, 1200002759; Allen County Board of Education, 1200003004; Boyd County Board of Education, 1200003009; Christian County Board of Education, 1200003011; Covington Independent Board of Education, 1200003013; Fayette County Board of Education, 1200003015; Fleming County Board of Education, 1200003016; Grant County Board of Education, 1200003019; Henderson County Board of Education, 1200003024; Jessamine County Board of Education, 1200003026; Kenton County Board of Education, 1200003028; Lewis County Board of Education, 1200003030; Magoffin County Board of Education, 1200003032; McCreary County Board of Education, 1200003034; Muhlenberg County Board of Education, 1200003035; Powell County Board of Education, 1200003037; Simpson County Board of Education, 1200003043; Trigg County Board of Education, 1200003044; Union County Board of Education, 1200003045; Adair County Board of Education, 1300000063; Ballard County Board of Education, 1300000064; Barren County Board of Education, 1300000065; Bourbon County Board of Education, 1300000070; Carroll County Board of Education, 1300000078; Casey County Board of Education, 1300000079; Corbin Independent Board of Education, 1300000087; Covington Independent Board of Education, 1300000088; Crittenden County Board of Education, 1300000089; Cumberland County Board of Education, 1300000090; Grayson County Board of Education, 1300000098; Greenup County Board of Education, 1300000099; Hazard Perry County Community MNS Development Center d/b/a New Beginnings Child, 1300000105; Henderson County Board of Education, 1300000107; Jackson Independent Board of Education, 1300000111; Leslie County Board of Education, 1300000142; Letcher County Board of Education, 1300000143; Lighthouse Promise Incorporated, 1300000145; McCracken County Board of Education, 1300000151; Monroe County Board of Education, 1300000154; Newport Independent Board of Education, 1300000158; Wolfe County Board of Education, 1300000178.

INFRASTRUCTURE  
AUTHORITY:

Letcher County Fiscal Court, 1300001081; Clay County Fiscal Court, 1300001289; City of Hanson,

1300001295; City of Hyden, 1300001300; Breathitt County Water District, 1300001301; Breathitt County Water District, 1300001302; Breathitt County Water District, 1300001303; Breathitt County Water District, 1300001305; Floyd County Fiscal Court, 1300001341; Perry County Fiscal Court, 1300001373; Muhlenberg County Water District, 1300001447; Muhlenberg County Water District #3, 1300001556.

OFFICE OF THE GOVERNOR,  
DEPARTMENT FOR LOCAL  
GOVERNMENT:

City of Springfield, 1000000473; City of Somerset, 1000003916; City of Ludlow, 1100001303; Hopkins County Fiscal Court, 1300001470.

TRANSPORTATION CABINET:  
Kentucky Transportation Center, 1200002118.

WORKFORCE INVESTMENT,  
OFFICE OF:

Bluegrass Technology Center, 1200002835.

THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS WERE SELECTED  
FOR FURTHER REVIEW:

UNIVERSITY OF KENTUCKY:  
Economic Research Services Incorporated d/b/a ERS Group, K13-172. Kimberly Wilson and Steve Byers discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gregory seconded the motion, which passed without objection.

WESTERN KENTUCKY  
UNIVERSITY:

Sibson Consulting d/b/a The Segal Company (Eastern States) Incorporated, 121354. Tony Glisson discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS AMENDMENTS  
WERE SELECTED FOR  
FURTHER REVIEW:

EDUCATION, DEPARTMENT  
OF:

Measured Progress, 1200003646. Ken Draut, Tom Stratton, and Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT  
OF:

Kentucky Clean Fuels Coalition, 1200003824. Tom Stratton and Charlie Harman discussed the contract with the committee. A motion was made by Senator Hornback to defer the

contract to the March 2013 meeting of the committee. Senator McDaniel seconded the motion, which passed without objection.

JUVENILE JUSTICE,  
DEPARTMENT OF:

Paul L. Whalen, 1200003422; Jeffrey L. Eastham, 1200003423; Keith Hardison, 1200003424; Ruth H. Webb, 1200003425; Vaughn Murphy, PLLC, 1200003427; John C. Helmuth, 1300000237; Davis Stephens Law Office, 1300000238. Bobbie Hughes and LaDonna Kobel discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

KENTUCKY HOUSING  
CORPORATION:

Kinthead & Stilz, PLLC, 2013-14. Lisa Beran discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS FOR \$10,000 AND  
UNDER WERE SELECTED FOR  
FURTHER REVIEW:

FAIR BOARD:  
Dinsmore & Shohl, 130000153. Ellen Benzing and Marcheta Sparrow discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

UNIVERSITY OF KENTUCKY:  
PJB Marketing, LLC, 880000071; Kirby Stephens Design, 880000073. David Melanson, Steve Byers, and Joe Crabtree discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed with Senator McDaniel voting NO.

THE FOLLOWING  
MEMORANDUM OF  
AGREEMENT WAS SELECTED  
FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT  
OF:

The Partnership for Successful Schools, 1300000751. Felicia Cummings-Smith, Sammie Lambert, and Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gregory seconded the motion, which passed with Representative Montell voting NO.

EDUCATION, DEPARTMENT  
OF:

Collaborative Center for Literacy Development, 1300000892. Felicia



Cummings-Smith, Sammie Lambert, and Charlie Harman discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT OF:

University of Kentucky Research Foundation, 1300001408. Felicia Cummings-Smith, Sammie Lambert, and Charlie Harman discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

TRAVEL, DEPARTMENT OF:

Louisville Convention & Visitors Bureau, 1300001506. Mike Mangeot and Marcheta Sparrow discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 5:24 PM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

March 12, 2013

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, March 12, 2013, at 8:00 AM, in Room 171 of the Capitol Annex. Senator Sara Beth Gregory, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Paul Hornback and Christian McDaniel; Representatives Brad Montell and Brent Yonts.

Guests: Leslie Brown, Beth Jurek, Stacy Phillips, Tom Stratton, Hiren Desai, Charlie Harman, Paul Gannoe, Jennifer Linton, Jamie Goins, Mike Riley, Walt Gaffield, Joe Cowles, Mike Hill, Jim Simpson, Bill Harris, Eugene Foster, Hollie Spade, Paul Boisvert, Tyra Redus, Melvin Bynes, and Tim Pollard.

LRC Staff: Kim Eisner, Charles Booker, and Becky Brooker.

A motion was made by Representative Yonts to approve the February 2013 committee minutes. Representative Horlander seconded the motion, which passed without objection.

**DECEMBER 2012 DEFERRED ITEM**

TRANSPORTATION CABINET:  
International Municipal Sign

Association (IMSA), 1300001097. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

**JANUARY 2013 DEFERRED ITEM**

WESTERN KENTUCKY UNIVERSITY:

Trustwave, 121352. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

**FEBRUARY 2013 DEFERRED ITEM**

EDUCATION, DEPARTMENT OF:

Kentucky Clean Fuels Coalition, 1200003824. Charlie Harman and Tom Stratton discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

**MARCH 2013 DEFERRED ITEMS**

NORTHERN KENTUCKY UNIVERSITY:

American Associates of Collegiate Registrars & Admissions Officers (AACRAO), 854-13. A motion was made by Representative Yonts to defer the contract the April 2013 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

WESTERN KENTUCKY UNIVERSITY:

Fern River Incorporated, 121737. A motion was made by Representative Yonts to defer the contract the April 2013 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator McDaniel seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator McDaniel seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator

McDaniel seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator McDaniel seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

A G R I C U L T U R E , DEPARTMENT OF:

McBrayer McGinnis Leslie & Kirkland, 1300001780.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Staff Care Incorporated, 1300001509; Registry of Physician Specialists, A Medical Corporation, 1300001511.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Dr. Ted Pass II, 1300001594.

EDUCATIONAL TELEVISION, KENTUCKY:

Douglas Gaines Collins, 1300001631; Tighe Publishing Services Incorporated, 1300001695.

FINANCE AND ADMINISTRATION CABINET:

Conliffe, Sandmann & Sullivan, 1300001797.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

American Engineers Incorporated, 1300001796.

MOREHEAD STATE UNIVERSITY:

Sign Language Network of Kentucky, LLC, 13-022.

MURRAY STATE UNIVERSITY:

Sherman Carter Barnhart, 016-13.

NORTHERN KENTUCKY UNIVERSITY:

Schoepf/Associates, 2014-627; Keaton Real Estate Services, LLC, 2014-628.

TRANSPORTATION CABINET:  
WMB Incorporated, 1300001682;

Lochner H W Incorporated Consulting, 1300001688; EA Partners, PLC, 1300001718; URS Corporation, 1300001719; Stantec Consulting Services Incorporated, 1300001721; HDR Engineering Incorporated, 1300001736; Stantec Consulting Services Incorporated, 1300001775; Lochner H W Incorporated Consulting, 1300001776.

UNIVERSITY OF KENTUCKY:

Staggs & Fisher Engineers, A131140; Shield Environmental Associates Incorporated, K13-173; Sworn Testimony, PLLC, K13-174.

WESTERN KENTUCKY UNIVERSITY:

Multi, 121356; LeaderShape Incorporated, 121438.

WORKFORCE INVESTMENT, OFFICE OF:

Thomas P. Miller & Associates, 1300001657; Thomas P. Miller & Associates, 1300001686.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS:

Chrysalis House Incorporated, 1100001377.

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Tichenor & Associates, 1300000492.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Crown Services Incorporated, 1200003105; Crown Services Incorporated, 1200003107; Crown Services Incorporated, 1200003108.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Larry J. Sowder, 1200002320.

DEPARTMENT FOR PUBLIC HEALTH:

Laboratory Corporations of America Holdings, 1300001222.

ENGINEERS & LAND SURVEYORS, KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL:

Robert S. Giles, 1200003556; Robert S. Thompson III, 1200003557.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

CDP Engineers Incorporated, 0800010316; Ross Tarrant Architects, 1100000104; Stantec Consulting Services Incorporated, 1100001637; Schnabel Dam Engineering Incorporated, 1200002448; HMB Professional Engineers Incorporated, 1200002582; HMB Professional Engineers Incorporated, 1200002582.

FISH & WILDLIFE, DEPARTMENT OF:

AMEC Environment & Infrastructure Incorporated, 1200002664.

JUVENILE JUSTICE, DEPARTMENT OF:

Sylvia L. Kuster, 1300000203.

MOREHEAD STATE UNIVERSITY:

Sturgill, Turner, Barker & Moloney, PLLC, 13-001.

UNIVERSITY OF KENTUCKY:

WorleyParsons Group Incorporated, K13-166.

WESTERN KENTUCKY UNIVERSITY:

Multi, 121424; Multi, 121427;



Multi, 121434.

**THE FOLLOWING  
MEMORANDA OF  
AGREEMENTS WERE  
REVIEWED WITHOUT  
OBJECTION:**

**ADMINISTRATIVE OFFICE  
OF THE COURTS:**

Seven Counties Services  
Incorporated, 1300001729;  
Pennyroyal Mental Health,  
1300001740.

**A G R I C U L T U R E ,  
DEPARTMENT OF:**

Nelson County Fair Treasurer,  
1300001516; Hardin County Fair  
Treasurer, 1300001517.

**C O R R E C T I O N S ,  
DEPARTMENT OF:**

Louisville Metro Corrections,  
1300001340; University of Cincinnati,  
1300001390; Henderson County Jail,  
1300001723.

**DEPARTMENT FOR  
ENVIRONMENTAL PROTECTION:**  
Louisville Metro Government,  
1300001521.

**EDUCATION, DEPARTMENT  
OF:**

KCTCS, 1300001620.  
**ENERGY AND  
ENVIRONMENT CABINET,  
OFFICE OF THE SECRETARY:**

City of Whitesburg, 1300001308.  
**I N F R A S T R U C T U R E  
AUTHORITY:**

Union County Fiscal Court,  
1300001741; Knott County Fiscal  
Court, 1300001804.

**OFFICE OF THE GOVERNOR,  
DEPARTMENT FOR LOCAL  
GOVERNMENT:**

Owsley County Fiscal Court,  
1300001229; Lawrence County  
Board of Education, 1300001423;  
Leslie County Fiscal Court,  
1300001610; Leslie County Fiscal  
Court, 1300001611; Harlan County  
Fiscal Court, 1300001647; Floyd  
County Fiscal Court, 1300001666;  
Morgan County Fiscal Court,  
1300001667; Harlan County Fiscal  
Court, 1300001694; City of Central  
City, 1300001720; City of Berry,  
1300001735; Hopkins County  
Fiscal Court, 1300001743; City of  
Monticello, 1300001744; City of  
Frankfort, 1300001746.

**POST SECONDARY  
EDUCATION, COUNCIL ON:**

U.S. Education Delivery Institute,  
1300001583.

**THE FOLLOWING  
MEMORANDA OF AGREEMENT  
AMENDMENTS WERE  
REVIEWED WITHOUT  
OBJECTION:**

**ADMINISTRATIVE OFFICE  
OF THE COURTS:**

Seven Counties Services  
Incorporated, 1300001729;  
Pennyroyal Mental Health,  
1300001740.

**A G R I C U L T U R E ,  
DEPARTMENT OF:**

Nelson County Fair Treasurer,  
1300001516; Hardin County Fair  
Treasurer, 1300001517.

**C O R R E C T I O N S ,  
DEPARTMENT OF:**

Louisville Metro Corrections,  
1300001340; University of Cincinnati,  
1300001390; Henderson County Jail,  
1300001723.

**DEPARTMENT FOR  
ENVIRONMENTAL PROTECTION:**  
Louisville Metro Government,  
1300001521.

**EDUCATION, DEPARTMENT  
OF:**

KCTCS, 1300001620.  
**ENERGY AND  
ENVIRONMENT CABINET,  
OFFICE OF THE SECRETARY:**

City of Whitesburg, 1300001308.  
**I N F R A S T R U C T U R E  
AUTHORITY:**

Union County Fiscal Court,  
1300001741; Knott County Fiscal  
Court, 1300001804.

**OFFICE OF THE GOVERNOR,  
DEPARTMENT FOR LOCAL  
GOVERNMENT:**

Owsley County Fiscal Court,  
1300001229; Lawrence County  
Board of Education, 1300001423;  
Leslie County Fiscal Court,  
1300001610; Leslie County Fiscal  
Court, 1300001611; Harlan County  
Fiscal Court, 1300001647; Floyd  
County Fiscal Court, 1300001666;  
Morgan County Fiscal Court,  
1300001667; Harlan County Fiscal  
Court, 1300001694; City of Central  
City, 1300001720; City of Berry,  
1300001735; Hopkins County  
Fiscal Court, 1300001743; City of  
Monticello, 1300001744; City of  
Frankfort, 1300001746.

**POST SECONDARY  
EDUCATION, COUNCIL ON:**

U.S. Education Delivery Institute,  
1300001583.

**THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS WERE SELECTED  
FOR FURTHER REVIEW:**

**ADMINISTRATIVE OFFICE  
OF THE COURTS:**

Little Mendelson, 1300001566.  
Leslie Brown discussed the contract  
with the committee. A motion was  
made by Representative Yonts to  
consider the contract as reviewed.  
Senator McDaniel seconded the  
motion, which passed without  
objection.

**CABINET FOR HEALTH AND  
FAMILY SERVICES:**

Janet M. Hall, 1300001661; Susan  
Gormley Tipton, 1300001663. Beth  
Jurek and Stacy Phillips discussed  
the contracts with the committee. A  
motion was made by Representative  
Yonts to consider the contracts as  
reviewed. Representative Horlander  
seconded the motion, which passed

without objection.

**EDUCATION, DEPARTMENT  
OF:**

National Center for the  
Improvement of Educational  
Assessment, 1300001670. Hiren Desai  
and Charlie Harman discussed the  
contract with the committee. A motion  
was made by Representative Yonts  
to consider the contract as reviewed.  
Representative Horlander seconded  
the motion, which passed with Senator  
McDaniel and Representative Montell  
voting NO.

**EDUCATION, DEPARTMENT  
OF:**

KSA-Plus Communications  
Incorporated, 1300001673. Hiren  
Desai and Charlie Harman discussed  
the contract with the committee. A  
motion was made by Representative  
Yonts to consider the contract as  
reviewed. Representative Horlander  
seconded the motion, which  
passed with Senator McDaniel and  
Representative Montell voting NO.

**FINANCE AND  
ADMINISTRATION CABINET -  
DIVISION OF ENGINEERING:**

Facility Commissioning Group,  
1300001632. Paul Gannoe and  
Jennifer Linton discussed the contract  
with the committee. A motion was  
made by Representative Yonts to  
consider the contract as reviewed.  
Representative Horlander seconded  
the motion, which passed without  
objection.

**JUVENILE JUSTICE,  
DEPARTMENT OF:**

The Peoples Institute for Survival  
& Beyond, 1300001576. Jamie Goins  
and Mike Riley discussed the contract  
with the committee. A motion was  
made by Representative Yonts to  
consider the contract as reviewed.  
Representative Horlander seconded  
the motion, which passed without  
objection.

**PERSONNEL-OFFICE OF THE  
SECRETARY:**

Covington & Burling,  
1300001548. Walt Gaffield and Joe  
Cowles discussed the contract with  
the committee. A motion was made  
by Representative Montell to consider  
the contract as reviewed. Representative  
Yonts seconded the motion, which  
passed without objection.

**TRANSPORTATION CABINET:**

Stantec Consulting Services  
Incorporated, 1300001683. Mike  
Hill and Jim Simpson discussed the  
contract with the committee. A motion  
was made by Representative Yonts  
to consider the contract as reviewed.  
Senator McDaniel seconded the  
motion, which passed without  
objection.

**UNIVERSITY OF KENTUCKY:**

SAPPublicServicesIncorporated,  
K13-175. Bill Harris discussed the  
contract with the committee. A motion  
was made by Representative Montell

to consider the contract as reviewed.  
Representative Yonts seconded  
the motion, which passed without  
objection.

**THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS AMENDMENTS  
WERE SELECTED FOR  
FURTHER REVIEW:**

**TRANSPORTATION CABINET:**

T H E Engineers Incorporated,  
0600001480; Hall Harmon Engineers  
Incorporated, 0700004958; Lochner  
H W Incorporated Consulting,  
0700006607; WMB Incorporated,  
1000000854; Lochner H W  
Incorporated Consulting, 1200001193;  
Stantec Consulting Services  
Incorporated, 1200001547; Gresham  
Smith & Partners, C-01209233, Palmer  
Engineering Company, C-05038089;  
HNTB Corporation, C-99005232;  
Vaughn & Melton, C-99005603. Mike  
Hill discussed the contracts with the  
committee. A motion was made by  
Senator McDaniel to consider the  
contracts as reviewed. Representative  
Yonts seconded the motion, which  
passed without objection.

**THE FOLLOWING  
PERSONAL SERVICE  
CONTRACTS FOR \$10,000 AND  
UNDER WERE SELECTED FOR  
FURTHER REVIEW:**

**COMMISSION FOR  
CHILDREN WITH SPECIAL  
HEALTH CARE NEEDS:**

Miller Consulting Group, LLC,  
1300001679. Eugene Foster discussed  
the contract with the committee. A  
motion was made by Representative  
Yonts to consider the contract as  
reviewed. Representative Horlander  
seconded the motion, which passed  
with Senator McDaniel voting NO.

**EASTERN KENTUCKY  
UNIVERSITY:**

Stidham & Associates, PSC,  
Attorneys at Law, 14-032. A motion  
was made by Representative Yonts  
to defer the contract the April  
2013 meeting of the committee.  
Representative Montell seconded  
the motion, which passed without  
objection.

**THE FOLLOWING  
MEMORANDA OF  
AGREEMENTS WERE  
SELECTED FOR FURTHER  
REVIEW:**

**ECONOMIC DEVELOPMENT  
- OFFICE OF THE SECRETARY:**

Kentucky Science & Technology  
Corporation, 1300001676. Holly  
Spade and Paul Boisvert discussed the  
contract with the committee. A motion  
was made by Representative Montell  
to consider the contract as reviewed.  
Representative Yonts seconded  
the motion, which passed without  
objection.

**EDUCATION, DEPARTMENT  
OF:**

Monticello Independent Board of



Education, 1300001745. Hiren Desai and Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

TRANSPORTATION CABINET:  
Kentucky State University, 1300001668. Tyra Redus and Melvin Bynes discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

**THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

EDUCATION, DEPARTMENT OF:

Glasgow Independent Board of Education, 1200001889; Campbellsville Independent Board of Education, 1200001896; Pike County Board of Education, 1200001898; Madison County Board of Education, 1200001910; Madison County Board of Education, 1200001916; Madison County Board of Education, 1200001925; Carter County Board of Education, 1200001932; Knott County Board of Education, 1200001933; Woodford County Board of Education, 1200001935; Owen County Board of Education, 1200001950; Washington County Board of Education, 1200003659; Madison County Board of Education, 1200003931; Woodford County Board of Education, 1300000025; Glasgow Independent Board of Education, 1300000029; Clark County Board of Education, 1300000032; Henderson County Board of Education, 1300000139; Hart County Board of Education, 1300000141; Christian County Board of Education, 1300000247; Pike County Board of Education, 1300000410; Madison County Board of Education, 1300000415; Madison County Board of Education, 1300000416; Hart County Board of Education, 1300000418; Clark County Board of Education, 1300000575; Clark County Board of Education, 1300000588; Madison County Board of Education, 1300001008. Hiren Desai and Charlie Harman discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed without objection.

**THE FOLLOWING MEMORANDA OF AGREEMENTS FOR \$50,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

EDUCATION, DEPARTMENT

OF:

KET Foundation, 1300001749. Hiren Desai and Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gregory seconded the motion, which passed without objection.

TOURISM DEVELOPMENT CABINET:

Frankfort Plant Board Cable Ad, 1300001537. Tim Pollard discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

**EXEMPTION REQUESTS OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

Office of the Governor, Department for Local Government requested an exemption pertaining to the Biennial Requirement GCRC Policy Statement 99-4 and extensions for time only on various projects. A motion was made by Representative Yonts to grant the exemption through June 30, 2014. Representative Montell seconded the motion, which passed without objection.

**PUBLIC PROTECTION CABINET, KENTUCKY HORSE RACING COMMISSION:**

Public Protection Cabinet, Kentucky Horse Racing Commission requested an exemption pertaining to the Biennial Requirement GCRC Policy Statement 99-4 and extensions for time only on two projects. A motion was made by Representative Yonts to grant the exemption through June 30, 2016. Representative Montell seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 9:27 AM.

**PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

Minutes

February 25, 2013

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Monday, February 25, 2013, at 3:30 PM, in Room 154 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Fitz Steele, Co-Chair; Senators Tom Buford, Ernie Harris, Jimmy Higdon, Christian McDaniel, and Dan “Malano” Seum; Representatives Jim DeCesare, Terry Mills, and Arnold

Simpson.

Guests: No guests were present.

LRC Staff: Greg Hager, Committee Staff Administrator; Colleen Kennedy; Katie Kirkland; Lora Littleton; William Spears; Joel Thomas; Leonard Evans, Graduate Fellow; Stella Mountain, Committee Assistant.

**Election of Senate co-chair**

Upon motion to nominate by Senator Higdon and second by Senator Seum, Senator McDaniel was nominated for the position of Senate Co-chair.

Upon motion that nominations cease by Senator Higdon and second by Senator Seum, Senator McDaniel was elected Senate Co-chair by acclamation, without objection.

The meeting was adjourned at 3:35 p.m.

**2012 SS HB 1 IMPLEMENTATION AND OVERSIGHT COMMITTEE**

Minutes of the 5th and Final Meeting

of the 2012 Interim

December 12, 2012

**Call to Order and Roll Call**

The 5th and final meeting of the 2012 SS HB 1 Implementation and Oversight Committee was held on Wednesday, December 12, 2012, at 1:00 PM, in Room 149 (moved from Room 154 due to construction noise) of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative John Tilley, Co-Chair; Senator Jimmy Higdon and Representative Sara Beth Gregory

Guests: Nathan Goldman and Paula Schenk, Kentucky Board of Nursing; Scott Sisco, Kentucky Pharmacy Association; Mike Rodman, Dr. Preston Nunnelley, and Lloyd Vest, Kentucky Board of Medical Licensure; M. E. Kobes, Bluegrass Prevention; Eric Clark, Kentucky Association of Health Care Facilities; John Daniels, Central Kentucky Wellness Center, Sylvia Lovely, Lovely & Lovely; Sarah Nicholson and Brian Brezosky, Kentucky Hospital Association; Mike Porter, Kentucky Dental Association; Marty White, CLC; Representative Susan Westrom, among others

LRC Staff: Jon Grate, Ben Payne, and Marlene Rutherford.

**Approval of October 17, 2012 Minutes**

Senator Higdon moved that the minutes of October 17, 2012, be approved as written. Representative Gregory seconded the motion, and the minutes were approved without objection.

**Tamper Resistant Drug Technology**

Representative Wuchner discussed STOPP in Kentucky 2013 (Stop Tampering of Prescription Pills) model legislation for combating the epidemic of prescription drug abuse. The scope of the problem of epidemic prescription drug abuse is in the headlines each day. The deadliest drug epidemic begins and ends in the home. Clinicians have to strike a balance between treating chronic pain and defending against misuse and abuse. The introduction of new opioid formulations as a deterrent can be utilized.

The preferred methods of abuse are crushing, smoking, snorting, and injecting prescription drugs. The development and goals of these new formulations is to make sure that patients who need pain treatment receive treatment in a safe and effective delivery of those medications. The FDA has approved six formulations over the last two years that incorporate the tamper resistant technology. The key provisions of the legislation she would again be sponsoring would require the Kentucky Board of Pharmacy to publish a list of opioid analgesic drugs that incorporate tamper-resistant technologies, and prohibit the substitution of drugs without the pharmacy verifying that the substitute provides similar tamper-resistant properties as determined by the board or obtain consent from the prescribing physician for the substitution. An exemption for pharmacists in hospital-based pharmacies for filling prescriptions for in-patient care would be included. Prescribers would be free to prescribe whatever product they believe is best for the patient and allow the payers to maintain ability to control drug utilization and manage formularies. The intent is to make it more difficult for individuals to misuse and abuse long acting opioids which leads to significant costs to society. Tamper resistant formulations (TRFs) make it more difficult to crush, melt, or alter medications into a form that is easier to abuse. This is physician-discretion legislation when writing a prescription of a long acting opioid. It is not intended to promote any brand, and it will incorporate and promote a technology that will save lives. The technology is licensed and is nonproprietary. Studies show that addicts crush or break down time-released products into a form that can be snorted or injected for a more intense “high” and that the products incorporating TRF technologies offer physicians the opportunity to prescribe products that can reduce the potential for misuse and abuse of opioids. She also provided information showing that studies had found that the reformulated emergency room Oxycodone abuse



rates were significantly lower than the original emergency room Oxycodone.

Representative Wuchner also showed short clips of testimony from Commissioner Rodney Brewer of the Kentucky State Police who provided comments from a law enforcement perspective of the misuse and abuse of these drugs; testimony from Circuit Court Judge William Roberts serving the counties of Bath, Menifee, Montgomery, and Rowan who discussed the societal costs of prescription pill abuse; and testimony from Marlyce Burkeardt-Neal, a mother who lost two of her children to prescription drug abuse.

In response to a question by Co-Chair Stivers as to the cost differential between a TRF and a non TRF, Representative Wuchner indicated there was no cost difference in the products currently on the market that have utilized the tamper resistant technology, but the prescribing of the medication is at the discretion of the physician and that generic drug providers are coming on board to add this technology to their medications.

#### **Final Revised Board of Medical Licensure House Bill 1 Regulations**

Dr. Preston Nunnelley, Chairman of the Board, Michael Rodman, Executive Director, and Lloyd Vest, General Counsel, Kentucky Board of Medical Licensure (KBML), discussed the final revised KBML House Bill 1 regulations. Dr. Nunnelley stated that the KBML has attempted to address each concern expressed by the various stakeholders. The new amended regulations set forth exceptions to the professional standards for prescribing and dispensing controlled substances and attempt to streamline and remove confusing language; focus on the standards for long-term pain treatment; exclude patients under the age of sixteen from the long-term pain standards; and include an exception for all Schedule V controlled substances from the standards.

The board developed standards for prescribing and dispensing controlled substances for treatment of conditions other than pain by separating out non-pain medications and only dealing with chronic pain. The standard is to run an initial KASPER report with that group of medications, but physicians are still required to practice quality medicine. The regulations look at physician-owned pain clinics by, among other things, the address the criteria for a pain clinic and what is required in the facility. They lower the registration fees to \$500 for each individual clinic. A physician employed by a physician-owned pain clinic must be board certified. Language was amended to grandfather in physicians who owned a pain management facility prior to July, 2012 and who meet residency criteria. There is a requirement that

physicians complete at least ten hours of Continuing Medical Education (CME) in pain management annually, in addition to the 4.5 hours of CME required by statute. The definition section of the regulations were also changed.

Mr. Vest indicated that changes to the definition regulation (201 KAR 9:001), which has been filed with LRC, comply with KRS Chapter 13A.

Dr. Nunnelley said that KBML has maintained the requirements of House Bill 1 that help decrease prescription drug abuse in the state. The amendments have reduced many of the unintended consequences of the regulations.

Responding to a question by Senator Higdon, Dr. Nunnelley stated that KBML has addressed the sleep aids for senior citizens. Some medications do not require a patient have a urine screen every three months if the patient is taking the medication properly.

In response to a question by Representative Gregory concerning the regulatory requirement for urine drug screens, Dr. Nunnelley stated that drug screening will be on medications prescribed for pain that lasts for more than 90 days, at which time a baseline drug screen would be done. Thereafter, only if a physician suspects abuse would another screen be done, but there is no mandate beyond the initial screen. Periodically, the physician needs to see the patient, and a KASPER report needs to be performed.

In response to a comment by Chair Tilley regarding Schedule V controlled substances not being addressed in the law or regulations, Dr. Nunnelley pointed out that the new amendment to the regulation has exempted Schedule V medications. For Schedules II, III, and IV drugs, if not prescribed for pain, only an initial KASPER report is made. Schedule V controlled substances have the propensity for addiction, but it is very low. Mr. Rodman said that the risk of diversion of Schedule V controlled substances is minimal.

Responding to a question by Chair Tilley, Dr. Nunnelley said there are times when a physician cannot meet the established criteria, and that good quality care and patient needs are to be treated first with a follow up on any missing documentation that may be required. KBML has suggested that a physician document any missing criteria and that it be reasonable professionally. When complaints are received by KBML, a professional in the physician's specialty reviews the complaint to determine quality of care before a decision is made as to any violation.

#### **Final Revised Cabinet for Health and Family Services House Bill 1 Regulations**

Mary Begley, Inspector General, Stephanie Hold, Assistant Director, and Stephanie Brammer-Barnes, Policy Analyst, Cabinet for Health and Family Services, discussed the upgrades and future enhancements of the KASPER system. The cabinet has worked closely with KBML on the implementation of House Bill 1 and the products that will be forthcoming with KASPER. Some of the emergency regulation enhancements relate to the dispensing data effective on July 1, 2013. A patient and practitioner error resolution was established. Language regarding medical examiners engaged in death investigations and their ability to access reports from KASPER on deceased individuals has been addressed. The direct administration of controlled substances in a health facility is not required to be reported to KASPER prior to July 1, 2013. The issue of using all zeros as an identifier was addressed and may be used to report an adult who does not have a social security number (SSN) or a child that does not have an SSN, or to report on an animal. A query may be made of KASPER without an SSN. Physicians can authorize institutions to assign delegates to run KASPER reports with strict requirements and auditing. The Office of Inspector General is working permit a practitioner to report to law enforcement suspected illegal conduct by a patient.

Ms. Begley stated that nonphysician-owned clinics or pain management facilities are addressed and identified as a facility with greater than 50 percent of unduplicated patients treated on a one month period and received controlled substances for pain. The medical director of the facility must meet one of the qualifications established by House Bill 1 or become certified by the American Board of Pain Medicine or American Board of Interventional Pain Physicians by September 1, 2013. The key components of the regulation include requiring prescribers to comply with the prescribing and dispensing of controlled substance standards established by the appropriate licensure board; requiring a facility to demonstrate compliance with standard operational and environmental requirements; and prohibiting a facility may transferring ownership after the effective date of the legislation to a nonphysician.

Ms. Begley also discussed criteria that was established for the denial of an initial license to operate a pain management facility. The initial requirement for a full-time physician and a registered nurse in the facility was changed to a full-time physician and practical nurse or a licensed

practical nurse. There is an added requirement for physicians in these facilities to complete at least ten hours of Continuing Medical Education in pain management. As of October, 18 pain management facilities had closed or discontinued providing pain management services, including ten that shut down since House Bill 1 implementation. OIG has completed the inspections of all pain management facilities awaiting initial licensure.

Responding to a question by Representative Gregory concerning animals in the KASPER system, Ms. Begley stated that this was a workflow issue for dispensers because dispenses sometimes get prescriptions from a veterinarian.

In response to a question by Representative Westrom, Ms. Begley indicated that the ten pain clinics that closed after the implementation of House Bill 1 were not in a particular area or region but were throughout the state. They were clinics for which the cabinet had received complaints.

Responding to a question by Senator Higdon concerning the abuse of using all zeros in place of a SSN, Ms. Begley stated that the SSN was not the only identifier used. The cabinet is working with the Board of Pharmacy and individual pharmacies and tracking on a weekly basis individuals who have all zeros or sequential numbers to try to clear up the issue.

In response to a question by Chair Tilley concerning any sale of a clinic in the event of a death of the owner, Ms. Begley said there is no opportunity for a pain management facility that is not physician-owned to transfer ownership.

Mr. John Daniels, a nonphysician owner of the Central Kentucky Wellness Center in Lexington, Kentucky, in operation for two and one-half years, discussed the impact of the law on nonphysician owned clinics. He said he has been involved in the process and was pleased to see some of the comments his organization had made placed in the regulations. Many clinics have closed without exit plans or exit strategy, and the remaining clinics have been overwhelmed and overburdened in the marketplace. Because of the staffing requirements that have been placed on the clinics, more of them will close in the future. The requirements for a medical director differ from that of the KBML. All clinics under the cabinet's realm are existing clinics. He must hire a medical director or a "super specialist." Recruiters he is currently working with have indicated that it is very difficult to recruit such individuals because most physicians would not want to work in a single doctor office because they have a choice to work in hospitals. Mr. Daniels is concerned



about who takes care of the patients when the clinics close or when there is no exit strategy. His clinic is required to hire a board certified prescriber.

Chair Tilley said that the legislation is not intended to make it difficult for those in need of pain treatment but to address a serious problem of drug abuse that demands a public policy response.

Mr. Daniels said that his clinic's protocol has always been more restrictive than the legislation for KASPER, drug testing, and patient conduct. Patients are having to be reeducated on proper pain management care. He also applauded the tamper resistant medications. As soon as they became available on the market, his clinic began using them even though the patients did not want them.

### **Final Revised Board of Nursing HB 1 Regulations**

Nathan Goldman, General Counsel, and Paula Schenk, newly appointed Executive Director of the Kentucky Board of Nursing, discussed the changes to the board's regulations. Mr. Goldman stated of the four regulations amended by the board for the implementation of House Bill 1 that comments were received only on the one relating to prescribing standards. The changes are similar to those of the KBML regulations. The Board of Nursing regulations had contained certain exceptions such as Schedule V controlled substances and hospice care, and the standards are the same as the KBML. Ms. Schenk stated that the board's regulations closely conform to what the KBML presented.

### **KASPER Program – Operational Experience and System Upgrades under HB 1 and Future Enhancements**

Mary Begley, Inspector General, Stephanie Hold, Assistant Director, David Hopkins, KASPER Program Manager, Cabinet for Health and Family Services, testified about the cabinet's experiences, upgrades to the KASPER system, and planned enhancements to the system since the implementation of House Bill 1. She thanked the General Assembly and the Attorney General's Office for the funding from the mortgage settlement of approximately \$4 million for the support and upgrade of the KASPER system and implementing House Bill 1. Several people have been hired to help with the program. The cabinet is working on interstate data sharing, institutional accounts, and other technological upgrades. These developers are difficult to recruit.

Chair Tilley asked that the cabinet keep LRC staff and the committee updated on how the program is doing financially so that the General Assembly will know about future

costs of the program.

Ms. Begley discussed the KASPER master accounts, which include physicians, dentists, optometrists, and podiatrists. As of the end of December 2011, there were 7,545 accounts. As of the end of November 2012, the number had increased to 23,074, and more are being registered. The average daily KASPER report volume prior to House Bill 1 increased from 3,290 to 17,665 reports after implementation. The average weekly Help Desk inquiries increased from 100 to 250 prior to and after implementation, and there were peak volume inquiries during the week of July 20 of 1,628. Pharmacy data continues to improve as to invalid social security numbers. Some of the issues deal with software that the pharmacies will have to address. The KASPER system is up 99.6 percent of the time and is monitored regularly. Incidents of slow reports have decreased substantially with a normal response time of 15 to 60 seconds for a report. The cabinet is upgrading the software to improve information that is going into the manual queue. Possible future projects include a querying KASPER data to identify the top potential doctor shoppers, to annually review prescribing patterns by profession, tracking results of the prescriber reviews and trend reports, and improving KASPER data quality by working with the Board of Pharmacy, pharmacies, and software vendors. The cabinet is working with the Veterans Administration (VA), and Kentucky is one of the first states given permission prior to the changing of the regulations to allow VA physicians to query KASPER data. VA pharmacies are also entering data into the KASPER system. This service is still in the testing phase.

### **Administration's Stakeholder Engagement Process and Status**

Michael Rodman, Executive Director, Board of Medical Licensure, Mary Begley, Inspector General, Cabinet for Health and Family Services, Van Ingram, Executive Director, Office of Drug Control Policy, and Kate Wood-Foster, Governor's Legislative Liaison, talked about the process and input of the stakeholders on the implementation of House Bill 1. Ms. Wood-Foster stated that all stakeholders were asked to submit comments to the administration regarding interpretation of the House Bill 1 itself, the administrative regulations, and possible unintended consequences. The administration received 243 comments. Approximately 12 regarded interpretation, 123 regarded regulations, and 59 regarded statutes other comments and questions. Most issues have been addressed, but some

are not within the administration's jurisdiction. This stakeholder group was used to identify key issues for future steps to help the different provider groups with challenges they will face.

Mr. Ingram noted that the medical community will need to be educated on the regulations. Grant funding opportunities are available. The Office of Drug Policy has partnered with Operation Unite, which received a grant from the Appalachian Regional Commission to perform geographic training around the state after the regulations are finalized. A grant was secured from the National Governor's Association to conduct a forum for training in 2013. Discussions have been held with the University of Kentucky Healthcare Continuing Education Central (CECentral) program, which will videotape the training sessions so they may be offered on-line for continuing education credit. Patient outreach is being done through the Office of Drug Policy with Operation Unite and the Home Healthcare Association by developing brochures that will be sent out to 10,000 patients to explain the dangers of opioid painkillers and why it is necessary to secure and dispose of them properly. Other training will focus on recognizing drug abuse and dependence in patients, how to discuss drug abuse, tolerance and dependence issues with patients, KASPER usage and interpretation, opioid therapy risks versus rewards, and treatment referrals.

Responding to a question by Senator Higdon, Mr. Rodman indicated that the Board of Medical Licensure will promulgate regulations on prescribing methadone and suboxone.

The meeting adjourned at about 2:40 p.m.

## **TASK FORCE ON THE UNIFIED JUVENILE CODE**

### **Minutes of the 6th Meeting of the 2012 Interim**

December 19, 2012

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

The 6th meeting of the Task Force on the Unified Juvenile Code was held on Wednesday, December 19, 2012, at 1:00 PM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Hasan Davis, Teresa James, Robert D. Neace, Mary C. Noble, Pamela Priddy, Peter Schuler, and Steve Trimble.

Guests: Marylee Underwood, Kentucky Association of Sexual Assault Programs; Wayne Young, Kentucky Association of School

Administrators; and Marty White, CLC.

LRC Staff: Joanna Decker, Ray DeBolt, Jonathan Scott, Mike Clark, Matt Trebelhorn, and Rebecca Crawley.

The minutes of the November 13, 2012 meeting were approved without objection.

### **Discussion and Approval of the Final Report of the Unified Juvenile Code Task Force**

Representative Tilley thanked the members for serving on the task force and for their thoughtful and considered contributions to the work of the group. He said the draft report presented for consideration recognizes the issues identified in the shortened interim but recognizes the juvenile justice system needs more in-depth study and discussion. Three issues of importance include financial mapping, development of an assessment tool, and information sharing among all agencies. The report recommends reauthorization of the task force in 2013 to allow more information to be presented and development of concise recommendations for change.

Commissioner James said the task force recognizes the need for improved mental health services for children which could take ten years to fully develop. The Department of Community Based Services, Department of Juvenile Justice and Department of Behavioral Health will be working on the SAMUSA grant to develop a financial map for Kentucky, a critical first step toward redirecting resources toward better services to juvenile offenders.

Mr. Schuler thanked the task force for allowing him to participate in the work. He said that last week a six year old child was in Jefferson County Court charged with arson. The child was so small he could not be seen behind the podium. The Rules of Criminal Procedure apply no matter the age of the defendant. He said a six year old child cannot understand the severity of charges against them, and if restitution is ordered, many times their families do not have the means to pay the amount ordered by the court. Criminal charges against a juvenile offender follow them throughout their lives and tie up the court system. He asked Representative Tilley for permission to share recommendations he developed with assistance from the Department of Public Advocacy. Representative Tilley agreed to hear the recommendations but noted the task force would not be voting of legislative recommendations for the 2013 Regular Session.

Mr. Schuler's recommendations include mandatory diversion for all status offenders, authorize the court designated worker to seek supportive services on a voluntary basis, grant



the court designated worker authority to seek any available assistance from the Department of Community Based Services, State and Local Interagency Councils, and Department of Juvenile Justice without formal court action, facilitate information sharing by including federal FERPA language to ensure full implementation of Kentucky Supreme Court Family Court Rules, limit issuance of valid court orders to children who have been adjudicated to have committed a status offense, and establish limits for how long a valid court order will last absent exigent circumstances.

Mr. Schuler said he hopes the task force, if reauthorized by the 2013 General Assembly, will address more serious issues relating to the juvenile justice system.

Representative Tilley said the 2013 General Assembly will be tackling several major issues. He noted that 2011 House Bill 463 took three years of study to become law, and revising the juvenile code cannot be completed in one interim.

Justice Noble thanked the co-chairs for starting the conversation about reforming Kentucky's juvenile code. She said the code as written is pretty good but the court system and the school system have changed since the code was written. She agreed revising the code needs more time to produce the best product for Kentucky's children and their families.

Senator Stine said financial mapping is crucial to developing a modern and efficient juvenile code. She said we should keep the courts as the last resort for juvenile offenders and should retain judicial discretion for detention. She said it is very important to maintain respect for the court, valid court orders must be respected or we will slide into anarchy.

Ms. Priddy commended the work of the task force and urged the inclusion of a mental health representative in the membership of the task force if it is reauthorized.

Senator Stine said the next task force should have input from the Kentucky Education Association because teachers are on the front line with out of control students.

Mr. Schuler asked if a minority report could be made part of the task force proceedings. Representative Tilley said the task force would be voting to adopt or not adopt the draft report provided to the members and no minority report would be included.

Commissioner Davis said Mr. Schuler's recommendations were very important and should be taken under further consideration if the task force is reauthorized by the 2013 General Assembly.

Justice Noble said the task force should take a more in-depth look at status offenses, which are not criminal

offenses, but include habitual truancy and running away from home. She said children cannot be treated the same as adult offenders and the definition of status offenses must be clarified. She is also concerned about the overuse of valid court orders by the courts. The courts need to focus on improper application of the law and not on the law being written incorrectly.

Commissioner James commended Mr. Schuler for his passion for protecting juvenile offenders. She said the Connecticut school shooting has focused national attention on the need for improving mental health services for children and young adults. She also noted the draft report calls for a uniform assessment tool. She said the Department for Community Based Services is not authorized to perform assessments, but they can do screenings.

Senator Stine moved, seconded by Superintendent Trimble, for adoption of the draft final report as discussed by the members. The motion was adopted by a vote of 9-1 with Mr. Schuler voting nay.

Chairman Tilley asked the members to observe a moment of silence in honor of the victims of the Connecticut school shootings.

The meeting adjourned at 2:15 p.m.

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

January 9, 2013

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, January 9, 2013, upon adjournment of the Senate and House Chambers, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Tom McKee, Terry Mills, and Ryan Quarles.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Ms. Angela Blank, Mr. Biff Baker, and Mr. Brian Murphy, Governor's Office of Agricultural Policy; and Mr. Jeff Harper, Kentucky Farm Bureau.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The December 12, 2012, minutes were approved, without objection, by voice vote, upon a motion by Senator Parrett and seconded by Representative Mills.

**Governor's Office of**

## **Agricultural Policy**

Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its December 2012 meeting.

GOAP officials summarized funding allocations for the previous month under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and Shared-Use Equipment programs. Following the overall review, some of the services offered and equipment acquired under programs Deceased Farm Animal Disposal and Shared-Use Equipment programs were explained.

GOAP staff provided details on the statewide and regional projects, which included: Kentucky Horticulture Council, approved for \$1,325,000 for two years to continue work in the expansion and profitability of horticulture crop producers in the state; Kentucky Beef Network (KBN), \$1,580,947 for two years to continue training beef cattle producers to produce and market quality livestock; Kentucky Specialty Grains, \$33,850 to conduct a study on the market feasibility of a summer chia plant; Kentucky Dairy Development Council (KDDC), \$1,863,900 for two years to continue a Kentucky dairy education and promotional program.

Responding to Co-chair Hornback, Mr. Neaveill said the funding for the Kentucky Horticulture Council was a continuation from previous years. Specific goals or benchmarks must be achieved. Mr. Neaveill indicated Agricultural Development Board members believe horticulture is a growth industry, and support is needed to help with the growth of the industry.

Mr. Thomas indicated the second year of funding to the organization will be dependent on goals achieved in the first year of funding.

GOAP officials described to Representative Stone and Senator Parrett how assistance by other entities will be accounted for by the Horticulture Council. The other entities involved include the University of Kentucky and Kentucky State University. The assistance will not be considered a funding or in-kind match, but an additional commitment of technical assistance and expertise, or accommodations such as building space. According to Mr. Rogers, the Horticulture Council will be documenting the additional commitments. It is easy to document building space provided but more difficult to document hours

contributed. The council's quarterly and annual reports are detailed.

Senator Webb commented on a concern she had when the HB 611 legislation was being drafted in 2000, that there needs to be an assurance that the tobacco settlement funds assist farmers. During the discussion, GOAP officials said copies of the council's periodic reports will be provided to the members.

Regarding the KBN projects, Co-chair Stone commented on the growth of the cattle industry in Kentucky in the last 10 years. Mr. Rogers echoed the representative's remarks and noted that buyers at out-of-state feed lots can attest to the quality of cattle now coming from Kentucky. Discussion also touched on the growth of farm gate receipts in Kentucky even though the value of tobacco production has markedly declined.

Responding to Senator Hornback, Mr. Biff Baker, GOAP Project Manager, described provisions of the Kentucky Specialty Grains contract.

In response to Senator Parrett, who asked why the endeavor was not a county project, Mr. Neaveill indicated the Kentucky Specialty Grains is not a traditional project and may result in opportunities for agricultural producers.

Commenting on KDDC, Senator Parrett and Representative McKee talked about the positive impact KDDC is having on the dairy industry in the state.

Speaking to the committee following the KDDC report, Senator Gibson remarked that he hopes to hear members of the committee mention programs that the legislators would like to see undertaken.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 3:30 p.m.

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

March 5, 2013

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Tuesday, March 5, 2013, at upon adjournment of the Senate and House Chambers, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Dennis Parrett, and Robin L. Webb; Representatives Mike Denham, Tom McKee, and Terry Mills.



Guests: Mr. Roger Thomas, Mr. Bill McCloskey, Ms. Angela Blank, and Mr. Biff Baker.

LRC Staff: Lowell Atchley and Kelly Blevins.

The January 9, 2013, minutes were approved, without objection, by voice vote, upon a motion by Representative McKee and second by Senator Hornback.

#### **Governor's Office of Agricultural Policy**

Mr. Roger Thomas, Executive Director, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its January and February meetings.

GOAP officials summarized funding allocations for the previous month under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, the On-Farm Energy, and Shared-Use Equipment programs. Following the overall review, the agency officials explained some of the services offered and equipment acquired under the programs particularly the On-Farm Energy Program allocations, which totaled \$105,508 for the funding period. GOAP officials explained the Clinton County deceased farm animal disposal program. Representative McKee said the program in Harrison County has been a success.

GOAP staff provided details on the statewide and regional projects, which included: Logan County Agricultural Extension Foundation, \$72,441 in county agricultural development funds for improvements to an existing multipurpose agriculture facility; Ballard County Board of Education, \$29,917 in county funds to build a greenhouse at the Ballard County high school; Butler County Stockman's Association, \$2,000 in county funds for improvements to a livestock system at the local agricultural exposition center; city of Morgantown, \$6,750 in county funds to enhance the local agricultural exposition center; Metcalfe County 4-H Council, \$2,361 in county funds for a country ham curing project.

GOAP staff provided details on the rationale for denying funding to the Crystal Bridge Fish Farm in Oldham County, and the Muhlenberg County Conservation District. A misunderstanding by one applicant resulted in a denial; another denial resulted from a low priority for the project given at the county council level. Responding to Co-chair Stone, Mr. McCloskey indicated that materials sent to applicants contain guidelines and rules on applying. Those denied funding received a letter

explaining the reason the projects were turned down. Responding to Representative Mills, he said the applicants that were denied funding can re-apply if the project is new. The specific circumstances surrounding the Crystal Bridge denial were described.

Responding to Representative Denham, Mr. McCloskey said the Logan County complex has expanded to include livestock show areas, classrooms, and meeting facilities. Mr. Thomas said county agricultural development funds have been used to a large extent to improve the complex. Representative Denham mentioned a successful meat microprocessor in Lewis County that has received agricultural development funds.

Referring to the Ballard County greenhouse project, GOAP officials said a listing would be provided of all greenhouse projects funded in the state in recent years.

GOAP officials responded to Senator Parrett that a Hart County exposition center had been built using a combination of county agricultural development funds and Kentucky Agricultural Finance Corporation loans.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 6:30 p.m.

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

April 3, 2013

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, April 3, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Jimmy Higdon, Dennis Parrett, and Robin L. Webb; Representatives Terry Mills, Ryan Quarles, and Tommy Turner.

Guests: Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Ms. Angela Blank, Mr. Brian Murphy, and Mr. Biff Baker, Governor's Office of Agricultural Policy; Mr. Michael Plumley, Office of the Attorney General.

LRC Staff: Lowell Atchley, Stefan Kasacavage, and Kelly Blevins.

The March 5, 2013, minutes were approved, without objection, by voice vote, upon a motion by Representative Mills and second by Representative Turner.

##### **Co-chair Election**

Following roll call and confirmation of a quorum, committee members, with staff presiding, nominated and elected by acclamation the Senate and House committee co-chairs. Senate members elected Senator Paul Hornback as co-chair and House members elected Representative Wilson Stone as co-chair.

#### **Governor's Office of Agricultural Policy**

Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its March meeting.

GOAP officials summarized funding allocations for the previous month under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, the On-Farm Energy, and Shared-Use Equipment programs. Responding to Co-chair Hornback regarding a Nelson County Fiscal Court deceased animal removal program, GOAP officials indicated that the county had received the funds in the past and funds are available to applicants on a yearly basis and are limited to \$7,500 per applicant.

Mr. McCloskey reviewed the only statewide project receiving board-approved funding in the previous ADB meeting – a Pennyriple Area Development District (PADD) proposal to develop a database on Kentucky's agricultural assets and resources, including potential agricultural development sites, agricultural industrial sites, food production and supply facilities, and other agricultural infrastructure locations.

The board approved \$100,000 for the PADD project contingent on the applicant receiving an \$800,000 grant from the U.S. Economic Development Administration. Other area development districts will participate as well. The total cost of the project is estimated at \$1 million.

Responding to Senator Parrett, GOAP officials said the applicant is awaiting final approval of the federal grant after receiving tentative approval.

Replying to Co-chair Stone, Mr. Thomas said reports on the undertaking will be available within a year of the project startup. Mr. Thomas also noted that, as a part of the proposal, each area development district must create its own agricultural development strategy.

Representative Stone predicted the project will reveal more agriculture assets than what is readily evident.

Mr. Thomas summarized a

greenhouse funding report provided as a result of a request made in a previous committee meeting. The report consisted of a list of applicants that had received agricultural development funding for greenhouse projects since 2001. Several projects, either greenhouse expansions or new construction efforts, were listed. Some were located on school grounds while others were built elsewhere, sometimes as a part of on-farm markets.

Responding to Senator Gibson, Mr. Thomas said there was no rationale for greenhouses being built mostly in larger urban areas versus rural areas, other than potential applicants in rural areas not applying.

Mr. Thomas likened the greenhouse projects to farmer's market projects by virtue of making a connection between farmers and consumers.

#### **Office of Attorney General MSA Report**

Mr. Michael Plumley, Assistant Attorney General, reported on work to enforce the requirements of the Master Settlement Agreement in Kentucky.

Mr. Plumley's report covered three main areas: (1) the current arbitration to help decide a disagreement over certain terms in the 1998 Master Settlement Agreement; (2) 2012 enforcement of tobacco companies doing business in Kentucky; and (3) the estimated 2013 tobacco settlement payment.

The arbitration process centers on a disagreement between states and cigarette manufacturers who are party to the agreement over whether states are diligently enforcing the rules of the agreement against manufacturers who are not party to the agreement. The disputed year is 2003 and subsequent years also could be disputed. While the arbitration has taken longer than anticipated, Kentucky will appear before an arbitration panel in May. The Office of the Attorney General expects a decision by the end of the year.

Replying to Co-chair Hornback, Mr. Plumley said that, for Kentucky's part, about \$20 million is in dispute, although that figure may change depending on what states are ruled to not have adequately enforced the agreement.

Mr. Plumley also complimented GOAP and other agencies for assisting his office in the arbitration effort.

Responding to Senator Gibson, Mr. Plumley described the dispute in some detail. He said the MSA is designed to continue so long as tobacco companies sell cigarettes in the United States. Intervening disputes will occur over how much should be paid to states. He said that he would obtain a copy of agreements with



private sector attorneys involved in the arbitration.

In a response to Senator Higdon, Mr. Plumley described the state’s statutory escrow requirement for companies not party to the agreement. The companies escrow funds based on their sales to cover potential future legal claims. The funds are to be escrowed for 25 years. Most participating states have similar escrow statutes.

Replying to a question from Senator Higdon later in the meeting, Mr. Plumley pointed out disputes over the payments arise every year. As for Kentucky, \$150 million has been disputed through the life of the agreement.

Responding to Senator Hornback, who asked if a decision in the current disputes would have a bearing on future disputes, Mr. Plumley said the Attorney General’s Office is prepared to defend each year.

On the other issues, Mr. Plumley indicated there is nearly a 100 percent compliance rate from cigarette manufacturers doing business in Kentucky. There were 21 nonparticipating manufacturers approved in the state last year. Those companies sold about \$250 million worth of cigarettes. About \$70 million was placed in escrow based on those sales. Escrow deposits are declining, which is an indication of declining sales.

In addition, the 2013 tobacco settlement payment to Kentucky was expected around April 15. The amount would be similar to the 2012 payment of about \$100 million. Through the life of the tobacco settlement agreement, Kentucky has received about \$1.5 billion.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 11:30 a.m.



# Military, from page 3

concerns that allowing electronic submission of completed ballots would compromise ballot integrity and voter anonymity.

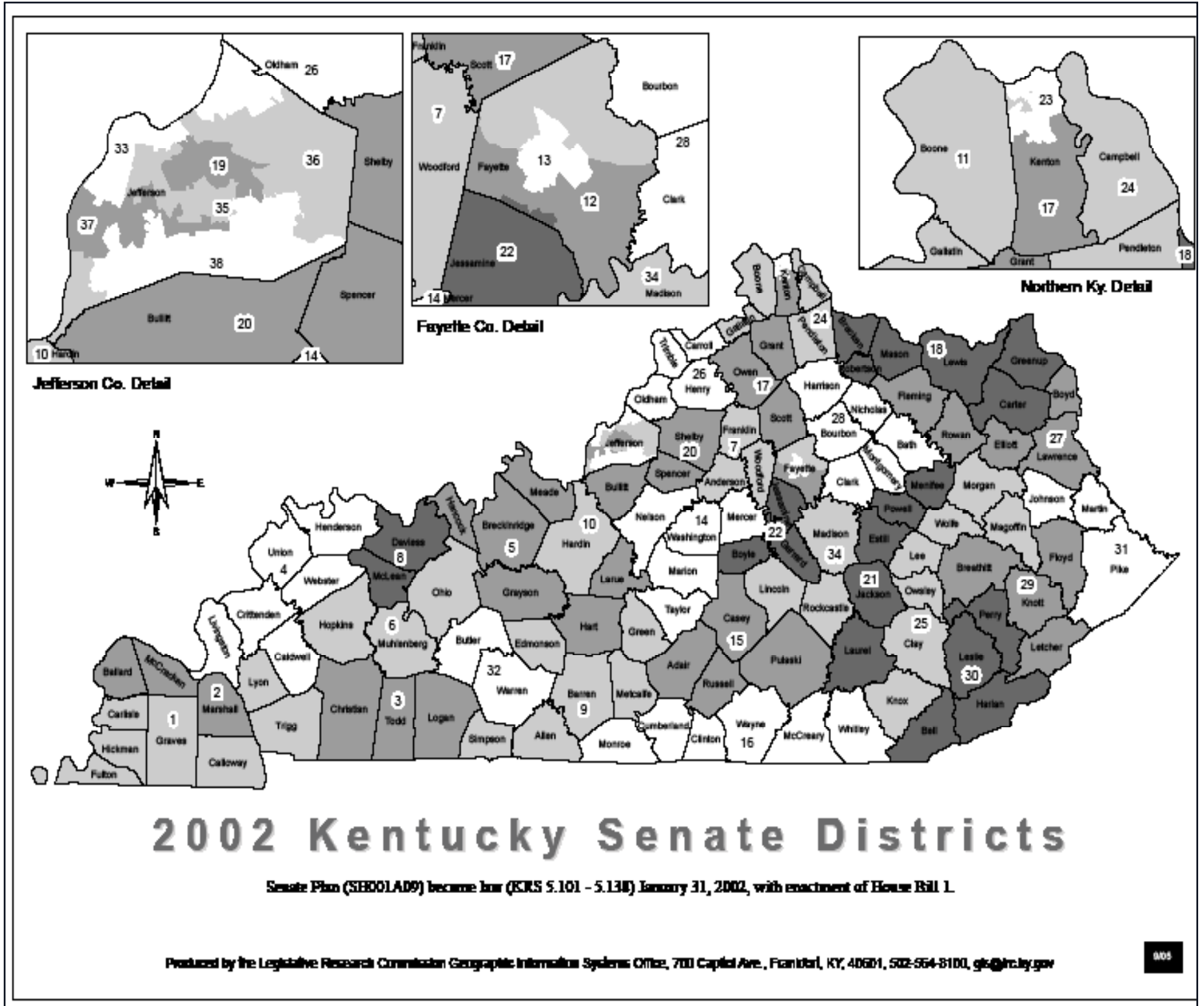
The legislation establishes a task force to study those concerns, as well as election laws and absentee ballot procedures relating to military and overseas voters.

A provision added to the bill will prevent the disclosure of any absentee ballot application information (overseas or domestic) until after Election Day. Exceptions will be made for the Secretary of State and State Board of Election.

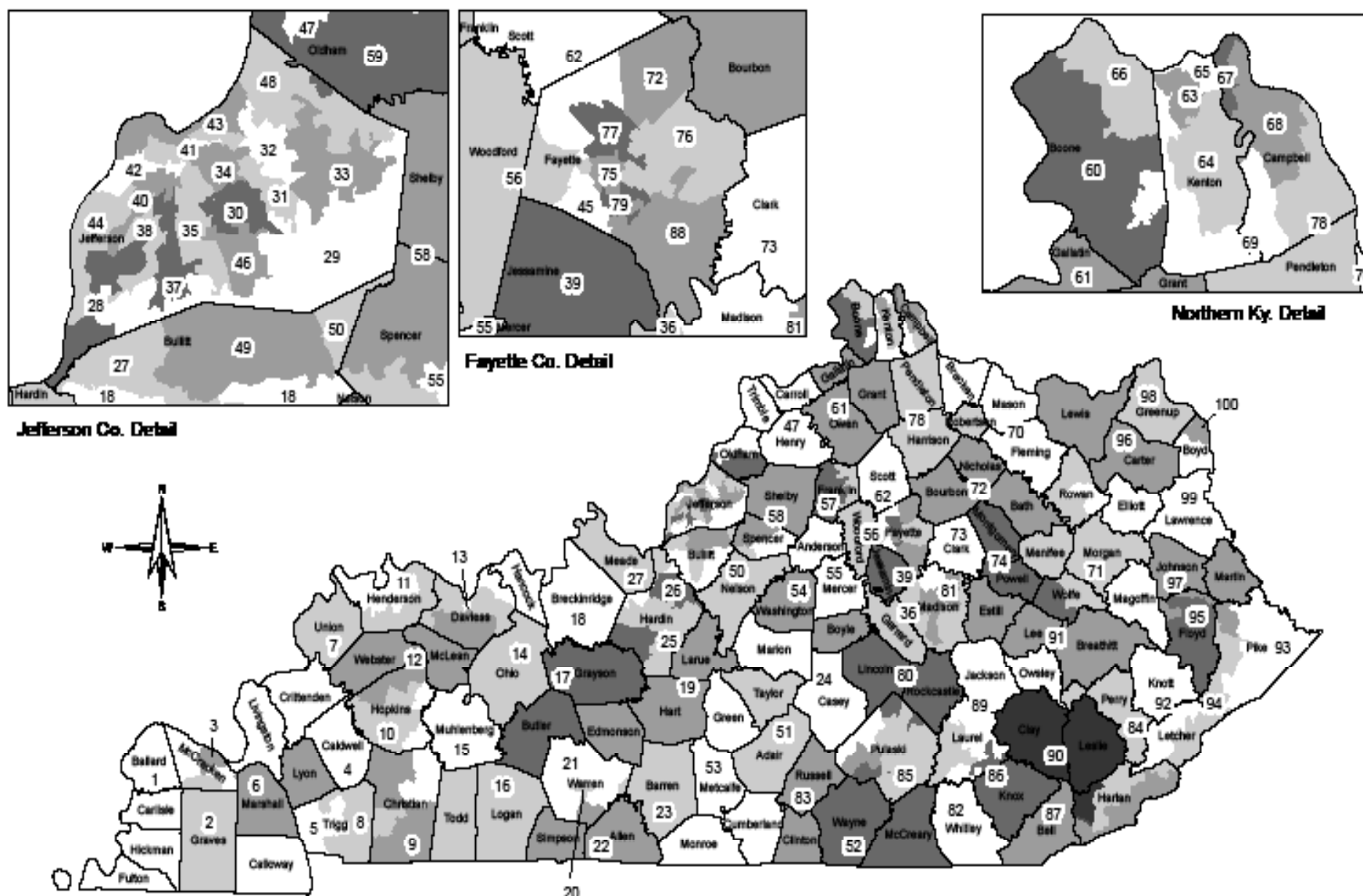
Senate Bill 1 is known as the Uniform Military and Overseas Voter Act.

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# 2002 Kentucky House Districts

House Plan (HH001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

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