

# Unemployment issues get hearing before panel

by Rebecca Mullins  
LRC Public Information

After already borrowing approximately \$338 million to pay its unemployment benefits, Kentucky needs new solutions to keep its unemployment trust fund solvent as the state's jobless rate rises, a state official told lawmakers on Aug. 20.

As of July, Kentucky's unemployment rate had risen slightly to 11 percent—the highest rate in the state in 26 years, Education and Workforce Development Cabinet Secretary Helen Mountjoy told the Interim Joint Committee on Labor and Industry. While the rate is not rising as quickly as in recent months, Mountjoy said a state task force is working with consultants to ensure the state has an unemployment insurance trust fund and system that is “stable, solvent and sustainable going into the future.”

The Unemployment Insurance Task Force, led by Mountjoy, is working with consultants to develop recommendations on employer rates, the appeals pro-

cess and other issues affecting the system, she said.



Rep. Rick Nelson, D-Middlesboro, Co-Chair of the Interim Joint Committee on Labor and Industry, fields questions at the Aug. 20 meeting.

Bud Kraft/LRC Public Information

One of those issues is the state's \$8,000 fixed taxable wage base used to determine unemployment system revenue.

Mountjoy told lawmakers that the taxable wage base hasn't changed since 1982, and that indexing the base rate will likely be recommended to help revenues keep pace with claims.

“We have a fixed base on which revenues are determined, but a changing base on which benefits are determined,” she said. “The

previous system worked pretty well for 27 years...It began to falter because it has this fundamental imbalance.”

Another concern raised by Mountjoy is the issue of “reimbursing employers”—a category of employers including state and local governments and not-for-profits that are not required to pay regular unemployment insurance tax like most employers but only pay into the system when a claim is made against them. Mountjoy said nearly a quarter of all wages paid in the state come from reimbursing employers.

The trouble, Mountjoy explained, is that the unemployment insurance trust fund loses interest since reimbursing employers don't pay in advance.

Rep. Bill Farmer, R-Lexington, asked how much Mountjoy expects the state to have to borrow to keep pace with unemployment claims. Based on reports to the committee, Farmer said the state has already borrowed about \$30 million more this month

**Continued on page 2**



Interim Joint Committee on Local Government Co-Chair Sen. Damon Thayer, R-Georgetown, speaks with another lawmaker during the July meeting.

Photo by Bud Kraft/LRC Public Information

## Protection of public records discussed by state lawmakers

by Rebecca Mullins  
LRC Public Information

Using sprinkler systems to protect permanent records from fire in local government offices is not foolproof, a state legislative committee heard on July 29, although state officials say buildings are better off with the systems than without them.

Any damage caused by water sprinklers to marriage licenses, deeds and other permanent paper records stored in local governments should be less than damage caused by fire, Kentucky Division of Building Codes Enforcement Deputy Commissioner George Mann told the Interim Joint Committee on Local Government. But not all local officials and building contractors are happy with current state code requiring office storage rooms larger than 100 square feet to have automatic fire protection, like a water sprinkler system—the most common form of protection.

“It's very common for us to hear statements like ‘If we get a sprinkler head that malfunctions, our records will be ruined because of the water,’” said Mann. “We try to explain (to them) that the records will be damaged if there is a fire. The fire protection system, if installed, will hopefully reduce the amount of damage that that fire would create.”

Jeffersontown Fire Protection District Chief and Kentucky Association of Fire Chiefs official Jack Reckner testified that while sprinkler heads can fail, the cause is often human error. Only 1 in 16 million sprinkler heads are defective, he said.

Committee Co-Chair Rep. Steve Riggs, D-Jeffersontown, said another issue is many people don't understand how sprinkler systems work.

**Continued on page 2**

## Unemployed, from page 1

than it borrowed last month.

"Can we expect to see about a \$30 million growth every month because a majority of employers paying into unemployment have probably already paid their total balance?" he asked.

Mountjoy said she is not certain about future rates, although the system tries to project at least three months in advance.

Committee Co-Chair Rep. Rick Nelson, D-Middlesboro, asked Mountjoy why some Kentuckians aren't receiving benefits. "It's not because they don't know they can apply, but what do you think a couple of reasons are? Maybe they don't qualify?" he said.

"Even in this economy, drawing unemployment insurance benefits is seen as a stigma in many parts of Kentucky, and in many segments of our population, so we have many people who choose not to apply," she said. Other reasons are that some people don't qualify, or were able to build up reserves to live on when they were employed.

"We estimate that only about 50 percent of people who could qualify for unemployment benefits actually apply and are awarded in Kentucky," said Mountjoy.

The task force hopes to finish its recommendations by the end of October, she said.

## Public records, from page 1

"Their understanding of how a sprinkler system works is what they see in Hollywood movies, usually comedies, which is when one sprinkler head goes off, they all go off, which is not the case," said Riggs.

Chief Reckner said proper sprinkler design along with early fire detection and well-designed emergency plans are important for protection of permanent paper government records. Comparing the papers to fuel, Chief Reckner said a system must be able to properly respond to the "fuel load", which could be cardboard boxes of papers piled ceiling high.

"In one building where fire progressed unchecked, there were actually sprinkler heads in the rack storage. Unfortunately, it was not properly de-

**Continued on page 46**

# Business leaders, others speak out on corrections costs in Frankfort

by Rebecca Mullins  
*LRC Public Information*

Kentucky business leaders came before a state legislative committee on Aug. 7 to express concern with a state corrections budget that they said is taking money away from education and other priorities.

Kentucky Chamber of Commerce President David Adkisson told the Interim Joint Committee on Judiciary that state General Fund spending on K-12 education has decreased by about 5 percent since 1988 while corrections spending has grown by 44 percent since the year 2000, or about 14 percent more than growth of the state economy over the recent nine-year period. Medicaid and the state's public employee health plan budgets have also experienced fast-paced growth.

"So that is our concern, that there are three areas—Corrections, Medicaid and public employee health care—that are unsustainable. They are growing faster than the economy, growing faster than the state budget itself," said Adkisson.

Honing in on corrections, Adkisson illustrated the cost of the state's current inmate population—one of the fastest growing in the nation, according to the Pew Center on the States. While the state spends around \$9,200 per year on a K-12 student and around \$7,000 per year on a full-time postsecondary education student, it spends around \$19,000 a year to house a state inmate.

"So our perspective...is we're

coming at this from a budget priority standpoint... That as we find ourselves having to pay the bill on incarceration, we take money from education to do that and it's a self-defeating trend," said Adkisson.

Adkisson offered a number of potential solutions to the corrections problem, such as increased privatization of inmates to reduce state costs, reclassification of offenses to keep the prison population more in line with Kentucky's low crime rate, continued attention to the high number of drug offenders in prisons and jails, and a review of the state's persistent felony offender law which imposes mandatory sentences for repeat offenses.

Committee Co-Chair Sen. Robert Stivers, R-Manchester, said some state laws designed to reduce the corrections budget—such as a law passed last spring that increased the threshold for felony theft of property in many cases from \$300 to \$500—have been resisted by the business community. He suggested the state Chamber discuss the positive impact of such changes with local chambers of commerce.

"That is one of those areas when (we) talk about the cost of the system that the business community has consistently fought," said Stivers. "The business community could be a big factor in voicing support based on the numbers you have seen..."

Sen. Gerald Neal, who co-chairs the committee's Subcommittee on the Penal Code and Controlled Substance Act, said the subcommittee is evaluating the Chamber's information "and it will be factored into any recommenda-



Sen. Jerry Rhoads, D-Madisonville, left, talks with Rep. Brent Yonts, D-Greenville, at the Aug. 7 Judiciary meeting.

Photo by Bud Kraft/LRC Public Information

tions that we ultimately make."

Speaking on behalf of counties, which Stivers said generally bear the cost of incarceration at the local level, were Todd County Attorney Mac Johns and Woodford County Attorney Alan George. Johns explained the difficulty in balancing his role as prosecutor with what he called his principal role as "protector of the county budget."

One way to help lower corrections cost, said Johns, is to address drug addiction since drug-related crimes account for a large percentage of convictions.

Rep. Johnny Bell, D-Glasgow, suggested the criminal justice community work more closely together to help find solutions.

"It should be a concerted effort," said Bell.

## Lawmakers meet with new ed commissioner

by Chuck Truesdell  
*LRC Public Information*

Just five days after taking the job, Commissioner of Education Terry Holliday had his first meeting with state legislators as he spoke to the Interim Joint Committee on Education on Aug. 10.

"My vision of education is to prepare children to lead in the future, and we'll do so as collaboratively as possible," he said of his long-term plan for the state's P-12 school system.

In the meantime, though, there

are more pressing obligations.

"The practical side of me says my vision is Senate Bill 1," he said of his

**Dr. Terry Holliday  
comes to  
Kentucky  
from  
North Carolina.**

immediate task, referring to the legislation passed last spring to overhaul the state's testing and accountability sys-

tem. "Kentucky has long been known for national leadership in education reform... Your insight and preparation in Senate Bill 1 will certainly lead us into the next generation of education reform," he said. Staffers from the Department of Education followed Dr. Holliday in detailing executive branch efforts to implement the legislation.

Dr. Holliday comes to Kentucky from the Iredell-Statesville schools in North Carolina, where as district superintendent his district won a 2008 congressional award for its long-term improvement in quality and productivity.



# High-risk insurance pool doing well, panel told

by Rebecca Mullins  
LRC Public Information

Kentucky Insurance Commissioner Sharon Clark told state lawmakers on Aug. 5 that she is unsure how federal health care proposals will affect a Kentucky program that offers health insurance for sick Kentuckians priced out of the private insurance market.

But with \$10 million on hand to start out the new fiscal year which began July 1, Clark explained that the nine-year-old state program known as Kentucky Access is doing well despite some challenges.

The so-called “high-risk pool” currently covers 4,518 members, has received \$7.2 million in grant funds in the past 8 ½ years and is considered one reason Kentucky now has eight health insurers in the state’s individual market after losing several companies in the 1990s.

Now, two more individual insurance companies are considering coming to Kentucky, Clark told the state legislative Tobacco Settlement Agreement Fund Oversight Committee. “So we’ve been very pleased with those discussions,” she said.

Kentucky Access is funded by an assessment on health insurance providers, a portion of Kentucky’s share of a 1998 tobacco settlement between states including Kentucky and major tobacco companies, investment income, insurance premiums and grants, said program Executive Director Tonya Parsons. Last year, tobacco settlement dollars were used to cover over \$62 million in program expenses including medical claims and the cost of third-party program administration, which Clark said is about one third the national average.

“So we pinch our pennies,” she said.

Total medical claims through Kentucky Access for fiscal year 2009 were nearly \$58 million, Parsons said.

Parsons said she expects Kentucky Access to have revenues in the \$70 million range this fiscal year, based on a state appropriation of nearly \$20 million in tobacco settlement dollars and anticipated premiums.

The state’s tobacco settlement dollars are also appropriated by state lawmakers for the state’s Lung Cancer



Sen. David Givens, R-Greensburg, asks questions at the August meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

Photo by Bud Kraft/LRC Public Information

Research Program at the University of Kentucky and University of Louisville. Last fiscal year, approximately \$1 million of the \$5.6 million appropriated for the lung cancer program was transferred to the state’s Ovarian Cancer Screening Outreach Program. That interested Committee Co-Chair Rep. Dottie Sims, D-Horse Cave.

“This is a real good thing,” Sims said of the ovarian cancer program, also handled by the universities. She asked Clark how successful it has been so far.

Although Clark said she had no specific numbers from the universities, she understands that the program has a waiting list.

“So I would deem it to be a success based on that information,” said Clark.

As for the federal health care debate ongoing in Washington, Clark said her office is now monitoring discussion on about 10 federal bills that could possibly change health care as it is today.

“We certainly do not know what the impact will be with Kentucky Access and, quite frankly, we have been covering these bills and testimony every week. But we are closely monitoring this to see what impact the bills could possibly have,” she said.

## LRC Publications Informational Bulletins

- 229 General Assembly Action 2009 Regular Session
- 228 Final Reports of the Interim Joint, Special, and Statutory Committees 2008
- 227 Issues Confronting the 2009 General Assembly An update of Informational Bulletin No. 224 (2008)
- 226 General Assembly Action, Regular Session 2008
- 225 Final Reports of the Interim Joint, Special and Statutory Committees (2007)
- 224 Issues Confronting the 2008 General Assembly
- 223 General Assembly Action, Regular Session 2007
- 222 Final Reports of the Interim Joint, Special, and Statutory Committees (2006)
- 221 Issues Confronting the 2007 General Assembly
- 220 General Assembly Action, Regular Session 2006
- 219 Final Reports of the Interim Joint Special and Statutory Committees (2005)
- 218 Issues Confronting the 2006 General Assembly
- 217 General Assembly Action, Regular Session 2005
- 216 Final Reports of the Interim Joint, Special and Statutory Committees (2004)
- 215 Issues Confronting the 2005 General Assembly, An Update of Information Bulletin No. 212
- 214 General Assembly Action, Regular Session 2004

## Research Reports

- 359 Costs of providing services to unauthorized aliens can be estimated for some programs, but overall costs and benefits are unknown.
- 358 Review of special education in Kentucky
- 357 Reentry Programs For Felons Should Be Improved and Outcome Measures Should Be Developed (2008)
- 356 The Costs of College and High School Textbooks in Kentucky (2008)
- 355 Kentucky District Data Profiles (2008)
- 354 Understanding How Tax Provisions Interact With the SEEK Formula (2008)
- 353 A Review of the Extended School Services Program (2008)

2009

KENTUCKY

General Assembly

<b>Walter Blevins, Jr.</b> 777 Broadway West Liberty 41472-1023 Work 606-743-1212 Home 606-743-1200 FAX 606-743-1214	<b>Joey Pendleton</b> 905 Hurst Dr. Hopkinsville 42240 Home 270-885-1639 FAX 270-885-0640
<b>Charlie Borders</b> Room 204 State Capitol Annex Frankfort 40601 Home 606-475-0237	<b>Mike Reynolds</b> PO Box 4000 Bowling Green 42102 Work 502-564-8100
<b>David E. Boswell</b> 5591 Panther Creek Park Drive Owensboro 42301 Home 270-771-4921 Fax 270-926-9047	<b>Jerry P. Rhoads</b> PO Box 2002 Madisonville 42431 Work 270-825-1490 Home 270-825-2949
<b>Tom Buford</b> 409 W. Maple Nicholasville 40356 Home/FAX 859-885-0606	<b>Dorsey Ridley</b> 4030 Hidden Creek Drive Henderson 42420 Home 270-826-5402 Work 270-869-0505
<b>Julian M. Carroll</b> Room 229 Capitol Annex Frankfort 40601 Work 502-564-8100	<b>John Schickel</b> PO Box 991 Union 41091 Home 859-384-7506
<b>Perry B. Clark</b> 5716 New Cut Road Louisville 40214 Home 502-366-1247	<b>Dan “Malano” Seum</b> 1107 Holly Ave. Fairdale 40118 Work 502-564-2450 Home 502-749-2859
<b>Julie C. Denton</b> 1708 Golden Leaf Way Louisville 40245 Home 502-489-9058	<b>Tim Shaughnessy</b> 302 E. Muhammad Ali Blvd. Louisville 40202 Work 502-584-1920
<b>Carroll Gibson</b> PO Box 506 Leitchfield 42755 Work 502-564-8100 Home 270-230-5866	<b>Brandon Smith</b> 350 Kentucky Blvd. Hazard 41701 Home 606-436-4526 Home FAX 606-436-2398
<b>David P. Givens</b> PO Box 12 Greensburg 42743 Work 502-564-8100	<b>Kathy W. Stein</b> 364 Transylvania Park Lexington 40508 Work 859-225-4269 Home 859-252-1500
<b>Denise Harper Angel</b> 2521 Ransdell Ave. Louisville 40204 Home 502-452-9130	<b>Katie Kratz Stine</b> 21 Fairway Drive Southgate 41071 Work 502-564-3120 Home 859-781-5311
<b>Ernie Harris</b> PO Box 1073 Crestwood 40014 Home 502-241-8307	<b>Robert Stivers II</b> 207 Main Street Manchester 40962 Work 606-598-2322 Home 606-598-8575 FAX 606-598-2357
<b>Tom Jensen</b> 303 S. Main Street London 40741 Home 606-878-8845	<b>Gary Tapp</b> 308 Fishermen Circle Shelbyville 40065 Home 502-633-2304
<b>Ray S. Jones II</b> PO Drawer 3850 Pikeville 41502 Work 606-432-5777 FAX 606-432-5154	<b>Damon Thayer</b> 102 Grayson Way Georgetown 40324 Home 859-621-6956 FAX 502-868-6086
<b>Dan Kelly</b> 324 W. Main Springfield 40069 Work 859-336-7723 Home 859-336-9048	<b>Elizabeth Tori</b> 2851 S. Wilson Rd. Radcliff 40160 Home 270-351-1829 FAX 270-351-1829
<b>Alice Forgy Kerr</b> 3274 Gondola Dr. Lexington 40513 Home 270-351-3274	<b>Johnny Ray Turner</b> 85 Kentucky Route 1101 Drift 41619 Work 502-564-6136 Home 606-377-6962
<b>Robert J. “Bob” Leeper</b> 229 South Friendship Paducah 42003 Work 270-554-9637 Home 270-554-2771 FAX 270-554-5337	<b>Jack Westwood</b> 209 Graves Ave. Erlanger 41018 Home 859-344-6154
<b>Vernie McGaha</b> 4787 W. Hwy. 76 Russell Springs 42642 Home 270-866-3068	<b>David L. Williams</b> PO Box 666 Burkesville 42717 Work 270-864-5636 Home 270-433-7777
<b>Gerald A. Neal</b> 462 S. 4th St., Ste. 2150 Louisville 40202 Work 502-584-8500 Home 502-776-1222 FAX 502-584-1119	<b>Kenneth W. Winters</b> 1500 Glendale Road Murray 42075 Home 270-759-5751
<b>R.J. Palmer II</b> 1391 McClure Road Winchester 40391 Home 859-737-2945	<b>Ed Worley</b> PO Box 659 Richmond 40476 Home 859-625-5536 FAX 859-623-6557

House of Representatives

<b>Royce W. Adams</b> 580 Bannister Rd. Dry Ridge 41035 Work 859-824-3387 Home 859-428-1039	<b>Myron Dossett</b> 491 E. Nashville St. Pembroke 42266 Home 270-475-9503	<b>Adam Koenig</b> 3346 Canterbury Ct. Erlanger 41018 Home 859-578-9258	<b>Arnold Simpson</b> 112 W. 11th Street Covington 41011 Work 859-261-6577 Home 859-581-6521
<b>Rocky Adkins</b> PO Box 688 Sandy Hook 41171 Work 606-928-3433 Home 606-738-4242 FAX 606-929-5213	<b>Ted Edmonds</b> 1257 Beattyville Road Jackson 41339 Home 606-666-4823	<b>Jimmie Lee</b> 901 Dogwood Drive Elizabethtown 42701 Work 270-765-6222 Home 270-737-8889	<b>Dottie Sims</b> 459 Violet Ave. Horse Cave 42749 Home 270-786-3948
<b>John A. Arnold, Jr.</b> 1301 N. Lee Sturgis 42459 Work 270-333-4641	<b>C.B. Embry, Jr.</b> PO 1215 Morgantown 42261 Work 270-526-6237 Home 270-791-1879	<b>Stan Lee</b> PO Box 2090 Lexington 40588 Home 859-252-2202 FAX 859-259-2927	<b>Kevin Sinnette</b> PO Box 1358 Ashland 41105 Home 606-324-5711 Home FAX 606-329-1430
<b>Eddie Ballard</b> PO Box 1736 Madisonville 42431 Work 270-821-4767 Home 270-821-6255	<b>Bill Farmer</b> 3361 Squire Oak Dr. Lexington 40515 Work 859-272-1425 Home 859-272-8675 FAX 859-272-1579	<b>Mary Lou Marzian</b> 2007 Tyler Ln. Louisville 40205 Home 502-451-5032	<b>Ancel Smith</b> 1812 Wiley Fork Road Leburn 41831 Work 502-564-8100, ext. 668 Home 606-785-3844
<b>Linda Howlett Belcher</b> 4804 Hickory Hollow Lane Shepherdsville 40165 Work 502-564-8100 Home 502-957-2793	<b>Tim Firkins</b> 212 E. Esplanade Louisville 40214 Home/FAX 502-367-2981	<b>Tom McKee</b> 1053 Cook Road Cynthiana 41031 Home 859-234-5879 FAX 859-234-3332	<b>John Will Stacy</b> PO Box 135 West Liberty 41472 Home/FAX 606-743-1516
<b>Johnny Bell</b> 108 North Green St. Glasgow 42141 Work 270-651-7005 Home 270-590-0110	<b>Joseph M. Fischer</b> 126 Dixie Place Fort Thomas 41075 Work 513-794-6442 Home 859-781-6965	<b>Reginald Meeks</b> PO Box 757 Louisville 40201 Work 502-772-1095	<b>Fitz Steele</b> 176 Woodland Ave. Hazard 41701 Home/FAX 606-439-0556
<b>Kevin D. Bratcher</b> 10215 Landwood Drive Louisville 40291 Home 502-231-3311	<b>Kelly Flood</b> 121 Arcadia Park Lexington 40503 Work 502-564-8100 Home 859-221-3107	<b>Charles Miller</b> 3608 Gateview Circle Louisville 40272 Home 502-937-7788	<b>Kent Stevens</b> PO Box 481 Lawrenceburg 40342 Home 502-839-5462
<b>Scott W. Brinkman</b> 6001 Two Springs Lane Louisville 40207 Home 502-893-8769 FAX 502-894-0210	<b>David Floyd</b> 102 Maywood Ave. Bardstown 40004 Home 502-350-0986	<b>Harry Moberly, Jr.</b> PO Box 721 Richmond 40475 Work 859-622-4997 Home 859-624-2781	<b>Jim Stewart III</b> 545 KY 223 Flat Lick 40935 Home 606-542-5210
<b>Thomas J. Burch</b> 4012 Lambert Ave. Louisville 40218 Home 502-454-4002	<b>Danny Ford</b> PO Box 1245 Mt. Vernon 40456 Work 606-678-0051 Home 606-256-4446	<b>Brad Montell</b> 543 Main Street Shelbyville 40065 Work 502-633-7017 Home 502-633-7533	<b>Wilson Stone</b> 1481 Jefferson School Road Scottsville 42164 Home 270-622-5054
<b>Dwight D. Butler</b> PO Box 9 Harned 40144 Work 270-756-5931 Home 270-756-0100	<b>Jim Glenn</b> PO Box 21562 Owensboro 42304 Home 270-686-8760	<b>Tim Moore</b> 417 Bates Rd. Elizabethtown 42701 Home 270-769-5878	<b>Greg Stumbo</b> Box 1473 108 Kassidy Drive Prestonsburg 41653 Home 606-886-9953
<b>John “Bam” Carney</b> 341 Pembroke Way Campbellsville 42718 Work 502-564-8100 Home 270-465-5400	<b>Jim Gooch, Jr.</b> 714 North Broadway B2 Providence 42450 Work 270-635-1139 Home 270-667-7327 FAX 270-667-5111	<b>Lonnie Napier</b> 302 Danville St., Lancaster 40444 Work 859-792-2535 Home 859-792-4860	<b>Tommy Thompson</b> PO Box 458 Owensboro 42302 Home 270-926-1740 FAX 270-685-3242
<b>Mike Cherry</b> 803 S. Jefferson Princeton 42445 Home 270-365-7801	<b>Derrick W. Graham</b> Room 329F Capitol Annex Frankfort 40601 Home 502-223-1769	<b>Rick G. Nelson</b> Rt. 3, Box 686 Middlesboro 40965 Home/FAX 606-248-8828	<b>John Tilley</b> PO Box 1065 Hopkinsville 42241 Home 270-881-4717 Work 270-886-6800 FAX 270-885-7127
<b>Larry Clark</b> 5913 Whispering Hills Blvd. Louisville 40219 Home 502-968-3546	<b>Jeff Greer</b> PO Box 1007 Brandenburg 40108 Home 270-422-5100 Home FAX 270-422-5100	<b>Fred Nesler</b> PO Box 308 Mayfield 42066 Work 270-623-6184 Home 270-247-8557 FAX 270-623-6431	<b>Tommy Turner</b> 175 Clifty Grove Church Road Somerset 42501 Home 606-274-5175
<b>Hubert Collins</b> 72 Collins Dr. Wittensville 41274 Home 606-297-3152	<b>Keith Hall</b> PO Box 466 Phelps 41553 Work 606-456-3432 Ext. 25 Home 606-456-8666	<b>David Osborne</b> PO Box 8 Prospect 40059 Work 502-645-2186 Home 502-228-3201	<b>Ken Upchurch</b> PO Box 969 Monticello 42633 Work 606-340-8490
<b>Leslie Combs</b> 245 E. Cedar Drive Pikeville 41501 Work 606-433-4317 Home 606-477-6672	<b>Mike Harmon</b> 633 N. 3rd St. Danville 40422 Home 859-238-7792	<b>Sannie Overly</b> 340 Main Street Paris 40361 Home 859-987-9879	<b>David Watkins</b> 5600 Timberlane Dr. Henderson 42420 Home 270-826-0952 FAX 270-826-3338
<b>James R. Comer, Jr.</b> PO Box 338 Tompkinsville 42167 Home 270-487-5585	<b>Richard Henderson</b> 60 Myers Cemetery Rd. Jeffersonville 40337 Home 859-497-9265	<b>Darryl T. Owens</b> 1018 S. 4th St. Louisville 40203 Home 502-584-6341	<b>Jim Wayne</b> 1280 Royal Ave. Louisville 40204 Work 502-451-8262
<b>Tim Couch</b> PO Box 710 Hyden 41749 Home/FAX 606-672-8998	<b>Melvin B. Henley</b> 1305 S. 16th Street Murray 42071 Home 270-753-3855	<b>Ruth Ann Palumbo</b> 10 Deepwood Dr. Lexington 40505 Home 859-299-2597	<b>Robin L. Webb</b> 404 West Main Street Grayson 41143 Home 606-474-5380
<b>Will Coursey</b> PO Box 467 Benton 42025-0467 Home 270-527-4610 Work 270-527-4610	<b>Jimmy Higdon</b> 507 West Main Lebanon 40033 Work 270-692-3881 Home 270-692-6945 FAX 270-692-1111	<b>Don Pasley</b> 5805 Ecton Road Winchester 40391 Home 859-842-3337	<b>Alecia Webb-Edgington</b> 1650 Chestnut Ct. Fort Wright 41011 Home 859-426-7322
<b>Jesse Crenshaw</b> 121 Constitution Lexington 40507 Work 859-259-1402 Home 859-252-6967 FAX 859-259-1441	<b>Charlie Hoffman</b> 406 Bourbon St. Georgetown 40324 Work 502-863-4807 Home 502-863-9796	<b>Tanya Pullin</b> 1026 Johnson Lane South Shore 41175 Work 606-932-2505	<b>Ron Weston</b> 423 Chieftain Drive Fairdale 40118 502-564-8100
<b>Ron Crimm</b> PO Box 43244 Louisville 40253 Work 502-400-3838 Home 502-245-8905	<b>Jeffrey Hoover</b> PO Box 985 Jamestown 42629 Work 270-343-5588 Home 270-343-2264	<b>Marie Rader</b> PO Box 323 McKee 40447 Work 606-287-3300 Home 606-287-7303 FAX 606-287-3300	<b>Susan Westrom</b> PO Box 22778 Lexington 40522-2778 Work 859-266-7581
<b>Robert R. Damron</b> 231 Fairway West Nicholasville 40356 Home 859-887-1744	<b>Dennis Horlander</b> 1806 Farnsley Rd. Shively 40216 Work 502-447-2498 Home 502-447-4715	<b>Rick Rand</b> PO Box 273 Bedford 40006 Work 502-255-3286 Home 502-255-3392 FAX 502-255-9911	<b>Addia Wuchner</b> PO Box 911 Burlington 41005 Work 859-525-6698
<b>Jim DeCesare</b> PO Box 122 Rockfield 42274 Home 270-792-5779 Home FAX 888-275-1182 Work 270-792-5779	<b>Brent Housman</b> 2307 Jefferson Street Paducah 42001 Home 270-366-6611 Home/FAX 270-442-6394	<b>Jody Richards</b> 817 Culpeper St. Bowling Green 42103 Work 270-781-9946 Home 270-842-6731 FAX 270-781-9963	<b>Brent Yonts</b> 232 Norman Circle Greenville 42345 Work 270-338-0816 Home 270-338-6790 FAX 270-338-1639
<b>Mike Denham</b> 306 Old Hill City Road Maysville 41056 Home 606-759-5167	<b>Joni L. Jenkins</b> 2010 O'Brien Ct. Shively 40216 Home 502-447-4324	<b>Steve Riggs</b> PO Box 24586 Louisville 40224 LRC 502-564-8100 FAX 502-564-6543	
<b>Bob M. DeWeese</b> 6206 Glen Hill Rd. Louisville 40222 Home 502-426-5565	<b>Dennis Keene</b> 1040 Johns Hill Road Wilder 41076 Home 859-441-5894	<b>Tom Riner</b> 1143 E. Broadway Louisville 40204 Home 502-584-3639	
	<b>Thomas Kerr</b> 5415 Old Taylor Mill Rd. Taylor Mill 41015 Work 859-431-2222 Home 859-356-1344 FAX 859-431-3463	<b>Carl Rollins II</b> PO Box 424 Midway 40347 Home 859-846-4407 Work 502-696-7474	
	<b>Martha Jane King</b> 633 Little Cliff Estate Lewisburg 42256 Home 270-657-2707 FAX 270-657-2755	<b>Sal Santoro</b> 596 Walterlot Ct. Florence 41042 Home 859-371-8840 FAX 859-371-4060	
		<b>Charles Siler</b> 3570 Tackett Creek Rd. Williamsburg 40769 Work 606-549-0900	



# Committee Meetings

## Index

### A

**Administrative Regulation Review Subcommittee, 37**  
**Agriculture, 5**

### E

**Economic Development and Tourism, 12**  
**Education, 5, 9, 14, 17, 20**  
**Education Assessment and Accountability Review Subcommittee, 39**

### G

**Government Contract Review Committee, 39**

### H

**Health and Welfare, 22, 26**

### L

**Labor and Industry, 27**  
**Land Stewardship and Conservation Task Force, 42**  
**Licensing and Occupations, 29**  
**Local Government, 31**

### N

**Natural Resources and Environment, 12**

### S

**State Government, 33**

### T

**Tobacco Settlement Agreement Fund Oversight Committee, 45**  
**Transportation, 36**

### V

**Veterans, Military Affairs and Public Protection, 10**

### INTERIM JOINT COMMITTEE ON AGRICULTURE

**Minutes of the 2nd Meeting of the 2009 Interim July 8, 2009**

The 2nd meeting of the Interim Joint Committee on Agriculture was held on Wednesday, July 8, 2009, at 10:00 AM, at the Kentucky Department of Agriculture's Corporate Drive facility. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators Ernie Harris, Bob Leeper, Vernie McGaha, Joey Pendleton, Dorsey Ridley, Kathy W. Stein, and Damon Thayer; Representatives Royce W. Adams, Dwight D. Butler, Mike Cherry, Mike Denham, C. B. Embry Jr., Jeff Greer, Richard Henderson, Charlie Hoffman, Martha Jane King, Brad Montell, Fred Nesler, Sannie Overly, Don Pasley, Tom Riner, Dottie Sims, Kent Stevens, Wilson Stone, Tommy Turner, Ken Upchurch, and Susan Westrom.

Guests: PACE Board members Stephen A. Coleman, Frances Ann Brown, Teena Halbig, Cornelia Bonnie, Elizabeth Lloyd Jones, and Jim R. Mahan; Roger Thomas, Governor's Office of Ag. Policy; and Drew Graham, University of Kentucky.

LRC Staff: Biff Baker; Lowell Atchley; Stefan Kasacavage; Dane Bowles, Graduate Fellow; and Susan Spoonamore, Committee Assistant.

Minutes of the June 10, 2009 meeting were approved by voice vote, without objection, upon motion made by Sen. Kathy Stein and seconded by Rep. Richard Henderson.

Chairman McKee recognized Commissioner Richie Farmer, Kentucky Department of Agriculture. Commissioner Farmer welcomed committee members and guests. He explained the importance of the motor fuel laboratory, metrology (weights and measures) laboratory, and pesticides testing laboratory.

Mac Stone, Executive Director, Office of Agricultural Marketing and Produce Promotion, talked about the success of the Kentucky Proud Program. He said that Kentucky Proud had reached \$100 million in retail

sales for 2008 and was expected to grow even more in 2009. They are working to increase the amount of Kentucky Proud Products sold in stores, restaurants, and schools through education and promotion.

Upon questioning, Mr. Stone stated that there was no one silver bullet for the success of the Kentucky Proud program. He mentioned that the food industry is very competitive, and locally-grown food is often more expensive than bulk food brought in from out of state. The key is getting a CEO or other manager of a grocery store chain to buy into the concept of Kentucky Proud. If a CEO "gets it" then they will be willing to pay a little more for produce in order to promote the program.

Mr. Stone indicated that in order for the Kentucky Department of Agriculture and the Kentucky Department of Education to come to an agreement on using more Kentucky Proud products, it would take a key person within the Kentucky Department of Education to recognize the health benefits and the importance of serving Kentucky Proud products.

Mr. Stone also indicated that the department was in the talking stage with retailers about branding milk produced in Kentucky as "Kentucky Proud".

Next on the agenda was Mr. Tom Bloemer, Administrative Branch Manager, Office of Consumer and Environment Protection, Division of Regulations and Inspection. He explained the mission of the Motor Fuel and Pesticides Testing Laboratories. He said the KDA is an organizational member of the American Society for Testing and Materials (ASTM). He said that testing Kentucky facilities and products is the primary mission of the labs, but the labs will also be able to offer testing to federal and other state regulatory agencies, utilizing the most advanced testing instrumentation available in the world.

Upon questioning, Mr. Bloemer stated that water can be tested for pesticides and the laboratories will be able to perform that type of testing in the near future.

Next was Jason Glass, Division of Regulations and Inspection. Mr.

Glass gave a brief overview of the Metrology lab. He explained that the lab provides calibration services and technical guidance for private industries, scale and meter repair companies, other state agencies, and weights and measures inspectors within the division. Weights, volumetric test measures and provers, and liquid propane provers are all calibrated by the metrology laboratory. The calibrations check and maintain the accuracy of the equipment used to set up, monitor, inspect, and repair all types of scales and meters throughout the state.

Next on the agenda was Dale Dobson, Farm and Home Safety Program. He explained that the Farm Safety Program is vital to keeping Kentuckians safe. He said that Kentucky is one of the leaders in rescue programs. The programs focus on training, ATV safety, and rescue. Kentucky has made great strides in reducing the number of farm-related deaths per year, but KDA is continually trying to get the number to zero. He said that the main safety issues are the use of roll bars and seatbelts.

Chairman McKee recognized Rep. Embry regarding milk producers in Kentucky. Rep. Embry stated that he has 32 milk producers in his district and that many are barely hanging on – right on the edge of going out of business. He would like the Committee to take up the issues facing dairy producers in a meeting during this interim.

Co-Chairman McKee and Co-Chairman Givens agreed that the issue was important, and would like to have discussion on the topic.

Upon conclusion of the presentations, tours of the different labs were conducted.

There being no further business, the meeting was adjourned.

### INTERIM JOINT COMMITTEE ON EDUCATION

**Minutes of the 2nd Meeting of the 2009 Interim July 13, 2009**

The second meeting of the Interim Joint Committee on Education was held on Monday, July 13, 2009, at 1:00 PM, in the Anne Hart Raymond Building, Auditorium, Midway College. Representative Carl Rollins

II, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Walter Blevins Jr., David Givens, Alice Forgy Kerr, Vernie McGaha, Tim Shaughnessy, Elizabeth Tori, Johnny Ray Turner, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Leslie Combs, Ted Edmonds, C. B. Embry Jr., Bill Farmer, Tim Firkins, Jim Glenn, Derrick Graham, Jeff Greer, Jimmy Higdon, Reginald Meeks, Harry Moberly Jr., Marie Rader, Jody Richards, Tom Riner, Charles Siler, Kent Stevens, Wilson Stone, and Addia Wuchner.

Legislative Guest: Senator Katie Stine

Guests: Ms. Virginia Moore, Acting Executive Director, and Ms. Rowena Holloway, Internal Policy Analyst III, Kentucky Commission on the Deaf and Hard of Hearing; Ms. Brigid DeVries, Commissioner, Mr. Julian Tackett, Assistant Commissioner, Mr. George Fletcher, General Counsel, and Mr. Elden May, Sports Information Director, Kentucky High School Athletics Association (KHSAA); Ms. Melissa Justice, Assistant Associate Counsel and Ms. Betty Gilpatrick, Student Aid Branch Manager, Kentucky Higher Education Assistance Authority (KHEAA); Mr. Kevin Noland, Interim Commissioner of Education, Mr. Kevin Brown, General Counsel, Ms. Robin Chandler, Policy Advisor, Office of Teaching and Learning, Ms. Rhonda Sims, Director, Division of Assessment Support, Mr. Larry Taylor, Director, Division of Exceptional Children Services, Kentucky Department of Education (KDE); Mr. Richard King, President, and Ms. Sue Cain, Coordinator, Developmental Education and College Readiness Initiative, Council on Postsecondary Education (CPE).

LRC Staff: Audrey Carr, Sandy Deaton, Janet Stevens, Ken Warlick, Laura Blaser, and Lisa Moore.

Representative Rollins asked for a motion to approve the minutes of the June 8, 2009 meeting. A motion was made by Representative Collins and seconded by Representative Richards. The minutes were approved by voice vote.

Representative Rollins introduced and thanked President William B. Drake, Jr., for the hospitality and lunch provided by Midway College. Dr. Drake welcomed the members to Midway and thanked Co-Chairs

Representative Rollins and Senator Winters for holding the meeting on campus and for their continued support of private colleges in Kentucky. He said private colleges exist to meet public purposes and priorities in private settings. He noted Midway College is a partner with the state in workforce development by offering programs in nursing, business degrees and the equine program that lead graduates to jobs that increase their income and the quality of life for their families.

Dr. Drake said 80 percent of Kentuckians do not have a college degree. He said private colleges strive to meet the needs of working adults by offering on-line programs and accelerated degree completion programs in the evening.

Dr. Drake said the tuition at Midway College is at least three times more than the tuition cost of a public university. However, the average debt load of students graduating from private colleges in Kentucky is within a few hundred dollars of students graduating from public universities.

Dr. Drake described some unique courses that are offered by Midway College. He said Midway is the only program in the state that offers an on-line degree in teaching and in special education. He said they offered the first Bachelor of Arts degree in Homeland Security as well as Organizational Management and Leadership. Beginning this year, Midway will offer the first degree of its kind oriented toward the mining industry.

The development of the Mining Management Degree was funded by the coal industry in Kentucky to serve a critical need. He said it will be an on-line degree completion program for those who are currently working in the coal industry and need to upgrade their skills in mining.

Representative Rollins introduced Ms. Marcia Seiler, Director, and Ms. Deborah Nelson, Research Analyst, Office of Education Accountability (OEA), who presented the OEA Review of Special Education in Kentucky.

Committee members were provided a copy of the Review of Kentucky Special Education Data PowerPoint and a copy of the "Review of Special Education in Kentucky" Research Report No. 358. These materials can be located in the meeting folder in the Legislative Research Commission (LRC) library. The report can also be accessed on-line at the

LRC Website.

Ms. Seiler said the OEA presented the "Review of Special Education in Kentucky" report to the Education Assessment and Accountability Review Subcommittee (EAARS) in October of 2008. She said it was a study on the 2008 OEA research agenda.

Ms. Nelson presented key points in the analysis of Kentucky's special education data. She noted the report was the result of many authors, including Dr. Ken Chilton, Director of Research, and Ms. Pam Young, Finance Manager, OEA who were available to answer questions from committee members. She said special education programs provide instruction, and related services, such as physical therapy to students with disabilities. The goal of special education programs, as defined in federal regulation, is to prepare students with disabilities for further education, employment, and independent living. She noted that special education programs have been credited with providing access to education for many students who would have been denied in the past. However, special education programs also raise a number of concerns for policymakers, and the main concerns are discussed in the report.

Ms. Nelson said she would describe the identification, funding, assessment results, and future challenges and issues regarding the special education program. She indicated to members that the full report includes information on the gifted and talented students.

Ms. Nelson said the process of identification is governed by the Admissions and Release Committee (ARC). Students are referred by teachers, parents, professionals, or state agency personnel staff for evaluation. She said the eligibility is then determined at the school level by the ARC. The identification criteria are more specific in some categories than in others and not all referrals result in special education identification. She said membership on the ARC is governed by regulations, and includes special education teachers, administrators and parents, and can include the child and diagnostic and evaluative staff as well. All school districts do not employ professional diagnostic staff. After the ARC identifies a student as eligible for special education services, an Individualized Education Program (IEP) is developed, which details the specific instruction that the student should have. At that time, the district is required to

provide all the services outlined in the IEP regardless of cost.

Ms. Nelson said the ARC can also determine that a student is not eligible for special education services. The ARC can serve a gate keeping function because there is some anecdotal evidence that sometimes students are referred for special education, whether or not the students need the services. In some cases, special education students can qualify for funding from other government programs and this can give parents a financial incentive to have their children declared as special education students. Another possible motivation is that special education students can receive testing accommodations on Kentucky assessments and some believe this can increase test scores on the assessments. Finally, special education identification can determine eligibility for entry into preschool for those students who do not qualify because of economic needs.

Ms. Nelson said the disability categories include those with high incidence such as speech and learning disabilities; those with a moderate incidence such as developmental delays, and hearing and visual impairments; and those with a low incidence such as emotional behavioral disorders, multiple disabilities, deaf-blindness, autism, and traumatic brain injury. She noted the majority of special education students have less severe disabilities.

Ms. Nelson said the preschool through 12th grade special education enrollment has grown moderately at 3.2 percent since 2000. She noted the different cohorts of special education, however, broken down by age groups, have outpaced the regular education population by growing 16.1 percent over the last 7 years. She said Kentucky ranks about 12 percent higher than the national average in enrollment of special education students. She discussed specific identification trends for each age cohort which is in the meeting materials located in the LRC library.

Ms. Nelson said developmental delay and other health impairments are the two fastest increasing categories of disability types identified in students. This is a concern because the criteria for placing students in these categories can be very broad.

Ms. Nelson emphasized the need for providing appropriate services for students with disabilities. She said another concern is a need



for effective and efficient services for struggling students with no clear disability. There are other types of interventions that may be more effective for some students struggling in the classroom. Special education services, on the whole, cost more than other intervention methods. Finally, she said there needs to be transparency and fairness in preschool eligibility.

Ms. Nelson said the total special education revenue in 2007 was \$539,366,526. She said the funding formula has Seeking Educational Excellence in Kentucky (SEEK) add-on weights based on a per pupil basis with each student identified as associated with an increase in revenue. She noted the more severe the disability the higher the SEEK add-on weight because of the need for more intense services. For this reason, some researchers have raised concerns that Kentucky's type of funding system may provide an incentive to identify students for special education.

Ms. Nelson said it is important to note that SEEK is composed of both state and local revenue. The lower wealth districts receive a greater percentage of state funds through the SEEK formula than the higher wealth districts. Therefore, a district that increases its identification rate of special education students will receive a greater increase in state funding if it is a lower wealth district than if it is a higher wealth district. At the same time, the SEEK funding mechanism may also provide a disincentive for some school districts to reduce identification rates for students who are on the borderline and may be struggling in the classroom, but have no clear disability identified. Lower wealth districts have less fiscal flexibility to address the needs of these students in the regular classroom versus special education programs than do higher wealth districts.

Ms. Nelson explained the revenue and expenditures trends from fiscal year 2003-2007. She said special education revenues have grown by 32.3 percent; expenditures have grown by 41.8 percent; and K-12 special education enrollment has grown by 10 percent. She noted that some school districts may have coded special education expenditures to the wrong account code so there could be discrepancy in the figures. She said expenditures have outgrown revenues steadily since 2003 and there was a \$38 million gap in 2007.

Ms. Nelson said a finance concern is the growth in expenditures. If the current trends continue, they will be unsustainable at the state and local level. She said another concern is the differences in expenditures by district wealth. She said there are also concerns about the levels of service and the costs of educating certain students.

Ms. Nelson explained the student assessment data. She said the topic of assessment and accountability for students with disabilities is extremely controversial. She said many concerns stem from changes associated with federal regulations in the No Child Left Behind (NCLB) Act.

Ms. Nelson noted that Kentucky was at the forefront of most states requiring that special students be assessed and their scores included in the accountability system. She said changes were made because federal policymakers believed there were low expectations for students with disabilities and that they did not receive core content in regular classroom settings. She noted the Commonwealth Assessment Testing System (CATS) was a compensatory system and all schools face state sanctions. She said CATS also permitted alternate assessments for about one percent of all students. NCLB uses subgroup accountability and only Title I schools face sanctions. She noted NCLB administers an alternate assessment that must be on grade level.

Ms. Nelson said NCLB is criticized as having unfair or unrealistic expectations because the changes were implemented so quickly. It has provided a shock to the system because of insufficient attention to improving teacher skills and giving them access to the type of resources that would allow them to adapt to advanced content.

Ms. Nelson discussed the testing accommodations used for special education students. She said a testing accommodation can be technology or a process that is intended to allow students with disabilities to demonstrate their knowledge of content without regard to their disability. She said it is very important that the use of an accommodation not compromise the construct of what is being tested. She said experts do not agree on the effect of different accommodations on the content that is being tested.

Ms. Nelson said the Kentucky Core Content Test (KCCT) includes

regular and alternate assessments. She said many students with disabilities receive accommodations, but the accommodations raise validity and reliability issues. She also noted the reader, paraphrase, and scribe accommodations are administered by individuals therefore making it difficult to ensure that accommodation practice are standardized in administration across districts and schools, thus affecting the reliability of the assessment results. She noted that while Kentucky does allow the reader accommodation, the ACT and the National Assessment of Education Progress (NAEP) do not.

Ms. Nelson said elementary special education students made the greatest gains overall. She said the data suggests that at least some students with disabilities are capable of performing at higher levels than in the past. She said middle and high school special education students tend to have more trouble reaching proficient or distinguished as content and subject matter on the assessments is more advanced. She discussed specific reading and math proficiency rates on the 2007 KCCT and these detailed tables are located in the meeting folder in the LRC library.

Ms. Nelson said there are too many schools in the lowest proficiency ranges despite the fact that some schools show great success with the same students. She said this could be due to the differences in the qualifications of teachers or instructional practices.

Ms. Nelson said that data shows improvement is possible for students with disabilities. There is a discrepancy between expectations and performance. She mentioned that NCLB is in the process of being reauthorized. She said there will likely be some changes made in the federal legislation that could change the expectations for special education standards. She said this could lead to potential unintended consequences such as the misuse of accommodations and tensions between academic and non-academic goals. The federal government will allow some states to pilot alternative intervention models if they are not on track to meet their goals in 2014.

Representative Rollins asked if other states had different levels of assessments to assess the wide array of disabilities that students may have outside of NCLB assessment requirements. Ms. Nelson did not know

what other states used for assessing disabilities prior to NCLB. She noted NCLB requires all states to assess students on grade level content.

Representative Rollins asked if the Title I funds were tied directly to NCLB. Ms. Nelson said yes. Representative Rollins said that Kentucky needs to correctly identify student disabilities and include appropriate assessments in the student's IEP.

Ms. Nelson said Kentucky cannot control the goals established under NCLB. She said one percent of the total population can take the alternative assessment, but it still must be on grade level content. She said the federal government is allowing states to add another percent of the population into the group that is allowed to take the alternative assessments on grade level content. She said there is convincing data that expectations are lowered in systems that individualize goals for each student. Representative Rollins said an ideal system would include an IEP with an individualized accountability plan that maintains high expectations for students.

Representative Stone asked if the standards had changed for identifying students with disabilities. Ms. Nelson said the standards have changed and referred the question to Mr. Larry Taylor from KDE. He said the standards have changed based on new information and data, but she could not explain exactly how they have changed in Kentucky.

Representative Stone asked if there was a way to disaggregate the data to compare schools with high levels of special education students to schools with low level special education students that have similar demographics. He would like to see a comparison of the difference in performance between those two type schools.

Ms. Nelson said a comparison could be performed, but conclusions may not be clear because the schools could have different performance levels for reasons other than the special education population.

Representative Belcher said she shares a concern about the assessment of special needs students and their learning frustration issues. She asked Ms. Nelson if the teachers are effectively utilizing the alternative assessment program for assessing the special needs students.

Ms. Nelson said the alternative assessment program includes the high performance expectations of

special education students. Students, parents, and teachers are still feeling frustrated with the alternative assessment program in its current form. She said the requirements for states to change their assessment systems came very quickly. Kentucky moved swiftly to change its assessment system to be in compliance. Teachers were not adequately trained on the new content and methods needed to teach the special education students with the most severe disabilities.

Representative Belcher said it concerns her that some students are being taught the Pythagorean theorem when what they really need is a personal finance class. Ms. Nelson said schools can still offer a finance class. There is still flexibility in the IEP, but assessments will be required to make sure the appropriate criteria were covered.

Representative Wuchner said Kentucky has its own chapter as part of the National Foundation for Dyslexia. She said fifteen percent of the students in the Commonwealth, if properly diagnosed, would fall into the dyslexia category. She asked how they fit into one of the special education categories. She also asked about response to intervention program and if students participate without having an IEP established.

Ms. Nelson said dyslexia is not covered in this special education report in great detail. She did note that students diagnosed with dyslexia are placed into the category of Specific Learning Disability (SLD).

Representative Wuchner is concerned Kentucky is missing these children and realizing their problems too late in their educational experience. She said students with dyslexia often have very high I.Q's and can flourish if intervention happens early in their school years. They often need assistance with phonemic awareness, memory, and auditory issues.

Ms. Nelson said the line between special education and regular education is blurry. There are some students enrolled in special education that have dyslexia, and still do not receive the appropriate services for their disability. She said students who are diagnosed with dyslexia should receive the appropriate interventions to help them. It is not known if classroom teachers are sufficiently trained to be able to recognize the disability and provide assistance.

Representative Wuchner asked if

the speech condition apraxia is showing up in greater numbers among students across the Commonwealth. Ms. Nelson said she did not know about increasing identifications rates for apraxia.

Representative Farmer talked about the prevalence of disability types and how Kentucky compares to the national average. He said Ms. Nelson has alluded to the fact that Kentucky does not have a standard for how these disabilities are being defined. He asked Ms. Nelson if Kentucky would fall more in-line with the national average if a standard were defined for each group, or are there true outliers involved.

Ms. Nelson said she cannot answer that question with the data that is currently available. Representative Farmer asked if Kentucky has a standard population and no true outliers included. Ms. Nelson said that it not known, but there is no reason to believe that Kentucky would have a population that is as different as indicated by the data.

Representative Carney asked if schools do a reevaluation every three years. Ms. Nelson said yes. Representative Carney asked if a significant number of students exit the program at the three year evaluation. Ms. Nelson said speech language students most notably exit the program after three years. She said over time students of the mild disabilities exit the program from kindergarten through 12th grade.

Representative Carney noted that the test scores of special education students increased after taking their assessments on-line. He is concerned that due to funding reasons special education students will not have access to computers next year. Ms. Nelson said there will be a CD option, but they will not be allowed to use computers next year. Representative Carney asked if the legislature can help with this effort because research has shown that these students perform better with the use of computers. Representative Rollins said this question would be best suited for Mr. Taylor. Representative Carney thanked the OEA for an excellent report.

Senator McGaha asked if some school districts are receiving more money than they are spending. Ms. Nelson said that was correct and school districts are not required by regulation to spend all the revenue that is received and coded for special education. She said most districts are

close to even, but there are 23 districts that are spending less than 75 percent of what they take in. Senator McGaha asked if the data used for the report is one raw number or an itemized expense list. Ms. Nelson said the data used for this report was not specific data and she would have to look at the financial list of districts for that type of information. Senator McGaha would like to see the raw data of the amount of money received and spent by each individual school district. Ms. Nelson and Ms. Seiler said they would get the information for Senator McGaha.

Representative Higdon said he was glad to see that OEA's report included that there was a problem of parents using the system for financial incentives to have their children classified as special needs. He feels there is a need for improved regulation of this issue. Ms. Nelson said OEA did not include that specific anecdote in the report, but the overall issue of accurate identification has huge fiscal consequences.

Representative Rollins asked Mr. Larry Taylor, KDE, Division of Exceptional Children Services, to give a response to the OEA report. Mr. Taylor said beginning in 2000, KDE did see a steady increase of students being identified in preschool as having a disability. After 2005, KDE has seen a steady decrease in these numbers. He said the response to intervention was implemented as an alternative to placing children in special education. He said this system requires teachers to have provided research-based practices to a student prior to identifying the child as disabled.

Mr. Taylor said there is a very low rate of students identified with specific learning disabilities. He said Kentucky has a higher than the national average rate in the areas of other health impaired and developmental delay. Kentucky allows the developmental delay identification to be in place until the child reaches eight years old.

Mr. Taylor said there has been a steady increase in graduation rates for special education students, although still far below the graduation rates of all students. He noted that dropout rates have steadily declined, but there is concern noted in the full report on how the dropout rates are calculated.

Mr. Taylor said districts that report extremely high numbers of special education students are monitored. KDE monitors a district by

performing a desk audit, or may take an on-site visit to review folders and ensure there is appropriate evidence of eligibility. He said 11 districts will be monitored this year for showing more than 15 percent of the student population as having disabilities. He noted the national average fluctuates between 12 and 13 percent for all disability categories.

Representative Rollins asked if 11 districts was the total number of districts above the 15 percent mark for students with disabilities. Mr. Taylor said no, but did not remember the total number. He said KDE has 25 staff people that can conduct on-site visits and perform the general supervision requirements for the 11 selected school districts.

Representative Graham asked how KDE determines which districts it will monitor. Mr. Taylor said the districts that have the greatest number of identified students.

Senator Westwood asked if the increase in graduation rates of special education students between 2004 and 2007 were regular high school diplomas, or did the numbers include certificates and GED's. Mr. Taylor said the graduation numbers do not include certificates and GED's. He said there are 109,000 students in Kentucky with IEP's, and less than one percent is enrolled in the certificate program.

Representative Belcher asked if KDE has plans to increase the training of teachers on the alternate assessment program. Mr. Taylor said KDE is in the third year of implementing a federal grant that provides training to teachers on how to take the standards and break them into activities for the individual students they are serving.

Senator Givens said the report indicates there was a decline in 3 to 5 year old identification rate trends from 2005-2006 and he asked about the numbers for 2007-2008. Mr. Taylor said KDE collects the data in December of each year so the KDE does know the 2007-2008 numbers. He said there was a 1.65 percent decrease from 2005 through 2008, which translates to approximately 3,000 students in that population. Senator Givens said even with the 1.65 percent decrease, Kentucky is still above ten percent. He feels there is an over identification problem, particularly in the age range of 3 to 5 years old. He asked Mr. Taylor if he concurred. Mr. Taylor said he concurred, but in the context that regulations changed in



2005 and the response to intervention program was implemented. He also said it is important to note that Kentucky does not have universal preschool, it is need-based. The two ways to have a child enrolled into preschool is to have an IEP or qualify for the free lunch program.

Senator Givens asked Mr. Taylor his reaction to the lump sum approach versus the per student approach. Mr. Taylor said the lump sum approach under the SEEK add-on would be for school-age students because the preschool program is not funded through SEEK dollars. It is funded strictly through an amount of state dollars that are distributed to at-risk or disabled students. He said there needs to be more discussion concerning a lump sum payment to districts and the equitability factor to higher wealth districts. He said it is known that poverty is a contributor to low school performance and lower wealth school districts have higher numbers of children with disabilities.

Representative Belcher asked if there is data that shows that Kentucky does a good job of identifying students who exit the special education program by age eight. Mr. Taylor said the KDE has data that shows a good number of students are reevaluated and are no longer categorized or labeled as developmentally delayed. They are normally placed in other health impairment or mild mental disability.

Ms. Betty Gilpatrick and Ms. Melissa Justice, Kentucky Higher Education Assistance Authority, explained administrative regulations 11 KAR 4:080 - Student aid applications; 11 KAR 5:200 - Go Higher Grant Program; and 11 KAR 18:010 - Robert C. Byrd Honors Scholarship Program. No action was taken on the regulations by the committee.

Representative Stone asked if Kentucky homeschool students are formally compared with high school graduates outside of the ACT or SAT assessments for the Robert C. Byrd Honors Scholarship Program. Ms. Gilpatrick said she was not aware of any formal criteria comparisons. She said the ACT or SAT are part of the evaluation criteria and homeschool students must provide a certified transcript to be considered for the scholarship. Homeschooled students must also have a recommendation just like high school students. The independent panel has no way of knowing if it is a homeschool stu-

dent or a high school graduate.

Representative Rollins asked President Robert King and Dennis Taulbee, Legal Counsel, CPE, to explain Executive Order 2009-539 – Reorganization of the Council on Postsecondary Education. There were no questions and no action taken by the committee.

Representative Rollins asked Mr. Kevin Brown, General Counsel, and Ms. Lynn Grant McNear, appointing authority, KDE, to explain Executive Order 2009-536 – Reorganization of the Kentucky Department of Education. There were no questions and no action taken by the committee.

Mr. Tim Lucas, Division of Facilities Management, provided a brief overview of administrative regulation 702 KAR 4:160 – The Capital construction process. There were no questions and no action taken by the committee.

Ms. Brigid DeVries and Mr. Julian Tackett, KHSAA, explained administrative regulation 702 KAR 7:065 – Designation of agent to manage high school interscholastic athletics. Representative Graham asked how many coaches have been trained in the sports safety training and would like to hear an update on this issue at the August meeting. Ms. DeVries said about 1,900 coaches have been trained to date. She said the work is on-going and a final report will be prepared and presented to the committee in October.

Ms. Virginia Moore and Ms. Rowena Holloway, Kentucky Commission on the Deaf and Hard of Hearing, explained administrative regulations 735 KAR 1:010 and 735 KAR 1:020. There were questions and no action was taken by the committee.

President King and Mr. Kevin Noland provided the committee with background information on Senate Bill (SB) 1 that was passed in the 2009 regular session. Mr. Noland expressed to the committee that all timelines are on schedule under the legislation. President King asked Ms. Sue King, CPE, to give a brief update. Ms. King said the content standards workgroups are currently meeting and include KDE representation. Representative Rollins said there would be a more in-depth report on the status of the implementation of SB 1 at the next meeting due to time constraints.

Representative Richards noted his appreciation to Dr. Drake on behalf of the committee.

With no further business be-

fore the committee, the meeting adjourned at 3:20 p.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION Subcommittee on Elementary and Secondary Education Minutes of the 1st Meeting of the 2009 Interim July 13, 2009**

The 1st meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, July 13, 2009, at 10:30 AM, at the Anne Hart Raymond Building on the Midway College Campus. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators Walter Blevins, Jr., Jack Westwood, and Ken Winters, ex officio; Representatives Linda Belcher, John “Bam” Carney, Hubert Collins, Derrick Graham, Jeff Greer, Kent Stevens, and Wilson Stone.

Guests: John Wilkerson, Kentucky Education Association, Clyde Caudill, SEPS and Kentucky Association of School Administrators, and others.

LRC Staff: Janet Stevens, Laura Blaser, and Marlene Rutherford.

Chair McGaha recognized and welcomed new subcommittee members, Senator Givens and Representatives Belcher, Carney, Graham, Miller, Stevens, and Stone.

A presentation on the role of the school guidance counselor was made by Dr. Natalie Kosine, an assistant professor at the University of Louisville’s College of Education and Human Development, and currently involved in a research study of the characteristics, practices, and effectiveness of school guidance counselors. Joining her was Kevin Smith, Guidance Counselor with the Ashland Independent Schools. Dr. Kosine and Mr. Smith discussed the roles and responsibilities of middle school and high school guidance counselors.

Dr. Kosine indicated that school counselors are losing their positions because there is no data to show the significance of the position especially in the northeastern segment of the country. Those same concerns exist in Kentucky.

Mr. Smith stated that with the Kentucky Education Reform Act the missing component was counsel-

ing. Counselors were left out of that legislation and what has resulted is the interpretation of what a school counselor is to do is left up to the administrator and the site-based council. Upon completion of Dr. Kosine’s research, the major result will be to clear what is known as role distortion. He said currently school counseling is left to the building-level administrator and the position is what he/or she wants it to be, there is no mandate from a higher level to superintendents, principals, or counselors.

Dr. Kosine stated that the American School Counselor Association (ASCA) model is not a mandate but is a guide to help school counseling programs. In other states such as Missouri, Washington, and Utah, if there is a properly assisted guidance program the result is students acquire the attitudes, knowledge and skills for effective learning, there is a better student outcome and a lesser dropout rate.

Mr. Smith said that the ASCA national model is the framework for school counseling programs. He said that at this time there are only six Kentucky school districts that are attempting to implement the national model and only one school that has actually reached the pinnacle of the national model which is Assumption High School in Louisville which has received an award for being one of the top programs in the state, it has set the Kentucky standard. The study is not trying to answer what counselors do but how students’ outcome is better having come in contact with a counselor and that outcome verified as a result of the data to be able to make decisions on where the counseling program would go in the oncoming years.

Dr. Kosine indicated that caseloads are high for counselors averaging 436 students per counselor whereas it should be around 250 students per counselor. With the high ratio it is difficult for counselors to be effective. Dr. Kosine provided the committee an article she wrote for the Kentucky School Council Association newsletter on what is occurring across the country. Research reflects that when the ratio decreases there is better student outcome because of more contact with the students and counselors are able to use the data to help guide students academically or for career guidance.

Dr. Kosine noted that familiarity with the ASCA model and Kentucky

school counselor standards and the schools implementation of the model across the state there are very few schools that have implemented the model, only 7% are fully implemented, 37% have partially implemented the model, 15% in the beginning stages, 20% have no started implementation, and 21% have indicated that they do not plan to implement the model which is of concern because the effectiveness affect student outcome.

The school counseling program review survey evaluates school counselors' perceptions of the counseling program in meeting the needs of the school and students. The school counseling program implementation survey evaluates how the school counseling program is implemented based on the ASCA model standards. Many counselors have indicated that do not know what the goals of their program are and do not feel that their job duties are well defined. The characteristics of the position differ from school to school, building to building, and district to district.

Representative Graham asked how information was broken down for grades that were combined with high school grades rather than grades 9-12 you have grades 7-12. Dr. Kosine indicated that in gathering data the survey does ask what grades they are surveying. Representative Graham also asked of those schools that have implemented the national model how long it took to see the advantages of the program. Mr. Smith stated that the State of Oklahoma implemented the model and its program was up and running in three years and fully complete in the fourth year and that it involves a great deal of detail.

Representative Collins pointed out that many times the students that need help do not receive the counseling; that if a student asks for help they receive it but in many schools in Kentucky counselors are not able to perform counseling duties because of the administrative paperwork, the students need one-on-one counseling.

Representative Carney asked if the survey asked for academic or guidance counselors stating that the demographics of Kentucky are different from those of Utah or Massachusetts and that Missouri would be more in line with Kentucky and that the message to schools should be that this program is not a mandate but a guide.

Mr. Smith indicated that the

national study of current status of state school counseling models ranks Kentucky as "progressing" on school counseling. The Innovative Learning Program (ILP) is one of the strongest programs and Kentucky is a model for it beginning at Grade 6 through graduation with the use of the resume making tool. Kentucky has implemented a written model in 2003-04 looking at the ASCA national guidelines along with the components being used within KERA at that time, this will need to be revised as worked is done on SB 1 and the schools will have to adapt what is being used as a written tool.

Representative Belcher stated that it was important to reach students early for developing early skills. She asked how many school districts in Kentucky have counselors in K-12. Mr. Smith deferred that question to the Department of Education however he did indicated there are approximately 1,265 functioning school counselors in Kentucky. Representative Belcher said that personnel need to have appropriate position duties because they get tied up with doing other things so much of the time.

Mr. Smith said the association would like to get the university counseling education programs to accept this concept. Many times the people teaching in the school counseling programs are functioning from the mental health realm versus the school counseling. The system needs people to be taught how to be school counselors rather than mental health counselors. One of the key components of discussion is the national ratio of 250 students per counselor and what the school counselor's association is aiming for. When there are 450 students per counselor it tells you that there are not enough counselors and that the positions are not performing duties they are capable of doing. Counselors in Kentucky are one of the greatest untapped resources. When talking about dropout prevention, success in the first year of college, graduation rates, and lessening the retention rate and school attendance the school counselor is key in each of those areas.

Representative Stevens indicated that having been a school principal he knew first hand that counselors over time end up performing many additional duties other than counseling students and that this is the crux of the problem and that each school is different.

Senator Blevins asked if there

was a correlation of the test scores between students who have computers in their homes and those who do not and noted that Connect Kentucky was making available computers in homes in his district.

Representative Carney stated that students are better served by counseling and providing guidance in certain areas including academic projects as well as career choices. He asked what the Legislature could do to cause more guidance counselors to be focused on counseling students.

Mr. Smith indicated one of the actions that the committee could take which would not result in any financial pain would be to offer a memorandum of support of the ASCA national model for school counseling programs in Kentucky schools even though it would still be a site-based decision. If site-based councils, building-level administrators, and district level managers were working together with the understanding that the Legislature, Department of Education, and the Vocational Technical Education schools endorse the ASCA national model knowing that the outcome will be better for all students would be a monumental step. It would not be a mandate and would need no funding.

Senator Westwood stated that he had presented a career development bill that would require a career coach for students and that would be their only job and asked Mr. Smith's thoughts on such a piece of legislation.

Mr. Smith stated that the career process is just that, a process. The seed of what a child wants to be when they "grow up" needs to be planted early and nurtured to enable a student to understand what they need to be processing to make choices upon graduation. Mr. Smith indicated that career coaches are controversial, and there are discussions on the national level, but that career coaching would have success.

Senator Blevins moved that the committee send a letter to administrators endorsing the ASCA national model for school counseling programs. Chair McGaha indicated that such a motion at this time was inappropriate, that it would be more appropriate that action be deferred in order that members could research the program and that a motion could be entertained at a later time. Senator Blevins agreed and withdrew his motion.

As a result of discussion and

comments, Chair McGaha asked Dr. Kosine to define administrative duties that counselors are having to perform. Dr. Kosine those duties would involve behavior interventions, discipline, consulting and attending various meetings.

Chair McGaha indicated that the committee would be very interested in Dr. Kosine coming back before the committee to update it on further findings on her research.

The meeting adjourned at about 11:35 a.m.

## **INTERIM JOINT COMMITTEE ON VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION Minutes of the 1st Meeting of the 2009 Interim July 9, 2009**

The 1st meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, July 9, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Perry B. Clark, Julie Denton, Carroll Gibson, Denise Harper Angel, Vernie McGaha, Joey Pendleton, Kathy W. Stein, and Jack Westwood; Representatives Linda Belcher, Dwight D. Butler, Mike Cherry, Larry Clark, Leslie Combs, Myron Dossett, Bill Farmer, David Floyd, Jeff Greer, Jimmie Lee, Tim Moore, Fred Nesler, Sannie Overly, Tom Riner, Sal Santoro, Charles Siler, Dottie Sims, Ancel Smith, John Tilley, and Alecia Webb-Edgington.

Guests: Dr. Richard Clover, Dean, and Dr. Ruth Carrico, Associate Professor, University of Louisville; Thomas Preston, Executive Director, and Gene Kiser, Director of the Grants Program, Kentucky Office of Homeland Security.

LRC Staff: Erica Warren, CSA; Mustapha Jammeh, Tiffany Opii, Clint Newman, Frances Jordan, and Rhonda Schierer.

Co-Chair Tori welcomed members and called on Representatives Belcher, Santoro, and Siler to read resolutions for fallen soldiers, Staff Sergeant Gary L. Woods, First Sergeant John D. Blair, and Corporal Lloyd Dale Stidham; who lost their lives in the global war on terrorism. She asked the committee to stand in a moment of silence in honor of the fallen soldiers. The resolutions were



unanimously adopted by a voice vote.

Chair Tori welcomed Dr. Richard Clover, Dean, and Dr. Ruth Carrico, Associate Professor, of the University of Louisville School of Public Health and Information Sciences. Dr. Clover and Dr. Carrico spoke on Pandemic Planning and Preparedness. Dr. Clover began a PowerPoint presentation by giving a brief overview of their preparedness activities, scope of collaboration, and future direction. He continued by discussing the mission statement of the Center for Health Hazards Preparedness and briefed the committee on the focus of the funding from 2002-2008. He stated that the funding was for training of approximately 30,000 healthcare workers and personnel. Kentucky and the U.S.

Dr. Carrico discussed current activities of the Center for Health Hazards Preparedness for 2009. She briefed the committee on the programs' five projects which are: 1) pandemic planning and preparedness, 2) pandemic planning for the sentinel healthcare workforce, 3) severe influenza pneumonia surveillance network, 4) development of a near-real-time syndrome surveillance system in Kentucky schools, and 5) best practice guidelines for pandemic disaster response. She explained their collaboration network and stated that all projects are designed to operate within existing spheres of activities at the local and state level, specifically at the state level of the Kentucky Office of Homeland Security and the Kentucky Department for Public Health. All projects are overseen by a steering committee. She stated that the website [www.kyflu.net](http://www.kyflu.net) is a good source for more detailed information. Dr. Carrico discussed the future direction based upon lessons learned from the 2009 H1N1 pandemic and encouraged the members to go to [www.prepareky.com](http://www.prepareky.com) for more information or to give input on the blog.

Co-Chair Tori asked about their current monies or grants. Dr. Carrico stated that they had received a grant for \$2.3 million. Co-Chair Tori asked how many people were on the team. Dr. Carrico stated that there were 30 people on payroll and the \$2.3 million also paid for supplies and travel to allow the team members to work on these projects.

Representative Moore stressed the importance of immunizations for virus prevention. Dr. Carrico agreed

that vaccines are most effective.

Representative Webb-Edgington asked about emergency programs relating to communities emergency inoculation and evacuation, exercise, and evaluation programs, and if they have made efforts with KOHS to leverage MMRS dollars to enhance their program to promote this pandemic issue. Dr. Carrico said yes they have worked with MMRS and they work closely with Louisville Emergency Management Agency as well as hospitals across Kentucky. Representative Webb-Edgington asked as it relates to the Kentucky Department of Public Health; there are funding mechanisms from the Department of Homeland Security that are sometimes upwards of \$20 million that have been dedicated to the public health issue directly. She asked Dr. Carrico if she knew this year's dedicated amount of funding that went to the Department of Public Health just from the Department of Homeland Security. Dr. Carrico said she did not.

Representative Pullin asked if current state laws on isolation are sufficient for the 21st century or if updating is necessary. Dr. Carrico stated that there is a lot of work to do to improve isolation and quarantine activities. She added that much of what they have is based on old issues such as TB instead of 21st century issues. Representative Pullin asked if the staff of the committee will look at their current isolation and quarantine laws and determine what to expect for H1N1 for the next 12 to 18 months in Kentucky. Dr. Clover stated that the H1N1 outbreak is an evolving story and one of the great aspects is that local health departments and the Center for Disease Control have been as transparent as possible in getting information out so that local communities can respond appropriately. He added that the good news relating to isolation is that the majority of people who have been affected have stayed home voluntarily. The challenge is more so on business continuity and that we need to look at how businesses can continue to do what they do and still let their employees stay home for the amount of time necessary.

Representative Riner asked Dr. Carrico when she thought their preparedness guide and other training materials would be ready. Dr. Carrico stated that their first deliverable materials are due August 4, 2009.

Senator Gibson asked about

their grant if it is specifically for particular small communities. Dr. Carrico stated that the grant was for the needs of all of Kentucky. Senator Gibson asked about the urban areas and if there are similar type grant funds for them. Dr. Carrico stated that they are working to identify 5 or 6 communities across Kentucky willing to work with them.

Representative Belcher asked about the five pilot communities and asked if they have already been selected. Dr. Carrico stated that they are working with a couple of communities and they are open to suggestions of others.

Representative Clark stated that the state funds the poison center in Kentucky and asked Dr. Carrico if they collaborate with them. Dr. Carrico stated that they have worked with them on a number of sub-activities.

Co-Chair Tori welcomed Mr. Thomas Preston, Executive Director, and Mr. Gene Kiser, Director of Grants Program of the Kentucky Office of Homeland Security to give a presentation on the 2008 KOHS Grants.

Mr. Preston explained the role that KOHS has that is mandated by the Kentucky General Assembly and the United States Department of Homeland Security. He summarized the agency's various missions and additional directions and tasks as outlined in his PowerPoint. Mr. Preston discussed different funding to include: State Homeland Security Program (SHSP), Law Enforcement Terrorism Prevention Program (LETPP), Citizens Corps Program (CCP) and the Buffer Zone Protection Program (BZPP).

Mr. Preston stated that the KOHS Grant Branch is currently managing \$54,563,384 in active grants which includes 140 projects and 11 grant programs. He added that KOHS received 244 applications from 95 counties which represented total requests for \$65,973, 827. They provided partial funding to 84 counties.

Mr. Gene Kiser briefed the committee on the grant process. He stated that KOHS had only \$7.6 million allocated for equipment purchases and of that amount, 25% goes to law enforcement agencies and 25% goes to hazardous devices or bomb squads. Peer groups reviewed the process application process in 15 areas. The first thing they did was eliminate projects that scored a 60 or below which eliminated 50 local

projects and 13 state projects. He stated that a minimum of the funds had to go to local agencies and 20% could go to other agencies. He added that 3% goes toward administrative fees. Then they cut the cost in half and determined they would take the highest scored application from each county unless they had a bomb squad. Once that process was completed the recommendations go to the Governor for the final approval.

Representative Floyd referred to a list in the annual report that appeared to be nondiscretionary grants asked why it is in their report. Mr. Preston stated that it is part of legislation that they gather that information.

Representative Cherry asked Mr. Preston about his comment regarding the high risk targets in Kentucky and what are Kentucky's most vulnerable targets. Mr. Preston stated he would like to do that in private and would be glad to talk to any member privately. Representative Cherry asked Mr. Preston if KOHS considered epidemics, acts of nature, or simply anything that threatens Kentuckians, part of his job. Mr. Preston stated that bioterrorism or chemical terrorism is part of KOHS but they cannot interfere with emergency management with acts of nature. They can be a supportive role from the Kentucky Fusion Center for informational help.

Representative Webb-Edgington asked Mr. Preston about current funding. She asked if there was an opportunity to work hand in hand with the Justice Cabinet to disseminate and leverage funding mechanisms to better cover some of the areas rather than giving partial sources of funding and fully fund a system using COPS and BURN money in addition to LETPP and SHSP money. Mr. Preston stated that yes they would look into that suggestion.

Representative Lee asked about communications operability issues and stated that the ice storm was a vivid reminder of the need for radio system for all departments. Shelby Lawson, Deputy Executive Director, KOHS, stated that the hallmark of the system is built to accommodate all of the systems to include city and county and that yes, they will be able in the future to have communications with anyone in the state. He stated that they focus on 2 areas of communications, the voice and the wireless data communications in case one goes down or is taken out

and a 3rd option is satellite phones.

Co-Chair Tori made note that Representative Lee's question was relevant and should be addressed in detail at another meeting.

Co-Chair Tori asked Mr. Preston about KOHS's legislative agenda for the January, 2010. Mr. Preston deferred to Mr. Lawson. Mr. Lawson responded that they have a request to extend and enhance the electronic and e-warrant system. Co-Chair Tori asked Mr. Preston how long it will take him to have this request for the budget and legislative agenda. Mr. Preston stated that under the circumstances of the state, they aren't going to ask for money.

Senator Pendleton asked staff to look into the vans that take veterans to veteran's hospitals as they have had a veteran unable to get to the hospital. Co-Chair Tori granted his request.

Co-chair Tori introduced and welcomed new staff members, Tiffany Opii and Frances Jordan. There being no further business, the meeting adjourned.

#### **INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT Minutes of the 1st Meeting of the 2009 Interim July 30, 2009**

The 1st meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, July 30, 2009, at 2:00 PM, at Kentucky Dam Village State Park. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim Gooch Jr., Co-Chair; Senators David E. Boswell, Bob Leeper, Dorsey Ridley, John Schickel, Brandon Smith, and Gary Tapp; Representatives Tim Couch, Tim Moore, Don Pasley, Fitz Steele, and Jim Stewart III.

Legislative Guests: Representatives John Will Stacy and Dwight Butler.

Guests: Hank List and Brooke Parker, Energy and Environment Cabinet; Rusty Cress.

LRC Staff: Tanya Monsanto, Biff Baker, Stefan Kasacavage, Dane Bowles, and Kelly Blevins.

A quorum was not present. Representative Gooch recognized Fish and Wildlife Commissioner Terry Tietloff who works as regional manager for technical services at Vulcan Materials. Then legislators and staff

boarded buses and traveled to the Vulcan Materials quarry in Grand Rivers. At the Vulcan Materials quarry, Mr. Tietloff introduced Mr. Joe Howell, manager of environmental community and governmental affairs and Mr. Claude Cox, general manager for the quarry.

Mr. Tietloff went through a presentation that described the governmental standards for rock and stone across the nation. He stated that there were roughly 200 acres in the pit and that each bench is drilled 60 to 70 feet. There are two different formations in the pit and roughly 2,300 acres in the entire Vulcan Materials facility. Vulcan Materials employs around 11,000 people and there are 334 aggregate and gravel facilities owned by Vulcan in 38 states. Vulcan Materials concentrates facilities in high growth areas throughout the United States and most of the aggregate (85%) goes to road, commercial and construction projects.

Mr. Tietloff was asked if Vulcan provides scrubber stone. He replied that they have done some scrubber stone but not much. Mr. Tietloff was asked whether the company had looked into providing agricultural limestone. Mr. Tietloff responded that the company is looking at the agriculture lime market, but grinding down to a fine dust is a problem. The same is true of providing dust for a mine face. Finally, he was asked how many years of stone remained in the current Vulcan Materials quarry. Mr. Tietloff responded roughly 40 to 50 years.

Then Mr. Tietloff described the problems with reclamation. He stated that the requirements are to store overburden and to grass and reclaim the land as you go. But, as for the pit, there is not much to do other than create a lake. Mr. Tietloff was asked about water issues. He replied that runoff is more of a problem with quarries. There are some areas below the water table in the pit and that is a problem when blasting and digging. Vulcan does not want to bring the river into the pit. Also we have a settlement pond so waters going back into the river first go to the settlement pond. Mr. Tietloff continued that the environmental challenges at Vulcan Materials continue to be dust and suspended solids in water. Also, Vulcan controls a lot of real estate to settle dust and water. Vulcan does not generate hazardous wastes and we try to recycle everything.

Finally, Mr. Howell and Mr. Cox

concluded the presentation with an in-depth discussion of Vulcan's response to the 2009 ice storm. After the presentation, the committee boarded buses and toured the quarry viewing the suppression systems, the rails, barges, and witnessing a blast in the pit. After the tour, the committee returned to Kentucky Dam Village and went to a Step Outside event sponsored by the Kentucky Department of Fish and Wildlife. After the Step Outside, Rep. Gooch recessed the meeting until the following day.

July 31, 2009

The 2nd meeting of the Interim Joint Committee on Natural Resources and Environment was held on Friday, July 31, 2009, at 10:30 AM, at Coaltek in Calvert City, Kentucky. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim Gooch Jr., Co-Chair; Senators David E. Boswell, Bob Leeper, Dorsey Ridley, John Schickel, Brandon Smith, and Gary Tapp; Representatives Reginald Meeks, Tim Moore, Don Pasley, and Fitz Steele.

Legislative Guests: Representatives John Will Stacy, Will Coursey, and Dwight Butler.

Guests: Hank List, Energy and Environment Cabinet; Rusty Cress.

LRC Staff: Tanya Monsanto, Biff Baker, Stefan Kasacavage, Dane Bowles, and Kelly Blevins.

Representative Gooch briefly provided some opening remarks and said this is an opportunity to show appreciation to Coaltek. Then he asked for a moment of silence in memory of former representative Rex Smith's brother's passing. After the moment of silence, Rep. Gooch recognized Rep. Will Coursey and Sen. Leeper, both of which represent Marshall County. Rep. Coursey stated that it is an opportunity to see the business contributors to the local community. He described the moment when Coaltek approached both he and Sen. Leeper during the 2008 session. Sen. Leeper discussed how both chambers worked on the legislation and how important the project was for coal and for energy independence.

Then, Rep. Gooch introduced Mr. Chris Poirier, CEO of Coaltek. Mr. Poirier introduced his staff and stated that they are a clean technology company whose goals are to improve the efficiency and technology for us-

ing coal. There are 6 billion tons of coal produced and consumed internationally and one-half in the United States. Coaltek is working on bridging the gap in terms of fuels for the existing and future fuel infrastructure. The technology is highly flexible; we can locate anywhere and utilize the existing coal resources. The technology is electromagnetic energy which removes the moisture from the coal. The technology can be used to address waste coal issues and coal fines and other waste products from prep plants and power generation plants.

Mr. Poirier gave a tour of the site and described the transportation to the existing infrastructure. When asked about the origin of the coal on site, Mr. Poirier stated the majority is Powder River Basin (PRB) coal, but it is not owned by Coaltek. Coaltek provides service to existing companies to create boutique fuels for power plants and other industrials. The percentage of PRB to Kentucky/Illinois basin coal is roughly 40%.

Mr. Poirier then described the electromagnetic technology as a big microwave oven. It is about 3 megawatts and the target capacity is about 10 million tons of coal. At this facility, 30 million dollars has been spent in investment. Then Mr. Poirier took the group through the control room of the facility and then to examine the finished coal briquettes. At the end of the tour, Coaltek provided a luncheon and Rep. Gooch adjourned the meeting.

#### **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM Minutes of the 1st Meeting of the 2009 Interim July 30 & 31, 2009**

The 1st meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday July 30, and Friday, 31, 2009, at 4:00 PM CDT Thursday and 9:00 AM CDT Friday, at the Mayfield Grain Company, Mayfield, Kentucky. Senator Alice Forgy Kerr, co-chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Eddie Ballard, Co-Chair; Senators Julian M. Carroll, Julie Denton, Denise Harper Angel, Jack Westwood, and Ken Winters; Representatives John "Bam" Carney, Larry Clark, Will Coursey, Jim DeCesare, Myron Dos-



sett, Ted Edmonds, Mike Harmon, Joni L. Jenkins, Dennis Keene, Martha Jane King, Adam Koenig, Tom McKee, Tim Moore, Fred Nesler, Ruth Ann Palumbo, Ancel Smith, Tommy Thompson, and Addia Wuchner.

Guests: Roger Thomas, Executive Director, Governor's Office of Agricultural Policy; Dennis Clark, Kentucky Soybean Association; Scott Wilferd, Farmer; Ron Conyea, Farmer; Mac Stone, Kentucky Proud, Department of Agriculture; William Knight, Director of Human Resources, Pilgrim's Pride; Dan Ellison, Vice President, Kentucky Association of Conservation Districts; Gerry van der Meer, Commissioner, Department of Parks; and Kristin Branscum, Department of Agriculture.

LRC Staff: John Buckner, Committee Staff Administrator; Karen Armstrong-Cummings; Louis DiBiase; and Marlene Rutherford.

Following introductions, Roger Thomas, Executive Director of the Governor's Office of Agricultural Policy, discussed the value of agriculture to local and state economies. Mr. Thomas explained that with the support of the legislature and the Governor, the Kentucky Agricultural Development Fund (KADF) has been instrumental in furthering Kentucky's agricultural and economic development. He commended Mr. Don Goodin of the Cabinet for Economic Development for being an invaluable member of the Board. Thus far, the KADF, created by House Bill 611 during the 2000 General Assembly, has invested \$286 million in tobacco settlement money into Kentucky agriculture through state and county programs. Mr. Thomas noted that from 2002 to 2007, Kentucky's agriculture

economy increased from \$3 billion to over \$4 billion through KADF investments. KADF has helped the Kentucky Proud program become successful. Mr. Thomas said that in the past six years over \$7 million has been invested in Kentucky Proud, which has become the national model for the branding of agricultural products.

From 2002 to 2007, the KADF has helped the Kentucky's poultry industry grow by \$417 million and the beef cattle industry has increased from \$622 million to nearly \$1 billion. He noted that KADF funding requires a minimum of a fifty percent cost share.

Mr. Thomas said KADF has funded approximately \$225,000 in Ken-

tucky's agritourism industry as well. Agriculture and agriculture-related businesses make up twenty percent of Kentucky's workforce.

Mr. Dennis Clark, representing the Kentucky Soybean Association, explained the economic impact that soybean farming has on the state. In 2008, Kentucky produced 46 million bushels (\$407 million) of soybeans. Of Kentucky's 120 counties, farmers in 102 counties produce soybeans. Mr. Clark said Kentucky farmers want to be good stewards of the land by protecting the environment. He said the majority of Kentucky's soybeans go toward feeding livestock and biodiesel production. In 2007, the United States produced 700 million gallons of biodiesel, which replaced 36 million barrels of foreign oil. Also, biodiesel production supported 52,000 jobs and contributed \$4.3 billion to the United States economy. Kentucky has two biodiesel producing plants: Owensboro Grain and Griffin Industries of Coldsprings. Mr. Clark explained that other uses for soybeans include multiple food products, plastics, lubricants, printing inks, and expandable insulation, all contributing significantly to Kentucky's economy.

Mr. Scott Wilferd, a Kentucky farmer and former board member of the Kentucky Corn Growers Association, explained that the perception of farmers has changed. He said farmers now spend time defending as well as promoting the farming industry. Today, farmers are more productive than ever while also being environmentally conscientious. Mr. Wilferd noted the importance of area economic development for corn production. During the 1980s, Graves County farmers produced 4 to 5 million bushels of corn annually. In 1991, with the addition of Seaboard Farms (now Pilgrim's Pride) demand for corn production in the area, production increased to 7.5 to 8.5 million bushels of corn per year. Mr. Wilferd said economic development initiatives such as poultry plants and ethanol production facilities give corn farmers the incentive to meet demands. In 2008, corn became the top state agriculture product, producing \$617 million due to increased demand. He said corn growers are overcoming challenges such as increased yield per acre, successfully meeting the demands of ethanol producers, all while maintaining environmentally sound farming.

Mr. Ron Conyea, a Graves Coun-

ty tobacco producer, said that before the industrial revolution, tobacco was Kentucky's number one product. According to the 2000 Agriculture Census, tobacco produced \$20 million gross income for Graves County and provided 200-300 full-time and 1,000 to 1,500 part-time jobs. Mr. Conyea said that tobacco farming in Graves County provides the same income that a manufacturing plant would create. He noted that manufacturing jobs have left the area while tobacco production continues.

Mr. Mac Stone, with the Department of Agriculture's Kentucky Proud program, agreed with the other speakers in pointing out the heritage and culture of farming in Kentucky. He said the Kentucky Agriculture Development Fund is the driving force behind Kentucky Proud and allows them to work with retailers and schools throughout the state. He said Kentucky Proud is an empowerment program that works with restaurants by creating incentive programs to purchase Kentucky products. In turn, the restaurants advertise the Kentucky Proud logo. He noted that the pizza chain, Papa John's, purchases large quantities of locally produced peppers and tomatoes. He said Kentucky Proud not only promotes food but other agricultural products as well.

Responding to Representative McKee's question about supply concerns, Mr. Clark said that farmers can meet the demand and added that soybean based biofuels replaced 36 million barrels of foreign oil in 2007. Mr. Wilferd added that while there was an increase in corn prices due to supply concerns, this was only temporary. He pointed out the extreme fluctuations in oil prices last year. He said in time farmers will be producing surplus crops.

Representative Jenkins encouraged members to support local farmers markets and noted that the Department of Agriculture has been instrumental in funding many across the state. Mr. Thomas added that the KADF has funded over 100 farmers markets throughout Kentucky.

Mr. Thomas pointed out that Kentucky agriculture will be showcased at the upcoming 2010 World Equestrian Games and noted the importance of marketing Kentucky's agricultural products to other countries.

Representative Ballard noted that First Lady Jane Beshear is deeply involved in promoting Kentucky's

agritourism industry. Mr. Thomas added that the First Lady is a spokesperson for agritourism and initiated the Capitol Farmers Market this year. She is intent on creating opportunities to help market local food products. Also, she is a spokesperson for the World Equestrian Games.

Representative Koenig asked how much of Kentucky's agricultural products are exported. Mr. Wilferd and Mr. Clark said a majority of their crops remain in the state. Mr. Conyea said most tobacco he produces remains in the United States while 25 percent is exported overseas.

Representative Dossett said that the state's agriculture industry has avoided major job loss during the recession. He noted that proposed federal "cap and trade" legislation could be detrimental to farmers and warrants attention.

Representative Carney said that dairy farmers are having a tough time and need government intervention.

Representative Nesler said Kentucky leads the nation in energy research with agriculture having an increasing role.

There being no further business for the day, the meeting recessed until Friday, July 31.

Friday, July 31, 2009

Senator Kerr called the meeting to order at 9:00 AM CDT.

Mr. William Knight, Director of Human Resources for Pilgrim's Pride in Mayfield, gave an overview of the poultry processing plant. Founded in 1946, Pilgrim's Pride has approximately 40 facilities throughout the United States, Puerto Rico, and Mexico. The Kentucky facility employs approximately 1,400 people and processes 2.1 million birds per week. There are 233 growers, 654 houses, and two hatcheries with hatching capacity of 2.6 million eggs per week. Mr. Knight noted that in addition to plant workers, they employ office and other personnel as well. Due to declaring bankruptcy, which necessitated the closure of several facilities, Pilgrim's Pride is now the second largest poultry producer in the United States with 40,000 employees. These employees process 44 million pounds of poultry. In 2006, net sales of were \$7.4 billion. Mr. Knight explained that the company also manufactures more than 155,000 tons of bulk and bagged feed per year for livestock and show animals. They export chicken and turkey products to more than 70 countries and produce 44 million dozen table eggs annually. Mr. Knight

said while some Pilgrim's Pride facilities are not profitable at this time, the Mayfield facility has made \$9.5 million. Pilgrim's Pride products are distributed to Cisco, Kentucky Fried Chicken, Church's Chicken, Popeye's Chicken, Chik-fil-A, ConAgra Foods, Kroger, Super Value, and Wal-Mart among others. Mr. Knight said the company strives to be a great place to work.

Mr. Dan Ellison, Vice President of the Kentucky Association of Conservation Districts (KACD), discussed conservation issues within the state. He said the KACD wants to maintain a conservation office in every county even though there have been office consolidations within state and federal agencies. Mr. Ellison said western Kentucky has an excellent supply of water, which was one reason Pilgrim's Pride chose the area. Mr. Ellison reviewed the USDA's 2008 Farm Bill Funding projects. The Conservation Security Program received \$324,100, Environmental Quality Incentive Programs received \$15.1 million, Wildlife Habitat Incentive Program received \$1.4 million, Wetland Reserve Program received \$4.2 million and Technical Assistance received \$22.82 million. Mr. Ellison reviewed the Purchase Area Kentucky Conservation Partnership's accomplishments. Mr. Ellison said Purchase Area farmers practice soil conservation techniques and yield monitoring using GPS to be successful. He said farmers are using legislative funding wisely by practicing sound conservation techniques. Representative McKee added that money spent on farming and conservation is an investment in the future.

Commissioner Gerry van der Meer with the Department of Parks gave a brief history of Cherokee State Park. He thanked the members for supporting Kentucky's state parks like Cherokee. He noted the park's historical significance as being the only African-American state park in Kentucky during segregation and only the third in the nation. He said it is critical to preserve the park, one of a few remaining sites of its kind. Begun in 1948, Cherokee State Park was built to complement "whites only" Kentucky Lake State Park (now Kenlake State Resort Park). Upon desegregation, Cherokee Park was closed and annexed to Kenlake State Park. Six Cherokee Park cottages were relocated to Kenlake Park. Mr. van der Meer said future plans call for the original park manager's house

to serve as an interpretive and educational center for Cherokee Park. In January 2009, Cherokee State Park was added to the National Register of Historic Places by the National Park Service and was designated a Kentucky Landmark by the Kentucky Heritage Council. Currently, over \$577,000 has been allocated for the renovation of the dining hall and lodge. Renovation is currently underway. He noted that renovation plans will retain as much of the original structure as possible. Completion of the expansion of Highway 80 will allow better access to the area.

Representative King expressed concern that state parks lack legislative-mandated lifeguards, which could possibly open the state to lawsuits. Commissioner van der Meer explained that while there are not lifeguards at some lakes, there are attendants. Signs informing patrons are posted as well.

Senator Carroll said it was important to continue funding Kentucky's state parks.

Ms. Kristin Branscum with the Marketing and Product Promotion Office of the Kentucky Department of Agriculture gave an update on the state's agritourism efforts. Currently, they are in the process of hiring a new director of agritourism in cooperation with the Department of Travel. Agritourism activities include visiting farms, orchards, trail rides, farmers' markets and nurseries, distilleries and wineries, and barn quilt trails. Ms. Branscum noted that Kentucky now has 52 wineries. From 2003 to 2009, through a Rural Business Enterprise Grant and Agriculture Development Board funding, the Office of Agritourism has conducted a marketing study, worked on brand development, developed an advertising campaign, created a website, and has been able to offer some cost shares to regional tourism operations. Ms. Branscum said the Agritourism Advisory Council is composed of 27 members representing agritourism's various areas of interest. They advise the Office of Agritourism and developed the "Kentucky Farms are Fun" brand. The website lists approximately 300 areas of interest with search capabilities. Ms. Branscum said the seven-county Cave Region agritourism group has worked with the Department of Transportation for six years on an agritourism signage pilot project. Paid for locally, the first signs were posted last week.

Ms. Branscum said the Agrito-

urism office has changed its school education program by working with retail partners to include Kentucky Proud product discounts through its presentations. In the future, they would like local agritourism operators to visit classrooms as well.

Ms. Branscum explained that agritourism will be marketed at the 2010 World Equestrian Games. Tours and itineraries will be available for guests.

Ms. Branscum said the Office of Agritourism needs to secure additional funding. To help achieve this, they are looking to form partnerships to share funding. The Office would like to help promote the agritourism pilot signage program. The office is looking to conduct familiarization tours with the media and to develop a group travel market. The Office of Agritourism's goal is to continue to be a marketing resource to agritourism producers and assist in business growth.

Senator Westwood asked if the office had considered partnering with county extension agencies. Ms. Branscum said the office does work with county extension agents and an extension agent representative from the University of Kentucky is on the advisory council.

Senator Denton noted that during the last meeting of the Interim Joint Committee on Licensing and Occupations, winery owners expressed concern about the effects of prohibiting Sunday alcohol sales on their businesses and requested legislative intervention. She said dry counties have an effect on Sunday winery tours. Ms. Branscum said the Office of Agritourism is in favor of any efforts that support the wineries.

Senator Kerr announced there would be no August meeting.

There being no further business, the meeting adjourned.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 3rd Meeting of the 2009 Interim August 10, 2009**

The third meeting of the Interim Joint Committee on Education was held on Monday, August 10, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ken Winters, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters,

Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Walter Blevins Jr., David Givens, Dan Kelly, Alice Forgy Kerr, Vernie McGaha, R.J. Palmer II, Tim Shaughnessy, Elizabeth Tori, Johnny Ray Turner, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Leslie Combs, Jim DeCesare, C. B. Embry Jr., Tim Firkins, Kelly Flood, Derrick Graham, Jeff Greer, Jimmy Higdon, Reginald Meeks, Charles Miller, Harry Moberly Jr., Marie Rader, Jody Richards, Tom Riner, Charles Siler, Dottie Sims, Kent Stevens, Wilson Stone, Alecia Webb-Edgington, and Addia Wuchner.

Guests: Senator Katie Stine; Representative Greg Stumbo; Representative John Will Stacy; Joe Brothers, Chair, Kentucky Board of Education; Commissioner Terry Holliday, Kentucky Department of Education; Helen Mountjoy, Secretary, Kentucky Workforce Development and Education Cabinet; Clyde Caudill, Kentucky Association of School Administrators; Wayne Young, Kentucky Association of School Administrators; John Stroube and Tanya Bromley, Kentucky Music Educators Association; Bill Scott, Kentucky School Boards Association.

LRC Staff: Audrey Carr, Ken Warlick, Janet Stevens, and Janet Oliver.

Senator Winters said the July 13, 2009, subcommittee reports were provided in the members' folders and he asked the co-chairs of the subcommittees to report on the meetings held today.

Senator McGaha reported that the Subcommittee on Elementary and Secondary Education heard a discussion about the American Recovery and Reinvestment Act, Title I School Improvement Grant. He said Kentucky will receive approximately \$155.3 million over the next two years in ARRA Title I grants to be used in conjunction with existing Title I funds to help students who are most at-risk of failing to meet state academic achievement standards. He said Ms. Debbie Hicks, Director of the Kentucky Department of Education's Division of Federal Programs, provided information on criteria used to award the funds, how the funds may be used, and about the waivers KDE plans to request so that more funding can be directly used by the schools. He said that Burley Hudson, Director of District Wide Services for Breathitt County Schools, and Jeff Castle, Curriculum Director of Franklin County



Schools, informed the committee about how their districts plan to utilize the funds to improve academic achievement of at-risk students.

Representative Combs said Dr. Michael McCall, President of the Kentucky Community and Technical College System (KCTCS), provided the Subcommittee on Postsecondary Education an update on performance indicators and outcomes. She said Dr. McCall informed the members that the KCTCS system now enrolls 41% of all public postsecondary undergraduates; the number of certificates awarded since 1998 has increased nearly five-fold and associate degrees have doubled; 14,722 students were involved in dual enrollment/dual credit programs in the fall of 2008, up from 676 students in 2000; and, in the last 10 years, 37 new facilities have been added to the system and 14 new campuses, although a commensurate increase in maintenance and operations funding has not been provided. She said Dr. McCall also discussed recent changes to the KCTCS personnel system including “term contracts” for new hires and “at will” employment for temporary and part-time employees.

Senator Winters asked for approval of the minutes of the July 13, 2009, meeting. Upon motion by Representative Collins, seconded by Senator Tori, the minutes were approved by voice vote.

Senator Winters asked Dr. Terry Holliday, the newly appointed commissioner of the Kentucky Department of Education, to share his vision for Kentucky. Commissioner Holliday said he looks forward to working collaboratively with the legislature to provide the best possible education for Kentucky’s children to ensure they are prepared for the future. He said his vision surrounds the timely execution of Senate Bill 1 and he has been very impressed with the work KDE staff has done thus far in that regard. He said Kentucky has long been known in national leadership circles for the Kentucky Education Reform Act and that the insight and preparation for Senate Bill 1 mirrors the American Recovery and Reinvestment Act.

Senator Winters asked the representatives of the Council on Postsecondary Education (CPE) and the Kentucky Department of Education (KDE) to provide an update on the implementation of Senate Bill 1. Information was provided by: Robert King, CPE President; Sue Cain, CPE

Coordinator, Developmental Education and College Readiness Initiative; Michael Miller, KDE Interim Associate Commissioner, Office of Teaching and Learning; Ken Draut, KDE Associate Commissioner, Office of Assessment and Accountability; and Larry Taylor, KDE Director, Division of Exceptional Children Services.

Mr. King said he has already met with Commissioner Holliday to talk through how CPE and KDE can better work together. He said he was also very impressed and grateful that Senators Winters and Kelly and Representatives Moberly and Rollins have taken time to work directly with CPE on Senate Bill 1. He related that the recently released ACT scores for high school juniors will emphasize how vital this legislation is to the future of the public education system in Kentucky and that KDE and CPE are working collaboratively to accomplish the goals set out in the legislation.

Mr. Miller said Senate Bill 1 directs KDE and CPE to plan and implement a comprehensive process for revising the core standards so they are fewer in number, more focused and in-depth, evidenced-based, incorporate international benchmarks where possible, and are common from high school to postsecondary introductory courses. He said numerous educational entities will be involved in the process and a steering committee will provide overall guidance and ensure that the provisions of the legislation are carried out. The committee will have its first meeting on August 13 and its members include the Senate President, House leadership, the KDE Commissioner, CPE President, Secretary Helen Mountjoy, and others. He said the legislation directs that all content areas be revised and the workgroups that will make revisions to Mathematics and English/Language Arts standards are already in place. Also, a college readiness workgroup will focus on what is needed for students to be prepared for college and reducing developmental education rates. Mr. Miller said the content workgroups will have postsecondary and public P-12 educators and representatives of other educational entities. He said the workgroups will analyze the common core standards that will be released by the National Governor’s Association and the Chief State School Officers and that KDE has received a preliminary draft of the standards. The workgroup will make

recommendations for adoption or revision for each grade level specific standards, review and define standards for postsecondary introductory courses, and develop K-12 standards to match readiness levels for college and the workforce. He explained that 49 states and/or territories will be reviewing the national common core standards, which were developed by ACT, College Board AP/SAT, and other education experts. Even though adoption of the standards is voluntary, states choosing to participate must adopt all of the standards as they are released, and then may add some of their own standards. Mr. Miller provided information on the timeline for review of the common core standards with finalization and approval of End of High School Mathematics and Language Arts Common Core Standards to occur in winter 2009. He said the standards currently being released are only end of high school standards and not the grade by grade standards which will be forthcoming. He said the P-12 educators have not yet been involved but will be involved in reviewing the grade by grade standards.

Ms. Cain said the College Readiness Workgroup has begun looking at initiatives and intervention techniques being used across the state in the postsecondary and P-12 systems that are evidenced based and promote college readiness, which has been compiled into a 23 page document of practices. She said the workgroup began meeting at the end of June and includes representatives from K-16, KDE, the Educational Professional Standards Board (EPSB), and the Legislative Research Commission (LRC). She said the workgroup will collaboratively develop a unified strategy to reduce college remediation rates by 50% by 2014 from a 2010 comparison rate, since the system wide standards of readiness will change in fall 2010, and develop a unified strategy to increase the college completion rates by 3% annually between 2009 and 2014 of students already enrolled in a postsecondary education institution. She said the postsecondary mathematics workgroup is already reviewing the system wide standards of placement and the mathematics, English and reading standards that were developed in 2004, so they may be readily compared to the common core standards when released. The workgroup found that the standards being used in postsecondary education for readiness are very similar to

the common core standards. She said the College Readiness Workgroup will also be providing recommendations for professional development for P-16 educators on the common core standards, assessments, and intervention; ensuring that the P-20 database system is viable for Kentucky so educational progress can be tracked; and ensuring that P-16 councils and other educational consortia foster the relationship needed to implement the plan in the educational communities throughout the state.

Mr. Draut provided an update on the work being done on the assessment and accountability system. Members were provided various documents detailing the progress being made and timelines for work to be completed. Mr. Draut said that the spreadsheet with tasks, dates, and other information is a living working document that is continually updated to make sure the department is adhering to the Senate Bill 1 timeline. He noted the following areas of particular interest: Line 5 related to the new 2012 accountability model with work scheduled to begin in the fall; Line 16 related to budget requirements; Line 36 pertained to the assessment literacy work needed, and will involve a design team to review professional development needs; Line 39 related to work being conducted with the current vendor on contract changes necessary to deliver the required product, which will also have financial implications; Lines 46-48 related to end of course assessments in Algebra I and II and Geometry; Lines 50-56 pertained to developing the norm referenced test for Spring of 2010 as required by Senate Bill 1; Lines 60-67 related to program review. Information was also provided on regulation work that will be necessary.

Mr. Miller said that program review has generated much interest among educators and the education community. The commissioner is periodically providing updates about the structure of the reviews. He said the criteria for program review will be centered on four key areas: curriculum instruction; formative and summative assessments; professional development and support services for professional development; and administrative leadership, support and monitoring. He said criteria, indicators, and strategies will be developed for each key area and it is expected that the programs reviews will be

ongoing throughout the year and not become added responsibility but incorporated into daily conversations. He said program review will be implemented in the accountability system in 2012, although some schools will voluntarily pilot the program in winter 2010, and, the following year, all schools will have an opportunity to participate in pilot status. He said program reviews will occur in three content areas, particularly, arts and humanities, health and physical education, and writing.

Mr. Taylor said, at the last interim meeting, a question was asked about the study of special education students who were taking the assessment as described in Senate Bill 1. He said special education teachers are involved in the development of the assessments and that KDE staff continuously reviews how students with disabilities are affected academically and emotionally. He said his staff will participate in the development of the standards, assessments and program reviews to advocate for students with disabilities and that federal requirements contained in the Americans with Disabilities Act and No Child Left Behind relating to those students will also need to be followed.

Mr. King said that professional development will be critically important to the effort and that CPE, KDE and EPSB are already discussing the role of public and private higher education institutions in that effort. He said another issue will be keeping parents and communities informed about what is occurring in their education systems and discussions have already begun about utilizing P-16 councils to ease the transition to the new system with higher expectations of students and garner the support needed to make it successful.

Representative Charles Miller said he is concerned that teachers have not been adequately involved, that they should have been represented on the steering committee, and that P-16 educators need to be involved in the process every step of the way. Mr. Michael Miller responded that the steering committee consisted of agency leaders who could communicate back to their agencies. He said all of the other workgroups are comprised predominantly of teachers and teachers will be writing the standards and reviewing the common core standards. Representative Miller said a public school superintendent is on the steering committee

but superintendents are not always teachers. Mr. Draut related that the evaluation work recently completed for the norm referenced test was done by a seven panel team and three of the seven were teachers.

Senator Winters said actively involving the P-16 councils in the promotion of all phases should prove very beneficial.

Senator Kelly said he is confident with the ongoing standards work but is concerned about assessment literacy. He said the role of assessment in school accountability previously consumed a tremendous amount of resources and time and left questions about the usefulness of the information being produced. He said it is very important that members of the General Assembly and representatives from KDE, KBE, and various other educational entities immediately begin discussing the role of assessment in accountability for Kentucky and how success will be measured, what the performance indicators should be and how it can be done with tools that support learning.

Representative Meeks said that he serves on a national task force on dropout prevention. He asked what plans are being made to reduce the dropout rate in Kentucky and increasing the numbers attending and graduating from colleges and universities. Mr. Miller said providing a more challenging curriculum to keep students engaged should prove helpful. He said more ideas may come from First Lady Jane Beshear's dropout prevention summit scheduled to meet in Frankfort in September. Ms. Cain said having one set of standards instead of two sets of unlinked standards will make a difference because the one set of standards will follow a student from preschool forward into postsecondary introductory level courses. Representative Meeks said, at the National Conference of State Legislatures' meeting in Philadelphia, they learned that many professionals could not identify the issues and problems causing students to dropout. He said gleaning information from those who have dropped out of school may provide insight into the reasons. Mr. King said statistics show that dropouts are increasing among males and particularly African American and Hispanic males. He said it is important to use assessment tools as early as possible to ensure mastery of subjects instead of delaying intervention until the middle and high school levels. Sena-

tor Winters said that, as a result of Senate Bill 1, the data to be collected will be student specific which should also help reduce the dropout rate.

Representative Flood said that professional development will play a critical role and the General Assembly as a collaborative partner must make sure funds are available to support the effort. She asked if there were any provisions in the bill that creates problem areas or if new legislation is needed to further define expectations or requirements. Mr. Draut responded that the number one issue is how formative assessments are to be used. He said the most important assessments are those given on a daily, weekly and monthly basis that allows evaluation to occur in the classroom.

Representative Belcher asked when the required professional development will be provided for the teachers, who will provide the training, and whether teachers will be trained before the standards are implemented. Mr. Miller said teachers will be trained and the professional development plan is already being formulated. He said accountability for the new standards will begin in 2012 but the interim period is also very important as teachers continue to remain focused on the current standards while simultaneously preparing for the new standards. He said funding is needed to provide the required professional development for educators at all levels. Representative Belcher said success will depend on how well the teachers are trained.

Senator Winters said the Senate Bill 1 implementation chart with table format is very helpful and asked if it could be made available monthly to legislators. Mr. Draut said he would keep them up-to-date.

Senator Stine said she was extremely interested in the progress being made on Senate Bill 1. She asked if anyone in the department is looking at the federal grants available through the Race to the Top Fund. Mr. King said that KDE is the principal player in the grant process and has already engaged the services of an outside consulting firm to develop a proposal that would require participation by CPE and other educational agencies. Commissioner Holliday said that Secretary Mountjoy informed him of the grant and department staff is already working on the application which is due in December. He said Senate Bill 1 mirrors the Race

to the Top core general principles of standards, assessment, turn around schools and effective teaching. He said it is hoped that Kentucky will be one of the first states to receive the funding, which is estimated to be around \$200 million.

Representative Moberly asked what progress is being made with regard to collaboration between elementary and secondary faculty and postsecondary faculty. Ms. Cain said some work is being done around transitional coursework to help students at all levels who are not on target for readiness. Mr. Miller said one of the keys is to move away from a credit recovery type intervention to immediate intervention for struggling students. Representative Moberly said it is encouraging that collaboration is being used to develop intervention processes but he was inquiring about the collaboration required between postsecondary and secondary in developing standards for introductory courses. Ms. Cain said the standards and learning outcomes for the introductory level courses are being reviewed and that teachers from colleges of education are at the same meetings as content faculty in all of the processes. Mr. Miller said that the meetings of the P-12 Workgroup and Postsecondary Workgroup in Mathematics and English/Language Arts will occur simultaneously, although the P-12 Workgroup will not meet until the release of the common core standards.

Representative Graham said it is important that postsecondary educators be an integral part of developing curriculum for secondary students to ensure the students have a mastery of the skills necessary to succeed. He said it is important for the General Assembly to ensure the funding mechanism is in place, whether it is federal or state monies, to implement the requirements of Senate Bill 1.

Senator Kelly said, during the Blue Ribbon Commission meetings, superintendents, principals, and teachers were very clear that the legislature should not be directive about formative assessments and that less time should be spent on end-of-year summative assessments. He said the types of assessments used by schools making progress should not be questioned, although assessment information on schools not showing adequate progress may be helpful to ensure that they receive adequate professional development. He said dialogue is needed on how to imple-



ment a new accountability system and the role assessment will play in accountability.

Representative Carney said he is aware that Senate Bill 1 information is being disseminated to the districts. He said the documents provided to the Interim Committee are very informative and asked if the department could disseminate those to the districts. Mr. Draut replied that the documents could be easily disseminated and would be helpful in keeping the districts up-to-date.

Representative Stone said if the standards are revised so they are truly P-20 standards, very useful information can be gleaned from the process, such as how well undergraduates do in graduate school and how well graduates do in the workplace. He asked if changes in high school diploma requirements or graduation requirements will result when the common standards are in place. Mr. King said that although Senate Bill 1 is considered a college readiness initiative, it is also a workforce readiness initiative to prepare students for college or the workplace without the need for additional remediation or skills training. He said higher education needs to do a better job of measuring how their graduates perform. In an effort to track their progress, CPE is planning to enter into an agreement for a limited period of time with the company that does the graduate examinations so they can see how graduates are performing on the exams. He said CPE already has access to state licensure examination results.

Representative Moberly said there is a lack of knowledge about formative assessments and a lack of good professional development caused many of the problems experienced with the previous assessment. He said a review of the curriculum committee report of the Education Reform Task Force, which was co-chaired by Representative Richards, shows that the idea of formative and continuous assessment was never grasped nor was professional development provided to ensure its success. He agreed with Senator Kelly that formative assessments cannot be legislated but good professional development is needed to ensure that effective formative assessments are given.

Senator Winters asked Jon Akers, Executive Director, Kentucky Center for School Safety, to provide an update on school safety.

Mr. Akers recognized his assistant, Ms. Barbara Gates, who was in the audience. He said that the annual report provided to legislators is prepared by the center's employees and printed at Eastern Kentucky University, which hosts the program as required by the legislation creating the center. He said all members of the center's board of directors are appointed by the Governor. He said the Kentucky School Boards Association provides invaluable assistance in school safety and recognized Bill Scott, Executive Director of the Association, who was in the audience. Mr. Akers said that Murray State University also assists in the effort by providing school safety information to all postsecondary institutions for their pre-service teachers and principals before they enter the profession.

Mr. Akers provided the following information regarding center activities. The center has had nearly 4,000 requests over the past 9½ years from educators, first responders, parents, et.al., for technical services involving more than 228,000 people. The center has conducted 264 statewide training sessions involving approximately 13,000 participants on various topics, with the major topic now being H1N1 flu, and last year's major training emphasis was on House Bill 91, the bullying legislation. The center has provided over 420 school safety assessments in 139 school districts in partnership with KDE and KSBA to examine school climates and culture dealing with the physical plant, relationships, personal safety and behavioral management issues. An additional 57 schools requested assessments last year but could not be accommodated because of lack of funding. Superintendents of districts that have not sought safe school assessments are notified each year of the availability of the service. The center has a Web Site that provides information and resources on 40 major school safety topics. The center has developed an emergency response crisis management guide, with assistance from state police, first responders, health department officials, school administrators, teachers, and other stakeholders. The center receives on average 20 calls per week that fall into four categories: specific incidents; technical assistance for a site visit; interpretation of a specific law or policy; and requests for professional development. The center receives 10% of

the state allocation for safe schools and the schools receive the remaining allocation. Schools use about 83% of their safe school allocations to provide alternative education for students with behavioral issues, intervention services, and in-school suspension supervision.

Mr. Akers said that Senator McGaha had previously inquired about whether safe school funds may be used to purchase uniforms for school resource officers. Mr. Akers said, even though funds may have been used for that purpose in the past, KDE and the center have now developed a matrix to assist schools with appropriate expenditures of funds and monitor those expenditures. Mr. Akers said complacency is the greatest fear and it is important to keep school safety out front at all times. Representative Miller complimented Mr. Akers on the good job the center does with limited resources.

Senator Winters said the next meeting of the committee will be at Northern Kentucky University.

There being no further business to discuss, the meeting adjourned at 3:00 PM.

**INTERIM JOINT COMMITTEE  
ON EDUCATION  
Subcommittee on Elementary and  
Secondary Education  
Minutes of the 2nd Meeting  
of the 2009 Interim  
August 10, 2009**

The second meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, August 10, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Ted Edmonds, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators David Givens, Dan Kelly, Jack Westwood, and Ken Winters; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Jeff Greer, Rick G. Nelson, Marie Rader, Kent Stevens, Wilson Stone, and Alecia Webb-Edgington.

Guests: Bert Hensley, Superintendent, Estill County Schools; Jeffrey Castle, Franklin County Schools; Burley R. Hudson, Breathitt County Schools; Diane Evans, Lisa Hutchins, and Donald W. Smith, Marion County Schools; Jeff Hawkins, Kentucky Valley Educational Cooperative; Wayne Young, Kentucky Association of

School Administrators; Debbie Hicks, Kentucky Department of Education; Deborah Watts, Jenkins Independent Schools; John Wilkerson, Kentucky Education Association; Joe Brothers, Chair, Kentucky Board of Education; Clyde Caudill, Kentucky Association of School Administrators (KASA) and Jefferson County Public Schools; Dr. Leon Mooneyhan, Ohio Valley Educational Cooperative; Ruth Webb, Deputy Commissioner, Kentucky Department of Education; and Frank Rasche, Legislative Liaison, Kentucky Department of Education.

LRC Staff: Janet Stevens, Audrey Carr, and Janet Oliver.

Representative Edmonds asked for approval of the July 13, 2009, minutes. Upon motion by Representative Collins, with a second by Representative Greer, the minutes were approved by voice vote.

Representative Edmonds said that the American Recovery and Reinvestment Act (ARRA) provides significant new funding to local districts for programs under Title I, Part A, of the Elementary and Secondary Education Act of 1965 for at-risk students who are failing to meet state academic achievement standards. He said Ms. Debbie Hicks, Director of the Division of Federal Programs and Instructional Equity within the Kentucky Department of Education, would discuss the criteria for the awards, the amount awarded to individual Kentucky districts, and guidelines for the use of the funds; and then representatives of two local school districts would discuss how the funds are being used in their respective districts.

Ms. Hicks said that the U.S. Department of Education (USDOE) determines the allocation each district receives based on a formula that includes the number of formula children in each district, updated state per-pupil expenditure data, and poverty census data. She explained that formula children are defined as a population of children ages 5-17 who are from families below the poverty level based on census data; children ages 5-17 who have lived in a licensed facility for foster children for at least 30 consecutive days; and children ages 5-17 who have been neglected and have been living in a local institution for at least 30 consecutive days with at least one of those days being in the month of October. She said all of the calculations for funding are done by USDOE and that one of the handouts in the members' folders

provides further information on the allocation procedures.

Ms. Hicks said that the ARRA Title I, Part A funds consists of targeted grants and Education Finance Incentive Grants (EFIG). She said to qualify for the targeted grants a district must have at least ten (10) formula children which equates to at least 5% of the district's total population. The EFIG grant has the same criteria relating to formula children but also has criteria relating to state funding to the districts for per pupil expenditure. Ms. Hicks said the entire allocation for each state is sent to the state departments of education and that the state departments must set aside 4% of the entire allocation for school improvement. She said the allocation for each state was based on 2007 Census Poverty Data and that Anchorage and Oldham County were the only districts in the state that did not receive funding with allocations of as little as \$14,000 in small districts to \$33 million in Jefferson County. Ms. Hicks said that after KDE set aside the required 4% for school improvement, each district then received their allocations and that most districts follow a simple procedure of using free and reduced lunch student data to allocate to the schools within their district.

Ms. Hicks said the purpose of ARRA Title I, Part A funds are to improve teaching and learning for students considered to be at risk of not meeting state standards. The districts also have required set asides from their total allocation, including 1% for parent involvement and equitable services to private schools. Ms. Hicks said that several other set asides are also required at the district level and KDE will submit a request to USDOE to waive seven of those set asides so that the schools will have more funding available to meet their needs. She said Title I funds may be used to provide supplemental instruction staff and materials and activities to increase parental involvement, support homeless students, and provide extended school day or school year services. She said the ARRA Title I funds follow the same guidelines as regular Title I funds and may not be used to supplant local or state funds, renovate or remodel buildings, serve non-Title I schools, or for non-instructional uses. She explained that a Title I school is defined as a school with a student population of 35% or higher poverty level and that the word "supplanting" means replacing

any state or local funds that currently support a program or an initiative.

Representative Collins commented that 2007 census data is outdated. Ms. Hicks said that a complete census is conducted every 10 years and the federal government updates the information periodically so ARRA regulations were based on updated 2007 census data. Representative Collins asked how long it takes funding to reach the school districts when it is allocated. Ms. Hicks said that, as a safeguard, KDE has asked the districts to submit a report on how they plan to use the funds to ensure that federal guidelines are followed but the districts may begin expending funds as soon as they receive an official award notification. She explained that 50% of the ARRA funds was made available April 1 of this year and was retroactive to February 17, 2009, when the President signed the Act into law, and the remaining 50% will be released September 1. She said Title I funding for school improvement has been delayed and will not be released until December 2009 or January 2010.

Senator McGaha asked for further explanation of the formula used for parental involvement, stating that it was his understanding that the schools could have 95% of 1% of the district's entire allocation. He asked what happens to the other 5% of the 1%. Ms. Hicks said that although a district is required to provide parental involvement activities at the district level, many districts are allowing the entire 1% to be used at the school level.

Representative Carney asked if ARRA Title I funds could be used to provide Extended School Services (ESS) or if such action would be considered supplanting if funds for those services have been cut. Ms. Hicks said that ESS is one of five Flexible Focus programs funded with state appropriated monies. She said the districts have flexibility on how to use the remainder of the Flexible Focus program funds, so if a district allocated funds to ESS and can demonstrate there is insufficient state funds because of budget cuts to fully support the program, then the district may use federal funds to enhance that program. She said that Title I has always been used to support after school programs including ESS and summer school, but if no funds were allocated to the ESS program, use of ARRA funds would be considered supplanting. Representative

Carney asked if there is any indication when the federal government will respond to KDE's waiver request. She said that Kentucky had already submitted one waiver relating to the 14 day notice to parents about the school choice option since receipt of assessment data was delayed due to the numerous natural disasters that occurred during the last school year. She said KDE will submit seven more requests for waivers and have been informed that decisions were being made very quickly.

Senator Westwood asked if the Individual Learning Plan (ILP) programs would qualify for ARRA Title I funds. Ms. Hicks said that Title I funds cannot be used for ILP programs. Senator Westwood asked Ms. Hicks to describe the seven waivers being requested. Ms. Hicks provided the following information. (1) A waiver will be requested to allow schools and/or districts in improvement to utilize online Supplemental Education Service (SES) providers since many districts in the far eastern and western portions of the state do not have access to onsite providers. (2) A waiver will be requested to allow Tier I schools to provide Supplemental Education Services (SES) when school choice transportation and SES services in adjoining schools or counties is not available. She explained that the current language in the ARRA legislation relating to Tier I schools, which are schools that have not made adequate yearly progress for two years in a row, requires that 20% of the funding be set aside for school choice transportation and supplemental services. She said many schools are unable to provide school choice in adjoining schools or districts because ample space is not available and thus supplemental services may be the only alternative to help at-risk students. (3) A waiver will be requested to not require districts to obligate 20% of ARRA funds for school choice transportation and supplemental services since it is a duplicate requirement in regular Title I funding. (4) A waiver is being requested to not require a school and/or district in improvement to set aside 10% of its allocation for professional development since there is a duplicate requirement in regular Title I funding. (5) A waiver is being requested to allow schools in improvement to set aside a proportionate amount of Title I and ARRA Title I funds for professional development instead of setting aside

10% from each fund source. (6) A waiver regarding the per pupil funding requirement for SES is being requested so that more ARRA funds may be used at the student level. (7) A waiver is being requested to allow districts and/or schools to exceed the 15% carry forward requirement. Ms. Hicks explained that ARRA funds cover a period ending in 2011 and therefore districts need to be able to carry forward more than 15% since they will be expending regular Title I funds simultaneously with ARRA Title I funds. Currently a district may only request one waiver every three years to the 15% requirement.

Representative Stevens asked how long present criteria for funding of Title I programs has been in place. Ms. Hicks replied that the criteria was established in the original legislation enacted during President Lyndon Johnson's administration and has not been changed. Representative Stevens said he has some concerns about how the funding is allocated. Ms. Hicks said that the federal government is getting ready to reauthorize No Child Left Behind so it is a good time to make recommendations and Representative Stevens offered to meet with her to discuss the matter.

Senator Givens said that the \$155.3 million flowing into the Title I program is a large sum to be expended in the 2009-2011 school years and asked if discussions are occurring about what will occur when those funds have been expended. Ms. Hicks said the funding will cease on September 30, 2011, and that KDE is providing technical assistance to the districts about allowable uses of ARRA funds and the importance of being realistic in developing efforts that may be sustained. She said that USDOE is also providing guidance. Senator Givens asked if the money can be used to make purchases that will have ongoing use at the end of the time period, such as resource materials. Ms. Hicks said the funding can be used for resource material, as long as it is instructionally focused.

Representative Belcher asked for additional information on the transportation waiver. Ms. Hicks said that schools in improvement must offer school choice and if a parent wishes to exercise that option, the district must transport the student to the school selected by the parent from a list provided by the district. The legislation currently requires that 20% of the district's allocation of ARRA



funds be set aside for transportation. If a school goes into Tier II status, then 20% must be aside for transportation for school choice and SES. Ms. Hicks said regular Title I funds also has the same requirement so KDE is requesting that the districts not be required to also set aside ARRA funds for the same purpose. Representative Belcher said that the school choice option creates difficulty with transportation and ensuring that the student arrives timely at the school of choice, and Ms. Hicks concurred.

Representative Stone asked if separate assessment or accounting is required for the ARRA Title I funds. Ms. Hicks said there will be an entirely separate accounting system to track all funds and ensure transparency. Representative Stone asked if improved student achievement must result from the additional funding. Ms. Hicks responded that there will be a link although KDE does not yet have all of the details about what will be required.

Representative Collins asked if the 15% carryover requirement could result in inappropriate use of funds. Ms. Hicks said it should not be an issue since extensive planning and monitoring is required and the federal dollars are to be expended over a 27 month grant period.

Senator Givens asked how much money Kentucky receives in regular Title I funding. Ms. Hicks said she was not exactly sure but believed it to be about \$230 million annually.

Representative Edmonds asked Burley Hudson, Director of District Wide Services, Breathitt County Schools; and Jeff Castle, Director of Curriculum, Franklin County Schools, to provide information regarding their district's participation in the ARRA funds.

Mr. Hudson said that Breathitt County has 2100 students and was in Tier 3 status five years ago but has since come out of consequences due largely in part to efforts undertaken using Title I funds. He said his district currently receives approximately \$1.5 million in regular Title I funds and its ARRA allocation will be nearly \$1.3 million. He said Breathitt County, unlike many districts, currently utilizes Title I funds in all its schools, including the middle and high school, which helped the district to come out of consequences, maintain accountability at all levels, and ensure student achievement. He said the county's academic index has improved from 59.4 five years ago to

81, and that the middle school which was ranked in the bottom ten in the state is now probably in the top one-third. Title I funding allowed the county to add reading and math labs at the high school, Think Link assessment through Discovery Education Assessment in all its schools, and to provide much needed professional development opportunities for the teaching staff. With regard to planned uses for the ARRA Title I funds, he said the school-based decision making (SBDM) councils have requested additional staff for at risk students and a special teacher at the high school to supplement and upgrade the Arts and Humanities program. He said the district's objective is a zero failure rate for the current 9th grade class and the district will continue to evaluate where to expend funds to improve student achievement based in part on the NCLB data to be released later in the month.

Mr. Castle said his district utilizes Title I funds to drive improvement and produce positive results for all of Franklin County's students and especially those living in poverty, special education students, and English language learners. He said Franklin County wants to build the capacity of current educators through professional development and literature and through the use of onsite instructional coaches so that progress will continue when the ARRA funds have been expended. He said the instructional coaches will provide professional development techniques during the school day rather than after school. He said the ARRA funds will stimulate academic improvement across the district's schools because all decisions for use of the funds are based on achievement gap data and the needs of all students. He said since the funding is not a continuing source, the district hopes to find ways to produce desired results without hiring large numbers of additional support staff. He said the county has also applied for a grant from the McKinney-Vento Homeless Assistance Act to help track the progress of the district's homeless students. Mr. Castle related that Franklin County has a district wide parent involvement coordinator to encourage parental involvement and support families in need by providing involvement activities in cooperation with the school and family resource center directors. He said the district will set aside funds for school choice transportation but the majority of

funds will be allocated to individual schools so their staff and SBDM councils can use the funds to best meet individual school needs.

Representative Stone said Breathitt County's funding appears high relative to the enrollment and asked if that is because Title I funding is being used at the high school level or is it because of the poverty rate. Mr. Hudson responded that the money is allocated to the counties based on the poverty census data and the number of students enrolled in the district that fall in poverty guidelines. He said that one of the elementary schools has a 92.12% poverty rate and the high school has 76.67% of students eligible for free or reduced lunches. Ms. Hicks added that the ARRA funds are allocated based on poverty census data only and the number of students receiving free and reduced lunches has nothing to do with how the federal government determines the allocations. Mr. Hudson said that free and reduced lunch students become relevant once the district receives its allocation.

Representative Stone asked how homeless children are identified. Mr. Hudson responded that it is generally a student who does not have a permanent home at any given time. Mr. Castle said a student is considered homeless if he or she is living with someone other than a parent and does not have a permanent address. Representative Stone asked if certain staff is designated to determine whether or not a student is homeless. Mr. Castle said, until the school year begins and teachers build relationships with students, it is difficult to actually identify truly homeless students.

Representative Edmonds asked Mr. Hudson what percentage of students in the Breathitt County schools either live in a single parent home or in a home with someone other than a parent. Mr. Hudson said, although the figures change daily, at one point 68% of students in the elementary school of which he was principal were not living with both biological parents. Representative Edmonds said that he wanted the committee to be aware that even though the Breathitt County School System has a small enrollment, many students live in adverse situations.

Representative Carney said that the high school at which he teaches has just completed the process to become a Title I eligible school, although the district currently has

elementary and middle schools receiving Title I funds. He asked Mr. Hudson to describe how Breathitt County uses the funds at the high school level and what the long term effect may be of implementing programs without continued funding. He asked specifically if Title I funds can be used for technology. Ms. Hicks said the school first has to meet the Commonwealth Accountability and Testing System (CATS) technology requirements before Title I monies can be used to supplement technology needs. She said approval for funding also depends on the type of program being implemented. If it is a school wide program, specific students do not have to be identified. She said a program can be developed based on ten components and includes a needs assessment and information on how at-risk students will be served. She said if the school desires to implement a targeted assistance program, then they must identify the specific students who would receive the services and those must be the students who are most at-risk of not meeting state standards. Representative Carney asked if either Franklin County or Breathitt County has supplemented technology through Title I. Mr. Hudson said Breathitt County has implemented a school-wide program in the high school which has produced positive results and they hope to be able to use funds to provide interactive, intelligent classrooms in every single classroom in the high school by September 2011. Mr. Hudson said that Breathitt County has already met CATS basic requirements and technology is one of the most sought after expenditures for the ARRA funds and having the infrastructure in place will produce long-lasting results.

Representative Carney said it is his understanding that special needs students will no longer be able to take assessments online, even though it has been extremely beneficial for those students. He asked if the schools could use Title I funds to continue testing those students with online assessments. Ms. Hicks said although she would need to research the issue to provide a definite answer, she doubted that Title I funds could be used for that purpose. She recommended that Representative Carney inquire about whether IDEA funds may be available for that purpose. Ms. Hicks said if it is in the IEP, Title I funds cannot be used for the assessment but if it is not in the

IEP, it may be possible.

Representative Webb-Edgington asked Mr. Castle if teachers will be compensated for any additional hours of professional development in which they will be required to participate. Mr. Castle said it is hoped that the instructional coaches can provide the professional development during the regular school day, but if teachers are required to train after regular school hours, they will receive credit toward their contractual professional development requirement. If they have already met their PD requirement, they will receive a stipend from a funding source other than Title I funds.

Representative Collins said in reference to Mr. Hudson's comment about continuation of the Arts and Humanities classes even though it is no longer in the accountability index, it was his understanding that all schools are to continue to place a strong emphasis on Arts and Humanities and they will be audited to ensure it is occurring. Mr. Hudson said that is correct and the program review may even be more stringent than the accountability itself.

Representative Edmonds thanked Ms. Hicks, Mr. Hudson, and Mr. Castle for their excellent presentations.

Representative Edmonds announced that the next meeting will be held at Northern Kentucky University on September 14, 2009, and Senator McGaha will chair the meeting.

There being no further business to discuss, the meeting adjourned at 11:15 AM.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Subcommittee on Postsecondary Education**

#### **Minutes of the 2nd Meeting of the 2009 Interim August 10, 2009**

The second meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, August 10, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Leslie Combs, Co-Chair; Senators R.J. Palmer II, Elizabeth Tori, and Ken Winters; Representatives Jim DeCesare, C. B. Embry Jr., Tim Firkins, Kelly Flood, Jim Glenn, Jody Richards, Tom Riner, Carl Rollins II, Charles Siler, and Ad-

dia Wuchner.

Guests: Dr. Michael B. McCall, President, Mr. Timothy R. Burcham, Vice President, and Ms. Lori Davis, Kentucky Central Technical and Community College (KCTCS).

LRC Staff: Ken Warlick, Audrey Carr, and Lisa Moore.

Chair Combs asked for a motion to approve the minutes of the July 13, 2009, meeting. Representative Siler made the motion to accept the minutes and Senator Tori seconded the motion. The minutes were adopted by voice vote.

Chair Combs introduced Dr. McCall and Mr. Burcham to give the subcommittee a status report on the KCTCS performance indicators and outcomes. Dr. McCall showed the members a PowerPoint presentation that covered requested information such as: enrollments; completions; transfers from KCTCS to four-year programs; dual enrollments; new programs; new facilities; and changes to personnel policies and rationale.

Dr. McCall said House Bill 1 was enacted in 1997 and its goals were focused on business and industry as well as the needs of Kentucky citizens. He said KCTCS was charged specifically with enhancing the employability of Kentucky citizens. KCTCS focuses on workforce education, transfer education, and college and workforce readiness.

Dr. McCall noted that KCTCS wants to increase the technical skills and professional expertise of Kentucky workers through associate and technical degree, diploma, and certificate programs. He said KCTCS wishes to develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry. KCTCS also wants to enhance the flexibility and adaptability of Kentucky workers in an ever-changing and global economy through continuing education and customized training for business and industry.

Dr. McCall said a priority for KCTCS is to increase access for students to complete the pre-baccalaureate associate degree in arts or associate degree in science for ease of transfer to four-year institutions. KCTCS should facilitate the transfers of credit between certificate, diploma, technical, and associate degree programs.

Dr. McCall said KCTCS is mandated through House Bill 1 (1997) to increase the basic academic and

literacy skills of adults through adult basic education and remedial education services. KCTCS is working to enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment.

Dr. McCall said there were 51,000 students enrolled in KCTCS in 1998 and the numbers increased each year until a small drop in enrollment in 2008. He said the drop in enrollment, particularly in dual enrollment, was attributed to major cuts in the KCTCS operations budget. He said 2008 was also the year that KCTCS was given a modicum of the tuition increase requested from the Council on Postsecondary Education (CPE).

Dr. McCall said there is a tremendous demand on community colleges right now due to the economic recovery that the state is in combined with President Obama's focus on community college education. He said Kentucky community colleges are reporting 30 to 40 percent enrollment increases for the fall of 2009 compared with fall of 2008. KCTCS may see an increase resulting in an enrollment of 100,000 students this fall in a time where Kentucky citizens need an education more than they ever have before. He noted Kentucky's unemployment rate is over 10 percent, and this gives an opportunity for people not working a chance to further their education. Dr. McCall noted that enrollments typically increase sharply during economic recessions.

Dr. McCall said KCTCS focuses on awarding three kinds of credentials: diplomas, certificates, and associate degrees. He said there has been a modest growth in the awarding of diplomas since 1998. He noted the diplomas represent a carryover from the vocational schools that were combined with KCTCS.

Dr. McCall said KCTCS has primarily focused on the associate degree and certificate programs. The number of associate degrees earned has doubled since 1998.

He said the real growth has occurred in the awarding of certificates, which grew from 1,154 people receiving certificates in 1998 to 14,051 people in 2007-2008. He said this is almost a five-fold increase in the number of certificates awarded. He said these programs were implemented as a result to KCTCS re-

sponding to what students need. The certificates ultimately lead to an associate degree, but the students get the credentials in segments, instead of having to attend college for two complete years. The certificates also allow the students to reenter the workforce with a legitimate certification that can lead to a better job.

Dr. McCall said he believes KCTCS students should be able to transfer to four-year universities with ease. He said KCTCS is working with the CPE to redefine what the term "transfer" means as both agencies see the need for a new definition. He said it is hard to define "transfer" because it involves variations of what happens to students at different points in their educational careers and when they transfer. He noted the new definition of "transfer" has nine different parts and focuses on all the different elements in the transfer process.

Dr. McCall said that he personally visited each university president within the last year and discussed the transfer issues. He commended the CPE and the university presidents on their focus to strengthen the transfer program. There is a transfer center that has been established at the Bluegrass Community and Technical College that has been very successful. Dr. McCall currently requires one formal transfer center at each community college.

Dr. McCall said that KCTCS has a wonderful relationship with private colleges in Kentucky. He said about 12,000 students transfer to a private college, but are not counted within the current definition of transfers. He also noted KCTCS is working very positively with the high schools on transferring students in secondary schools into the community colleges.

Dr. McCall said dual enrollment was a mandate to KCTCS in House Bill 1 in 1997. He said a data system has been installed to accurately capture the number of dual enrollments with validity. There were 676 students that were dually enrolled in high school and in a KCTCS school in the fall of 2000. The dual enrollments peaked at 16,295 students in the fall of 2007. He said KCTCS is currently implementing some pilot programs to increase dual enrollment numbers. It is a major goal of KCTCS for high school students ultimately graduating high school with some college credit.

Dr. McCall discussed some new programs being offered at KCTCS.



He said there are 71 new associate degree programs, 43 new diploma programs, and 419 new certificate programs. The largest number of new programs has been added in the manufacturing sector.

Dr. McCall said KCTCS has built 37 new facilities from 1998 to 2009. He said there are 14 new campuses with \$431,078,288 in the total construction budget. The new construction projects were spread out fairly evenly across the state and there is a detailed map of the specific counties and facilities in the meeting folder in the LRC library.

Dr. McCall said that KCTCS has a major concern about the maintenance and operation of the new facilities. He urged the committee to support funding to keep the facilities maintained.

Dr. McCall discussed KRS 164.350 and changes to the KCTCS personnel policies and rationale. He said the Postsecondary Education Improvement Act of 1997 (House Bill 1) created six personnel systems for KCTCS. The personnel systems included faculty and staff from the University of Kentucky (UK) personnel system, 151B and 18A state government faculty and staff, and faculty and staff that opted to be in the new KCTCS personnel system.

Dr. McCall explained that KRS 164.5805 and 164.5807 provide for the continuation of former UK and Kentucky Tech employee's status earned with the previous organization. The statutes also provide the employee the choice to participate in the KCTCS personnel system and establish the current personnel policies for KCTCS employees. Dr. McCall noted that there were over 3,000 employees in the other personnel systems in July of 1998. There are currently 3,828 employees in the KCTCS personnel system, with around 500 employees still existing in the other personnel programs.

Dr. McCall said the board of regents adopted a new personnel policy in March of 2009. This policy provided the rationale for the change of employment categories. It included the concept that flexibility in the employment of faculty and staff is essential in continuing to build a comprehensive community and technical college system for the 21st century. The policy revision separates employment status categories into two distinct sections; one section for employees appointed prior to July 1, 2009, and one section for employees

appointed effective on or after July 1, 2009. He noted that the new section for employees appointed effective on or after July 1, 2009 has two employment status categories: "term contract" and "at will".

Dr. McCall explained the provisions for KCTCS employees operating under the term contracts. He said the term contracts preserve and protect: due process rights; academic freedom privileges; promotion in faculty rank; and shared governance. He noted that regular full-time faculty and staff shall be issued a term contract and have term contract employment status. Regular full-time faculty and staff may be offered a series of employment contracts with varying lengths over a long term association with KCTCS.

Dr. McCall explained the "at will" employment status adopted by the board of regents in March of 2009. He said temporary faculty and staff (contract and non-contract) shall have "at will" employment status. He also said regular less than full-time faculty and staff shall have "at will" employment status as well.

Dr. McCall said 53 percent of the KCTCS faculty is on the tenure track. The board of regents did not eliminate tenure for any employees who had that status. He said 22 percent of employees are continued, continuing, and status employees. Finally, 25 percent of KCTCS employees are under term contracts.

Dr. McCall discussed some examples of national recognition that Kentucky community colleges have received. He also explained KCTCS's focus for the future, which includes a comprehensive on-line higher education program. He said students love the convenience that on-line classes and degrees offer and these classes tend to fill up the quickest. He also said Workforce Solutions is a new statewide initiative that KCTCS will implement in the future to customize employee training.

Representative Rollins asked how much a student pays to enroll in a dual enrollment course. Dr. McCall said the entire fee is waived or the student pays the full price of \$124 per credit hour.

Representative Rollins asked who provides the instructors for the dual enrollment classes. Dr. McCall said it could be a high school faculty member if they meet the qualifications, if not KCTCS will provide the instructor. Representative Rollins asked if the requirement for instruc-

tors to teach dual enrollment is 18 hours in the subject area above the master's degree. Dr. McCall said that was correct.

Representative Flood asked what types of core courses students were signing up for in dual enrollment and if they were basically courses to prepare them for getting into college. Dr. McCall said in the past, most students were signing up for dual enrollment in the occupational/technical area. He said KCTCS is expanding the dual enrollment courses to offer a broader variety, such as psychology.

Representative Flood said the certificate program is a big growth industry. She noted that Dr. McCall had noted that most of the certificates offered by KCTCS were in the manufacturing sector and she asked why this is the case. Dr. McCall said the primary growth in manufacturing certificates is because the old Kentucky Tech program could not offer degrees and/or certificates in that area. KCTCS wanted to ensure that people working in the manufacturing industry could get a college certificate.

Representative Flood asked whether external pressures led Dr. McCall to individually meet with each university president in the state about the transfer policies this year. Dr. McCall said he and the KCTCS board of regents felt the issue of transfers was important enough to warrant individualized meetings with the university presidents.

Representative Flood said she was impressed with the new on-line program that KCTCS is implementing in the future. She also said she was interested in solutions to the remediation problems students are facing in Kentucky when they enter into college.

Representative Wuchner asked the average number of credit hours students are receiving in dual enrollment courses. Dr. McCall said a student usually receives 3 credits per semester, but the goal in the senior year is between 6 and 12 credit hours.

Representative Wuchner asked if KCTCS could offer the remediation courses, such as the non-credit math and English, in the dual enrollment courses. Dr. McCall said KCTCS is addressing the remedial courses and they will be included in the upcoming on-line program.

Representative Wuchner asked for a data report on the students who continue their education after finish-

ing KCTCS and also for the number of completions in each area. Dr. McCall said KCTCS will be glad to provide the information to the committee. He agrees with President Obama that there should be more accountability and KCTCS should show where students exit the program. Representative Wuchner would also like to know why students are not completing the certificate programs and what KCTCS can do to keep those students enrolled and on track.

Representative Riner commented on students wanting to receive 24/7 access to the internet instruction. He asked if KCTCS could provide DVD's to students who may need supplemental instruction in subjects such as calculus.

Dr. McCall said the on-line instruction program utilizes a format called Blackboard that lets the student review the instruction repeated times. He said Blackboard also embeds the textbook within the course that students can download instead of going out and purchasing the textbook.

Senator Tori commended Dr. McCall on his presentation and said the only downfall she sees in the KCTCS program is the decision not to offer tenure to future professors. Dr. McCall does not see the lack of tenure as a pitfall to employment within KCTCS. He said a faculty member still has job security and he said tenure means nothing more than long-term continued employment. He noted tenure is on the decline as many other states have discontinued the tenure track for faculty. He said KCTCS has not experienced any trouble attracting qualified employees into the new personnel system and reiterated that current employees in KCTCS were not affected by the personnel changes.

Representative Combs asked about the time notification period for faculty to be notified that their term contract will not be renewed. Dr. McCall was unsure of the specific timeframe and deferred the question to Mr. Lewis Prewitt, Executive Assistant for Administrative Affairs in the Chancellor's Office, KCTCS. Mr. Prewitt said faculty must be given 90 days notice if their contract is not being renewed.

Representative Richards said transferability and remediation were the two main reasons for postsecondary education reform in 1997 and remain two major issues in 2009. He asked why the transferability issue

has been so complicated and if the problems are due to course numbering or something else.

Dr. McCall said at one time he thought the problem was course numbering, but now he is not so convinced. He said the bigger problem is making sure there is course competencies and that they are aligned. He feels course numbering is easily corrected. He also said Senator Shaughnessy's legislation enacting block transfers helped to correct many transfer problems.

Representative Richards asked if some institutions make it easier for students to transfer than others. Dr. McCall said it is a problem across the board and he would not single out one institution over another. He said all the universities have been very responsive to transferability issues in the past few years and the presidents are committed to solving the problem.

Representative Richards asked if the mandates of Senate Bill 1 will have a realignment of curriculum and facilitate progress in this area. Dr. McCall said he thinks Senate Bill 1 is the answer to remediation and particularly alignment of the curriculum. He also feels the commitment from President King at CPE will help to resolve the issues quickly. He noted he has seen major improvements in the past few years.

Representative Richards asked if the decision by KCTCS to not offer tenure to faculty will affect the quality of instructors hired over the long-term. Dr. McCall said he does not believe the changes in the personnel system will minimize the quality of instructors that KCTCS will be able to hire in the future. He said many other states have the same type of system and have a wonderful and qualified faculty. Dr. McCall said eliminating tenure is a perceived issue with individuals and is not a real problem that will detract from attaining or retaining qualified faculty.

Senator Shaughnessy said Senate Bill 1 is a tremendous opportunity for KCTCS to address the issues of curriculum alignment. He said the number of students taking dual credit courses is impressive, but does not necessarily ensure that these students will go to college, and more importantly stay in college. As Kentucky moves forward, he feels it is important to emphasize quality and consistency. He also noted that the General Assembly should honor their financial commitment and help

to keep these new facilities maintained.

Dr. McCall said community colleges cannot be all things to all people. He said priorities must be implemented given the resources at-hand to provide quality programs.

Chair Combs thanked Dr. McCall for his thorough presentation. She discussed the need for providing endowments in the budget for maintaining educational facilities. She also mentioned that academic deans usually play in a role in interpreting the transcripts for transfer students within the private, state, and technical colleges.

With no further business before the committee, the meeting adjourned at 11:32 a.m.

**INTERIM JOINT COMMITTEE  
ON HEALTH AND WELFARE  
Minutes of the 2nd Meeting  
of the 2009 Interim  
August 12, 2009**

The 2nd meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 12, 2009, at 1:00 PM, at Norton Hospital, 200 East Chestnut Street, Norton Healthcare Auditorium, Second Floor, Louisville, Kentucky. Representative Tom Burch, Co-Chair, called the meeting to order 1:05 PM, and the secretary called the roll.

Present were:

Members: Representative Tom Burch, Co-Chair; Senators Tom Buford, Perry B. Clark, Denise Harper Angel, Alice Forgy Kerr, Joey Pendleton, Katie Kratz Stine, and Jack Westwood; Representatives Scott W. Brinkman, John "Bam" Carney, Brent Housman, Joni L. Jenkins, Reginald Meeks, Tim Moore, Darryl T. Owens, Susan Westrom, and Addia Wuchner.

Guests: Dr. Laman Gray, Jr., Medical Director, Cardiovascular Innovation Institute, Distinguished Chair, Cardiothoracic Surgery, Jewish Hospital, Professor of Surgery, Division of Thoracic and Cardiovascular Surgery, University of Louisville; Guy Brock, PhD; Michael T. Rust, FACHE, President, Kentucky Hospital Association; Dr. Melissa Walton-Shirley, Fellow, American College of Cardiology, Director of the Cardiac Catheterization Laboratory, T.J. Samson Community Hospital, Glasgow; Margaret Young Levi, General Counsel, Ephraim McDowell Regional Center, Danville; Dr. Hieu Tran, Dean and Professor, Allen Rose, Jack McGuire, and Tom Davisson, Sullivan University College of Pharmacy; Karen Evans, Director,

Newburg Youth Service Center, Jefferson County; Janie Miller, Secretary, Cabinet for Health and Family Services; Eric T. Clark, Kentucky Association of Health Care Facilities; Kari Collins, DBH-State Interagency Council; Mary Jane Williams; Jackie Koch; Shane O'Donley, Office of Health Policy, Cabinet for Health and Family Services; Vicki A. Darnell and Shelly Selby, Ephraim McDowell; Michelle Friday, M.D., Lisa Hinkle, Kevin Halter, and Rod Heineman, Our Lady of Bellefonte Hospital; Rhonda Joyce, Hardin Memorial Hospital; Elizabeth Cobb, Nancy Galvagni, and Sarah S. Nicholson, Kentucky Hospital Association; Chip Peal, Frankfort Regional Medical Center; Doug Winkelhake, President, Norton Brownsboro Hospital; Ronnie Coleman, Kool Smiles; Mary Hass, Brain Injury Association; Darla Bailey; Peggy Williams, Majority Floor Leader's Office; Laura Belcher, Bill Kindred, and Venkata Reddy, T.J. Samson Community Hospital; Steve Johnson, Brenda Clayton, Clay Ford, and Terry Brownson, Wendell Foster Campus; Karen Weller and Karen Hinkle, Kentucky Home Health Association; Tim Marcum, Baptist Hospital East, and Steve Hart, Kentucky Board of Pharmacy.

LRC Staff: DeeAnn Mansfield, CSA; Mike Bossick, Amanda Dunn, Miriam Fordham, Ben Payne, Gina Rigsby, Jonathan Scott, and Cindy Smith.

The minutes of the June 12, 2009 meeting were approved by voice vote. The following administrative regulations were referred to the committee for consideration: 201 KAR 2:045 – establishes the qualifications required for a pharmacy technician to practice under the general supervision of a pharmacist, and establishes the scope of practice for a pharmacy technician; 201 KAR 20:056 – establishes the requirements for registration, renewal, and reinstatement, programs, and recognition of a national certifying organization; 201 KAR 20:057 – establishes the scope and standards of practice for an advanced registered nurse practitioner; 201 KAR 20:162 – establishes procedures for conducting an administrative hearing for the denial, limitation, probation, suspension, or revocation of the license of a registered or practical nurse; 201 KAR 20:260 – establishes the organization and administration standards for prelicensure registered nurse or practical nurse programs; 900 KAR 5:020 – establishes the State Health

Plan for facilities and services; 900 KAR 7:030 – establishes the required data, forms, and timetables for submission of data on cost, quality, and outcomes of health care services provided in the Commonwealth to the cabinet and fines for noncompliance by specified health care providers; 902 KAR 19:021 – repeals 902 KAR 19:010, data reporting by health care providers, because the material shall be incorporated into 900 KAR 7:030; 902 KAR 47:200 – establishes standards for the posting and removal of warning signs for a methamphetamine-contaminated property and establishes disclosure and appeal procedures for the owner of a methamphetamine-contaminated property if the property is to be leased, rented, or sold; 911 KAR 2:200 – establishes the provisions relating to early intervention services for which payment shall be made on behalf of eligible recipients. A motion to approve the administration regulations was made by Senator Pendleton, seconded by Senator Clark, and approved by voice vote.

Senator Stine, Co-Chair, Families and Children Subcommittee, reported the subcommittee met that morning and heard a presentation on an overview and update on Kosair Children's Hospital from Thomas D. Kmetz, President of Kosair Children's Hospital and Pediatric Services. The subcommittee learned that Kosair has a proud 117 year history, is the only free-standing Children's Hospital in the state, and that is the regional pediatric teaching hospital. Kosair has 1,500 employees and operates 261 hospital beds while annually facilitating 45,000 emergency room visits, 50,000 outpatient visits, and 11,000 surgeries. Kosair has a strong and wide presence throughout the Commonwealth evidenced by a clinical presence in every county and by providing services to more than 100,000 individuals from all 120 counties.

Kosair is one of the state's largest Medicaid providers, serving more than 107,000 children through Medicaid and Passport. Kosair serves over 1,000 families each year through the "Just for Kids" transport team, which is a fixed wing airplane used to transport children in need of trauma care. The children's hospital also operates a telemedicine network linked to 20 hospitals throughout the state. Their telemedicine focus is cardiology, neonatology, pulmonary, genetics, and gastroenterology. Kosair focuses on child advocacy through Child Pas-



senger Seat inspections, programs dealing with pediatric obesity, asthma, and childhood diabetes. Kosair proudly operates the Kentucky Regional Poison Center, which receives calls from more than 70,000 families from all 120 Kentucky counties annually. Kosair is currently focused on a \$208 million "Just for Kids" Growth Campaign initiative to ensure Kosair remains a premier children's hospital. Kosair has identified and is addressing the following key components that are needed to successfully operate a children's hospital; sustaining the physician workforce, achieving outstanding facilities, promoting academic programs and affiliations, creating clinical care infrastructure, and fostering participation in research.

The subcommittee also heard a presentation about Pediatric Telenursing presented by Dr. Marilyn Schleyer, Chair of Advanced Nursing Studies at Northern Kentucky University and Dr. Ben Martz, Chair of the Business Informatics Department at Northern Kentucky University. The presenters discussed the issue and challenges of telenursing services in the Commonwealth and presented the subcommittee with possible solutions regarding the delivery of telenursing services involving Northern Kentucky University as a resource. After the June meeting of the Interim Joint Committee on Health and Welfare held at Northern Kentucky University, the presenters explained that discussions began at Northern Kentucky University regarding the growing need for home health visits regarding pediatrics and focused on identifying ways to expand the capabilities of the health care system to allow more home health. Northern Kentucky University believes that it can utilize their Masters in Health Informatics and Masters in Nursing programs to help provide a solution to telemedicine in Kentucky. Northern Kentucky University believes that through information systems technology and the utilization of qualified nursing students that telenursing can be successfully accomplished by qualified nursing students being engaged to provide the hands on part of a home health care visit while Registered Nurses and Nurse Practitioners continue to supply the advanced practice part of the visit. Northern Kentucky University proposes a Pilot Telemedicine implementation that will save money, save time, train better nurses, visit more patients, and improve

patient recovery. Northern Kentucky University is looking to partner with an entity to develop and implement a Pilot Telenursing program. A motion to adopt the report was made by Senator Stine, seconded by Senator Clark, and adopted by voice vote.

The Senator Westwood reported the Health Issues and Aging Subcommittee met and heard a presentation by Steve MacLauchlan, President, Norton Audubon Hospital, about the newly created acute care for elders, or ACE, unit at Norton Audubon Hospital. The goal of the ACE unit is to minimize the likelihood of functional decline in older hospital patients. ACE will have program features such as a multi-disciplinary team of providers, a specially designed environment, and treatment protocols. Programs like ACE have shown increased discharges to home and reduced lengths of stay, need for nursing care after discharge, and readmission rates. Mr. MacLauchlan stated that medication reconciliation is done for every patient. The patient's pharmacist and primary care physician are contacted to get an accurate list of medications. Mr. MacLauchlan said that for several weeks, a transition coach works to bridge the gap between the hospital and the home by identifying and following up on common post-discharge problems. Medicare is only billed if a patient requires home health services. Mr. MacLauchlan stated there is a multidisciplinary approach aimed at treating the whole person and their family, not just the condition that brought the patient to the hospital. Good therapy for a patient is to allow family members to have stay with them in the ACE unit. Mr. MacLauchlan stated that the elderly population cannot be looked at as a monolith group and Norton's goal is to identify elderly patients who need acute care and provide the best care possible for each patient. He stated that as more data is published, it has caused organizations see the value of reducing readmission rates. Mr. MacLauchlan stated that payment is made through Medicare, Medicare with Medicaid supplements, or a Medicare replacement product. Representative Moore said that he is encouraged to know that as an industry you are constantly looking for ways to improve patient care; to provide for continuing quality of life after a hospital stay; and to minimize cost. Representative Moore said that he is grateful, as an industry, the innovative ide-

als are coming from within and not being imposed by government. Mr. MacLauchlan said that because it is being limited to a medical diagnosis group, it was determined that no more than 10 beds would be needed at present, but more could be added. He stated that even if home health is involved, the hospital staff would stay in contact with the patient for a reasonable period of time. Mr. MacLauchlan stated typically there is a 30-day readmission rate.

The subcommittee next heard a presentation by Ms. LuAnn Epperson, President and CEO, Prevent Blindness Kentucky Division, Ms. Darlene Eakin, CAE, Executive Director, Kentucky Optometric Association, and Dr. Bill Reynolds, optometrist from Richmond, on vision screening protocols for children. Currently, all children enrolled in a public school, a public preschool, and the Head Start program are required to have an eye examination by an optometrist or ophthalmologist no later than January 1 of the school year. However, many children fall through the cracks because there is not a mandated grade in which vision screenings must occur. It is up to the discretion of the school district as to when screenings should be scheduled. The presenters recommended that the state establish a unified vision screening protocol in which children are screened during the same years statewide and create a plan to train and certify vision screeners according to national standards. There are already mandatory eye screenings. A child has to be screened twice during their school years, but there is no requirement of what the screening would consist. Dr. Reynolds stated that the cost of equipment would be minimal for a more detailed screening. The problem is not just with cost, it is also the time of the school nurse who performs the screenings. The cost would depend on how detailed of a program is set up. The screenings in schools are currently free. The cost for children who fail the screening would be the routine cost of the eye examination which ranges from \$40 to \$100, and the cost of glasses, if needed. He said they would like to work with Prevent Blindness America and set up a system to try to bring in volunteers. The proposed federal legislation, Vision Care Act for Kids, would appropriate money to the state for screenings for children. The Kentucky Vision Project has over 300

optometrists who have volunteered to see one child a week for free. House Bill 706 from the 2000 Regular Session appropriated \$150,000 to help needy families.

A huge concern is if parents think they could afford to take their child to an optometrist. Dr. Reynolds said that most schools feel their obligation has been met when a letter is sent home to parents stating their child failed the screening. Unfortunately, some parents do not think their child needs further examination and some may not be able to pay for the examination. Schools feel they have done what is necessary when letters are sent home to parents indicating that their child failed the vision screening and should be seen by a physician. He said that there should be better education about available resources if a child is unable to pay for an examination. Dr. Reynolds said that they work with Family Resource Centers to help make the information available. He said that a packet of information on school screenings and available resources should be sent home to parents. Ms. Eakin stated that a list of resources is available from the Kentucky Optometric Association. A recommendation was made to talk to the Kentucky Department of Education about sending out an e-mail to districts urging them to send the information home. Dr. Reynolds stated that there is a need for good protocols on timelines, procedures, and follow-up for an effective vision screening program. Dr. Reynolds stated that the current regimen of an entrance examination and two screenings is sufficient. They recommend a standardized screening that tests more than distance vision. Depending on how detailed the procedure is, it would take approximately two to three minutes. He explained that the school entrance test is a full examination and school screenings are not a full examination. He said that the optometrists are willing to help parents with the cost of the office examination. Ms. Eakin stated there is statutory authority for the Department of Education to have uniformity throughout the state. Dr. Reynolds agreed that parents need information to let them know the examination could be free, so hopefully there might be a better follow-up by parents. Ms. Eakin said that the Sight for Students Program will pay for an examination and glasses all the way through high school. A parent needs to contact the Family

Resource Center which will send the information to the Kentucky Optometric Association which will then send out vouchers to families. Ms. Epperson said that the Vision Service Plan conducted a study with 1,500 participants which revealed that one in five 12 to 17 year olds have difficulty seeing in the classroom. She said that 45 percent of the children reported having some type of prescription eyewear. Ms. Epperson stated that the screening and examination go hand in hand to make sure children have good vision for life.

The subcommittee also heard testimony from Dr. Kraig E. Humbaugh, M.D., M.P.H., Director, Division of Epidemiology and Health Planning, Department for Public Health, Cabinet for Health and Family Services, on the state's plan to handle the upcoming flu season. Dr. Humbaugh reported that the Department for Public Health not only has to prepare for the annual seasonal flu threat, but also the new H1N1 flu strain, more commonly known as the swine flu. The transmission mechanisms and severity of H1N1 are comparable to seasonal flu, but H1N1 has a higher incidence in children and causes more complications in pregnant women and those with chronic diseases. The Governor's pandemic influenza summit is scheduled for September 3 in Frankfort aimed at government agencies, elected leaders, schools and universities, and faith-based groups. On-line registration for the summit is available. The seasonal flu vaccine is expected to be readily available this year and most will be able to get a flu vaccination. The H1N1 vaccine is expected to be available from the federal government through public health in the fall. But, demand could exceed supply which will require limiting the first shipments to the following priority groups: pregnant women; health care workers; household contacts and caregivers of children less than six months old; children ages six months to four years; and children with a chronic medical condition. Two doses of the H1N1 vaccine will be required for immunity. The delivery of the H1N1 vaccine will likely be complicated by the simultaneous administration of the seasonal flu vaccine.

Tom Davidson, Senior Vice President, Sullivan University, stated the college is a private for-profit institution that was opened in the summer of 2008 with 74 students enrolled.

In 2009, 87 students were enrolled. The Drug Information Center at the college gets drug information to professionals in the community.

A presentation on "Can Pharmacists be a Part of the Solution for Health Care Expenditures" was given by Hieu T. Tran, Pharm.D., Founding Dean and Professor, Sullivan University College of Pharmacy. Dr. Tran stated that pharmacist intervention has shown to improve quality of life for patients, to reduce the number of physician visits and hospitalizations, to reduce overall health care dollars spent, and to help prevent misuse of medications and medication errors. The Kentucky Department of Public Health report, Healthcare in Kentucky: A Review of Hospital Inpatient Data Utilization, showed that between 1991 and 2004, dollars spent on personal health care rose 7.5 percent; dollars spent on hospital care rose approximately six percent; and dollars spent on physician and clinical services rose approximately eight percent. In 2007, one day of inpatient services costs an average of \$1,390 per patient which is an increase from \$910.57 in 1999. The average hospitalization stay ranges from \$7,000 to \$12,000. Data on pharmacist intervention in clinics who served congested heart failure patients showed: (1) outpatient health care was lower across all cost categories except for drugs; (2) inpatient health care costs were more than \$2,000 less; and (3) the mean difference in health care costs was approximately \$2,900 per patient. The Asheville Project relating to asthma found the following results: (1) costs spent on medication increased, but overall medical claim costs decreased; (2) emergency department visits decreased from 9.9 percent to 1.3 percent; hospitalization visits decreased from 4.0 percent to 1.9 percent; direct costs savings averaged \$725 per patient per year; and indirect cost savings averaged \$1,230 per patient per year. Studies show there is a tendency for lower overall health care costs when pharmacists intervene in cases of the most disease states.

Representative Westrom asked for a more detailed explanation on pharmacist intervention and how the pharmacist participates as a member of the team of professionals. Dr. Tran stated that when a patient comes to the clinic, he works with the nurse to take vital signs, weight, and medication history, and screen for drug interactions, and make rec-

ommendations about medications. Representative Westrom asked if the pharmacist worked for a physician, worked independently, or worked at the hospital. Dr. Tran said that the pharmacist is part of a team.

Representative Meeks asked how many graduates will stay and work in Kentucky. Dr. Tran said 52 percent of the first class in 2008 are from Kentucky and 61 percent from the class that started in July, 2009. Dr. Tran stated that approximately 50 percent of the University of Kentucky pharmacy graduates will remain in the state. Dr. Tran stated that pharmacists can have a great impact in Kentucky. Representative Meeks said that the data showed the cost of physicians in the intervention group was twice as high, but the cost of the physician in the controlled group was three times lower and asked if this was just trading off costs. Dr. Tran stated each category itself may not give a clear picture of the contribution of the pharmacist. Representative Meeks asked if they anticipate over time that it would change as the working relationships are worked out. Dr. Tran said the pharmacist profession would love to be a full part of the healthcare team. Mr. Davidson stated that the college is researching several doctoral programs in both education and medical sides.

Representative Carney asked what could be done about rising pharmacy costs. Dr. Tran stated contracts need to be renegotiated with insurance companies and the Federal Drug and Food Administration needs to review their rules on drug approval and revamp itself, and pharmacist intervention. Mr. Davidson said that medical therapy management works.

Representative Owens asked if there is an average attrition rate for all medical schools, and asked how their pharmacy college has been able to retain all enrollees. Dr. Tran stated that the national attrition rate is three percent for professional degrees. Dr. Tran stated that there is a remediation process so every student has a chance to succeed. As a faculty, they are responsible for the success of the students. The faculty is required to monitor the class for any student who is at risk of failing. Mr. Davidson stated the college is two years ahead in the accreditation process.

A motion to accept Executive Order 2009-661 relating to the State Interagency Council for Services to Children with an Emotional Disability, and the FY 2010-11 Community

Services Block Grant Application was made by Representative Owens, seconded by Representative Meeks, and accepted by voice vote.

A presentation on the Newburg Middle Youth Services Center, Jefferson County Public Schools, was given by Karen Evans. The Kentucky Family Resource and Youth Services Centers (FRYSC) were established as a component of the 1990 Kentucky Education Reform Act (KERA). There are 820 FRYSCs serving 615,917 students in 1,163 schools with approximately 46 percent eligible for free school meals. Schools where at least 20 percent of the student population is eligible for free or reduced school meals may compete for FRYSC funding. FRYSCs are strengthened by community partnerships in their ability to provide vital programs, services, and referrals to students and their families. The partnerships are critical in efforts on behalf of student to promote early learning and successful transition to school, academic achievement and well-being, and graduation and transition into adulthood. Each center offers a unique blend of programs and services to serve the special needs of their students and families. The goal of the FRYSCs is to meet the needs of all children and their families as a means to enhance student academic success. On April 15, 2008, Senate Bill 192 was signed into law allowing changes to the FRYSC core components. Family Resource Centers serve children through age 12 and coordinate: (1) preschool child care; (2) after-school child day care; (3) families in training; (4) family literacy services; and (5) health services and referrals. Youth Services Centers serve students older than 12 and coordinate: (1) referrals to health and social services; (2) career exploration and development; (3) summer and part-time job development (high school only); (4) substance abuse education and counseling; and (5) family crisis and mental health counseling. Ms. Evans stated that a child cannot be successful if they are not at school, and she works with students and families to address problems that would prevent a child from attending school.

Representative Burch stated that the FRYSCs are one of the best programs that benefit children and families statewide.

Representative Owens asked how the centers work with the Cabinet for Health and Family Services to identify children who are eligible



for KCHIP. She stated that they help families either fill out the on-line application or mail the application to the cabinet. Representative Owens asked about the turnaround time for approval by the cabinet after an application is received. Ms. Evans stated between two to three weeks.

Senator Harper Angel stated that she was proud of the accomplishments that the Newburg Middle Youth Services Center has made.

A presentation on the Kentucky Pilot Project for Primary Percutaneous Coronary Intervention (PCI) without onsite Coronary Artery Bypass Graft Surgery (CABG) was given by Dr. Laman Gray, Jr., Medical Director, Cardiovascular Innovation Institute, Distinguished Chair, Cardiothoracic Surgery, Jewish Hospital, Professor of Surgery, Division of Thoracic and Cardiovascular Surgery, University of Louisville and Guy Brock, PhD. Primary PCI is a proven, life-saving intervention for patients experiencing an acute myocardial infarction, if it can be provided in a timely fashion. The safety of PCI has improved greatly over the last two decades, with fewer the one to two of every 1,000 cases requiring emergency open heart surgery. Allowing eligible hospitals without emergency open heart surgical facilities to perform primary PCI will reduce the time until intervention during an acute myocardial infarction and could ultimately save patients' lives.

Two hospitals, without emergency back-up open heart surgical capabilities were allowed to perform primary PCIs for more than three years. The two hospitals selected, T.J. Samson Community Hospital in Glasgow and Ephraim McDowell Regional Medical Center in Danville, were of similar size and similar distances from hospitals with onsite emergency back open heart surgical capabilities. Recommendations are that primary PCI should be performed in facilities that have an experienced cardiovascular surgical team available as emergency back-up for all procedures. The results suggest that there is no significant difference in any of the outcome variables studied between the two facilities included in the pilot study and other facilities nationwide both with and without onsite CABG. Facilities without onsite CABG meeting the operator and institutional requirements set by the American College of Cardiology and the American Health Association can be considered for providing primary

PCI to patients. The facilities will need to be continually monitored with regard to outcome quality measures to ensure patient care is held at a high standard. It is recommended that the performance of the facilities be reviewed biannually by an independent, external group.

Elective PCI is more controversial because the patient can wait and have the PCI performed at a facility that can provide the most comprehensive cardiac medical care. Whether more comprehensive cardiac medical care is associated with better outcomes is not well established. There is a need to weigh outcomes and increases in direct and indirect effects on quality of life. Few studies have investigated outcomes when elective PCI has been performed at facilities without surgical back-up capabilities. It is difficult to empirically define which facilities should be allowed to perform elective PCI. There is a need for data associated with facilities without emergency back-up capabilities that perform elective PCI and an evaluation of the population of individuals who undergo elective PCI. Recommendations are: (1) allow the top facilities in Kentucky without open heart surgical back-up who meet the standards set by the American College of Cardiology and the American Health Association for performing primary PCI and have successfully demonstrated competency in performing primary PCI to enroll in a pilot study to test the safety of elective PCI; (2) monitor patient outcomes as in the primary PCI study; and (3) conduct a two-year non-inferiority trial with six-month interim analyses by an independent, external center.

Representative Burch asked how many angioplasty procedures are done each year. Dr. Gray stated that Jewish performs 1,000. Representative Burch asked if a smaller hospital would be able to do as many, and Dr. Gray stated the recommendation is the cardiologist performing the intervention has to have performed a minimum of 75 angioplasties per year. Representative Burch asked about measurements of outcomes of procedures. Dr. Gray stated they are hard to measure. The American College of Cardiology recommends all hospitals have to fill in a database on every patient and the data should be made public. Representative Burch asked how a patient would know where to go to have the procedure if the information were not available. Dr. Gray said his recommendation is

that the information be made available to the public, but, is not being done currently.

Representative Moore asked if the procedure is offered 24 hours a day, do all hospitals have the expertise and staff around the clock to offer this or would it be an undue burden. Dr. Gray said that the two pilot project hospitals had 24-7 coverage and met the criteria. Any hospital should have to meet the same criteria as the two pilot hospitals to perform the procedure. Representative Moore said that people should not have to make a two-hour trip to another hospital if there is a cardiologist on call certain hours of the day. Dr. Gray stated that cardiologists are on call but not always at the hospital. Janie Miller, Secretary, Cabinet for Health and Family Services, said that when the pilot project began, the cabinet promised to bring recommendations to the committee for consideration. The cabinet will make a decision whether to expand the pilot program, how to expand it, and under what conditions will it be expanded through the regular regulatory process.

Senator Buford stated that it is unacceptable to have to drive long distances for the procedure that can be handled by qualified facilities that are closer. The time delay could cause death and or other complications. Dr. Gray said that his personal opinion should be allowed in qualified centers without surgical back up in the case of the acute myocardial infarction.

Representative Owens asked when the pilot would become permanent. Secretary Miller stated the cabinet will analyze all the data and input and have recommendations within the next three to four weeks.

Representative Housman asked when the pilot study expires. Secretary Miller stated the two pilot hospitals would continue to perform emergency angioplasty procedures. She there is nothing in the administrative regulation that sunsets their ability to continue to perform the procedures. It would take action by the cabinet through the regulatory process to allow them to perform elective procedures and expand the opportunity to other hospitals to perform them on emergency and or elective basis.

Representative Meeks stated that some of the information is conflicting amount the number of procedures that would be required per

year. Dr. Gray said that the cardiologists perform the procedures in other hospitals, therefore, meet the required number of procedures per year.

Representative Housman asked what percentage of the angioplasty surgeries would be performed as elective or emergency procedure. He asked if the surgery results in a cost saving or cost increase. Dr. Gray said that it is not a cost increase. If a patient needs the procedure, it will be done. Representative Housman asked if the procedure is a preventive step and a patient does not have the procedure and it leads to AMI, will that increase healthcare cost in the future. Dr. Gray stated that if a person with coronary disease does not have an elective or emergency procedure, the highest probability is the patient will have a myocardial infarction or die. Death rate for heart disease has plummeted because of angioplasties and surgery. Representative Housman asked if it comes down to a battle of certificates of need. Dr. Gray stated that if the procedures are performed in unskilled places, it could increase the death rate.

Senator Stine asked if there is a higher complication rate having to transport a patient to another hospital, would a hospital not go ahead and perform the procedure. Dr. Gray said that doing the procedures is the best practice.

Representative Wuchner asked if the outline for the standard of care for acute and elective procedures in outlying hospitals should be begin a pilot and then extend to having those services in place at the hospital. Dr. Gray said that it is correct.

Senator Buford stated that elective surgery is not cheap, and therefore, many individuals cannot afford the elective procedure. He said that the bottom line is to deal with the life of an individual and then decide how much someone's life is worth. There has to be better access.

Dr. Melissa Walton-Shirley, Fellow, American College of Cardiology, Director of the Cardiac Catheterization Laboratory, T.J. Samson Community Hospital, Glasgow, stated that T.J. Samson Community Hospital and Ephraim McDowell should be approved for elective procedures. She stated that 90 percent of the angioplasty procedures performed are emergencies.

Margaret Young Levi, General Counsel, Ephraim McDowell, Danville, stated that the Veterans' Hos-

pital and St. Claire Hospital already perform angioplasty procedures. She stated that she agreed with the pilot study except they should be able to perform elective angioplasty. She said that the procedure should not have to be performed on a certificate of need basis.

Michael T. Rust, FACHE, President, Kentucky Hospital Association, stated that the two pilot hospitals wish to expand their services to treat not only emergency but elective patients. Other hospitals want the opportunity to offer both emergency and elective angioplasty because they have the staff and feel that they can demonstrate a need for the service and meet minimum quality requirements. In order for all the hospitals to be allowed to perform these procedures, the State Health Plan need criteria for cardiac catheterization must be changed. The Kentucky Hospital Association (KHA) convened a committee that considered the results from the two pilot hospitals, the national guidelines, volume standards, and need criteria adopted in other states. From this process, KHA developed recommendations for revising the State Health Plan cardiac catheterization review criteria. KHA's recommendations would allow the two pilot hospitals to immediately begin performing elective procedures by granting them expedited CON approval. It also would allow other hospitals to establish both primary and elective angioplasty services if they meet certain criteria instead of expanding the existing pilot program where hospitals could only perform angioplasty on emergency patients for two years before elective procedures could be performed. He said that many of the recommendations are very similar to those contained in the pilot study report.

Representative Wuchner asked that with the support of KHA, the two pilot hospitals were asking for an expedited CON and extension of allowing the new standard of care to dictate in allowing hospitals to expand services, and everyone said yes.

Representative Burch asked how many angioplasty procedures were performed at the two pilot hospitals and how many deaths or complications occurred. Vicki Darnell, Chief Operating Officer, Ephraim McDowell, said of the 330 procedures performed between the two hospitals, there were no deaths or complications.

Representative Burch asked if this was enough. Dr. Gray stated that a hospital should not be able to perform elective procedures before proving competency in emergency procedures. It takes commitment of the hospital and physicians. The two pilot hospitals should be allowed to perform elective angioplasties because they have proven they can perform the procedures.

Dr. Michele Friday, Our Lady of Bellefonte Hospital, Ashland, stated that the State Health Plan should be changed to permit therapeutic catheterization to be performed in facilities without on-site open heart surgery backup. Recent research has documented that every delay in accessing primary percutaneous coronary intervention (PCI) for a patient experiencing an acute myocardial infarction (AMI) increases the mortality rate by seven percent. The transfer does not only place the patient at higher risk, but also is extremely costly. Early intervention provides economic benefits to all involved. Cardiovascular disease is the leading cause of death in Kentucky. Improving access to life-saving treatment for an AMI reduces mortality and morbidity and will allow Kentucky to improve the standard of care. Numerous national studies have proven that PCI procedure success, complication, and mortality rates are virtually identical between sites without and with on-site surgery backup. The outcomes of the Kentucky Pilot Project for Primary Angioplasty are consistent with the national findings. The proposed change would ensure access to PCI services for the minority and medically underserved rural populations. Currently, the administrative regulation is keeping AMI patients from prompt, immediate access to lifesaving care. Our Lady of Bellefonte Hospital is principally concerned with providing a complete spectrum of services and high quality of care to the patients it serves. Our Lady of Bellefonte Hospital requests that the distinction between diagnostic and therapeutic catheterizations be omitted from the State Health Plan. It also recommends that the definition section of the cardiac catheterization review criteria be revised to note that a primary angioplasty procedure performed for a patient on an emergency basis by a licensed provider of diagnostic catheterization services not be considered a therapeutic procedure.

A motion to adjourn at 3:54 p.m.

was made by Representative Carney, seconded by Representative Wuchner, and approved by voice vote.

#### **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Subcommittee on Health Issues and Aging**

**Minutes of the 1st Meeting  
of the 2009 Interim  
August 12, 2009**

The 1st meeting of the Subcommittee on Health Issues and Aging of the Interim Joint Committee on Health and Welfare was held on Wednesday, August 12, 2009, at 10:00 A.M., at Norton Hospital, 200 East Chestnut Street, Second Floor, Louisville, Kentucky. Representative Mary Lou Marzian, Co-Chair, called the meeting to order at 10:06 A.M., and the secretary called the roll.

Present were:

Members: Representative Mary Lou Marzian, Co-Chair; Senator Jack Westwood; Representatives John "Bam" Carney and Tim Moore.

Guests: Steve MacLauchlan, President, Norton Audubon Hospital, Louisville; LuAnn Epperson, President and CEO, Prevent Blindness America, Kentucky Division; Darlene Eakin, CAE, Executive Director, Kentucky Optometric Association; William T. Reynolds, O.D., Optometrist, Richmond; Kraig E. Humbaugh, M.D., M.P.H., Director, Division of Epidemiology and Health Planning, Department for Public Health, Cabinet for Health and Family Services; Charles Kendell, Department for Public Health, Cabinet for Health and Family Services; Jeff Jagnow, Cabinet for Health and Family Services; Eric Clark, Kentucky Association of Health Care Facilities; and Shannon Pratt, Kentucky School Board Association.

LRC Staff: Miriam Fordham, Gina Rigsby, and Jonathan Scott.

The subcommittee met and heard a presentation by Steve MacLauchlan, President, Norton Audubon Hospital, about the newly created acute care for elders, or ACE, unit at Norton Audubon Hospital. The goal of the ACE unit is to minimize the likelihood of functional decline in older hospital patients. ACE will have program features such as a multi-disciplinary team of providers, a specially designed environment, and treatment protocols. Programs like ACE have shown increased discharges to home and reduced lengths of stay, need for nursing care after discharge, and readmission rates.

Representative Marzian asked about polypharmacy issues. Mr.

MacLauchlan stated that a medication reconciliation is done for every patient. He said that the patient's pharmacist and primary care physician is contacted to get an accurate list of medications. Representative Marzian asked when a patient is discharged if there is any follow-up with case management at home and is it covered by Medicare. Mr. MacLauchlan said that for several weeks, a transition coach works to bridge the gap between the hospital and the home by identifying and following up on common post-discharge problems. Medicare is only billed if a patient requires home health services. Representative Marzian asked if there is space for family members in the ACE unit. Mr. MacLauchlan stated there is a multidisciplinary approach aimed at treating the whole person and their family, not just the condition that brought the patient to the hospital.

Representative Moore asked about the impetus behind the ACE unit initiative. Mr. MacLauchlan stated that the elderly population cannot be looked at as a monolith group and Norton's goal is to identify elderly patients who need acute care and provide the best care possible for each patient. Representative Moore asked how the program could be copied and utilized by all Kentucky facilities. Mr. MacLauchlan stated that as more data is published, it has caused organizations see the value of reducing readmission rates. Representative Moore asked about the method of payment. Mr. MacLauchlan stated that payment is made through Medicare, Medicare with Medicaid supplements, or a Medicare replacement product. Representative Moore said that he is encouraged to know that as an industry you are constantly looking for ways to improve patient care; to provide for continuing quality of life after a hospital stay; and to minimize cost. Representative Moore said that he is grateful, as an industry, the innovative ideals are coming from within and not being imposed by government.

Representative Carney asked how many beds were available in the ACE unit. Mr. MacLauchlan said that because it is being limited to a medical diagnosis group, it was determined that no more than 10 beds would be needed at present, but more could be added. Representative Carney asked when a patient is discharged if a home health agency would take over a patient's care.



Mr. MacLauchlan stated that even if home health is involved, the hospital staff would stay in contact the patient for a reasonable period of time.

Representative Marzian asked about data on readmission. Mr. MacLauchlan stated typically there is a 30-day readmission rate.

The subcommittee next heard a presentation by Ms. LuAnn Epperson, President and CEO, Prevent Blindness Kentucky Division, Ms. Darlene Eakin, CAE, Executive Director, Kentucky Optometric Association, and Dr. Bill Reynolds, optometrist from Richmond, on vision screening protocols for children. Currently, all children enrolled in a public school, a public preschool, and the Head Start program are required to have an eye examination by an optometrist or ophthalmologist no later than January 1 of the school year. However, many children fall through the cracks because there is not a mandated grade in which vision screenings must occur. It is up to the discretion of the school district as to when screenings should be scheduled. The presenters recommended that the state establish a unified vision screening protocol in which children are screened during the same years statewide and create a plan to train and certify vision screeners according to national standards.

Representative Carney asked about the cost of mandatory eye screening. Dr. Reynolds said there is already mandatory eye screenings. A child has to be screened twice during their school years, but there is no requirement of what the screening would consist. Representative Carney asked about the range of cost for a more detailed screening. Dr. Reynolds stated that the cost of equipment would be minimal. The problem is not just with cost, it is also the time of the school nurse who performs the screenings. The cost would depend on how detailed of a program is set up. The screenings in schools are currently free. The cost for children who fail the screening would be the routine cost of the eye examination which ranges from \$40 to \$100, and the cost of glasses, if needed. Dr. Reynolds said they would like to work with Prevent Blindness America and set up a system to try to bring in volunteers. The proposed federal legislation, Vision Care Act for Kids, would appropriate state money for screenings for children. The Kentucky Vision Project has over 300 optometrists who have volunteered to see

one child a week for free. House Bill 706 from the 2000 Regular Session appropriated \$150,000 to help needy families.

Senator Westwood stated there is a law that states a student has to be provided whatever is necessary to learn and wanted to know why this has not been followed up. He asked if parents did not think they could afford to take their child to an optometrist. Dr. Reynolds said that most schools feel their obligation has been met when a letter is sent home to parents stating their child failed the screening. Unfortunately, some parents do not think their child needs further examination and some may not be able to pay for the examination.

Representative Carney stated that schools feel they have done what is necessary when letters are sent home to parents indicating that their child failed the vision screening and should be seen by a physician. He said that there should be better education about available resources if a child is unable to pay for an examination. Dr. Reynolds said that they work with Family Resource Centers to help make the information available. He said that a packet of information on school screenings and available resources should be sent home to parents. Ms. Eakin stated that a list of resources is available from the Kentucky Optometric Association. Representative Carney recommended talking to the Kentucky Department of Education about sending out an e-mail to districts urging them to send the information home. Dr. Reynolds stated that there is a need for good protocols on timelines, procedures, and follow-up for an effective vision screening program.

Representative Moore asked if they were advocating an increased frequency in childhood testing and evaluation of eye sight or advocating the current regimen but have more in-depth screenings. Dr. Reynolds stated that the current regimen of an entrance examination and two screenings is sufficient. They recommend a standardized screening that tests more than distance vision. Representative Moore asked how long it would take to test a child using the new procedure. Dr. Reynolds said depending on how detailed the procedure is, it would take approximately two to three minutes. Representative Moore asked if optometrists could come to schools to test children. Dr. Reynolds explained that the school

entrance test is a full examination and school screenings are not a full examination. He said that the optometrists are willing to help parents with the cost of the office examination.

Representative Marzian asked if an administrative regulation or change in the statutes for would be needed for more follow up. Ms. Eakin stated there is statutory authority for the Department of Education to have uniformity throughout the state.

Senator Westwood said that if information is provided to parents letting them know the examination could be free, there might be a better follow-up by parents. Dr. Reynolds agreed that parents need this type of information.

Representative Carney asked if a school waiver is available. Ms. Eakin said that the Sight for Students Program will pay for an examination and glasses all the way through high school. A parent needs to contact the Family Resource Center which will send the information to the Kentucky Optometric Association which will then send out vouchers to families.

Ms. Epperson said that the Vision Service Plan conducted a study with 1,500 participants which revealed that one in five 12 to 17 year olds have difficulty seeing in the classroom. She said that 45 percent of the children reported having some type of prescription eyewear. Ms. Epperson stated that the screening and examination go hand in hand to make sure children have good vision for life.

Our subcommittee also heard testimony from Dr. Craig E. Humbaugh, M.D., M.P.H., Director, Division of Epidemiology and Health Planning, Department for Public Health, Cabinet for Health and Family Services, on the state's plan to handle the upcoming flu season. Dr. Humbaugh reported that the Department for Public Health not only has to prepare for the annual seasonal flu threat, but also the new H1N1 flu strain, more commonly known as the swine flu. The transmission mechanisms and severity of H1N1 are comparable to seasonal flu, but H1N1 has a higher incidence in children and causes more complications in pregnant women and those with chronic diseases. A state pandemic influenza summit is scheduled for September 3 in Frankfort aimed at government agencies, elected leaders, schools and universities, and

faith-based groups.

Dr. Humbaugh reported that the seasonal flu vaccine is expected to be readily available this year and most will be able to get a flu vaccination. The H1N1 vaccine is expected to be available from the federal government through public health in the fall. But, demand could exceed supply which will require limiting the first shipments to the following priority groups: pregnant women; health care workers; household contacts and caregivers of children less than six months old; children ages six months to four years; and children with a chronic medical condition. Two doses of the H1N1 vaccine will be required for immunity. The delivery of the H1N1 vaccine will likely be complicated by the simultaneous administration of the seasonal flu vaccine.

Dr. Humbaugh answered Representative Carney by saying there is an online registration for the Governor's Pandemic Summit in September.

There being no further business, the meeting adjourned at 11:31 a.m.

#### **INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY Minutes of the 1st Meeting of the 2009 Interim July 16, 2009**

The 1st meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, July 16, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the committee assistant called the roll.

Present were:

Members: Representative Rick G. Nelson, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, Jerry P. Rhoads, Katie Kratz Stine, Gary Tapp, and Jack Westwood; Representatives C. B. Embry Jr., Bill Farmer, Tim Firkins, Richard Henderson, Charlie Hoffman, Dennis Horlander, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Mary Lou Marzian, Tom Rinner, Charles Siler, Jim Stewart III, and Brent Yonts.

Guests: Secretary Helen Mountjoy, Education and Workforce Development Cabinet; and Elizabeth Woerner, Education and Workforce Development Cabinet.

LRC Staff: Linda Bussell, Carla Montgomery, Adanna Hydes, and Betsy Bailey.

Chair Nelson welcomed members and guests to the first meeting of the Interim Joint Committee

on Labor and Industry. He informed the members that Senator Kerr, the Senate co-chair could not attend the meeting and Senate Vice Chair Tapp would co-chair on the Senate side for the meeting today.

Chair Nelson informed the members that our unemployment insurance program is in a crisis situation and the governor appointed a task force to address the problems in the program. He introduced Secretary Helen Mountjoy, Education and Workforce Development Cabinet, to give a presentation on the status of Kentucky's Unemployment Insurance program and an update on the work of the task force. Elizabeth Woerner, a summer employee of the cabinet hired to assist the task force, was introduced by Secretary Mountjoy and assisted in the power point presentation by the secretary.

Secretary Mountjoy explained that the unemployment insurance system in this country was established in 1935 during the Great Depression as part of the Social Security Act. It was created to stabilize the economy. It does this by providing assistance to workers' who become unemployed through no fault of their own and who are receiving training or looking for another job. Unemployment benefits totaled more than \$500 million in Kentucky in 2008.

Unemployment insurance is based on a federal-state partnership. Federal law established certain conformity requirements for state unemployment insurance programs. As long as states conform to the federal requirements, states are granted a great deal of flexibility to establish the employer tax structure that funds benefit payments, employee benefit levels, and benefit eligibility requirements. The federal government's role in the partnership is to guarantee that it will provide loans to states during economic downturns to enable the states to meet their unemployment benefit obligations to eligible workers.

Unemployment insurance is financed through employer contributions. The contributions are actually taxes paid by employers. In Kentucky, an employer pays a tax on the first \$8,000 of each worker's wages. When unemployment is low and wages are stable, more money comes into the system than is paid out. The excess money is placed in a trust fund maintained in Washington, D.C. for Kentucky. Theoretically, enough money will accumulate in

the trust fund to enable the state to meet its benefit payment obligations during economic downturns in the economy.

Since 2002, Kentucky's unemployment insurance program has paid out more in benefits than it has collected in taxes. This occurred, in part, from a structural imbalance in the financing structure. The statutory financing mechanism is based on a limited taxable wage base of \$8,000 while the statutory formula for establishing weekly benefit levels is based on gross wages. Revenue rises with job growth while benefits increase with inflation. The taxable wage base of \$8,000 was established in 1982 and, at that time, represented approximately 50% of a worker's average annual wages. Today, that percentage has dropped to approximately 25%.

In 2000, the trust fund balance was \$700 million, but had dropped to \$82 million by the end of 2008. On January 28, 2009, current employer contributions plus money accumulated in the trust fund were no longer sufficient to meet the benefit obligations of the program. On that date, Kentucky became the 6th state to begin borrowing funds from the federal government in order to pay benefits. As of July 13, 2009, Kentucky had borrowed \$298,497,000. Several more states have started borrowing federal funds to pay benefits, and more than half the states are projected to begin borrowing by the end of this year.

Secretary Mountjoy said we often hear that unemployment taxes are high in Kentucky. While the maximum tax rate can be 10%, the average employer tax rate for 2008 was 2.79%. An employer's tax rate is based on the amount the employer pays into the trust fund and the amount paid out in benefits to the employer's former employees.

Federal law requires that the taxable wage base be at least \$7,000, but states are permitted to set the taxable wage base as high as the state legislature decides to make it. Some states have established taxable wage bases as high as \$30,000. States contiguous to Kentucky have taxable wage bases ranging from \$7,000 to \$12,000.

Unemployment insurance claimants receive no less than \$39 per week and no more than \$415 per week, plus an extra \$25 per week is provided by federal stimulus money.

In May 2009, the average weekly benefit in Kentucky was \$309.81 which is not too far out of line with our contiguous states.

A recipient is eligible to receive state unemployment insurance benefits for a maximum of 26 weeks. Another 33 weeks is provided by the federal Emergency Unemployment Compensation law, and an additional 20 is provided under the federal Extended Benefits law. The additional weeks of benefits will be funded by the federal government through December 31, 2009.

Kentucky's rate of unemployment as of June 2009 was 10.9%, the highest rate since August, 1983. Currently, 226,122,000 workers in Kentucky are unemployed.

In January of this year, Governor Beshear announced that he would appoint a task force to address the chronic problems in our unemployment insurance system. The Unemployment Insurance Task Force was appointed with Secretary Mountjoy as the chair. Members include representatives from management and labor and legislators. The task force has met five times since April and its charge was to conduct a comprehensive study of the unemployment insurance system and to recommend strategies for legislative and administrative action necessary to retool system, restore solvency and stability, build reserves to ensure that funds will be available for benefit payments during economic downturns, as well as to assist displaced workers while ensuring that employers are treated fairly and are not competitively disadvantaged. The task force will also consider the issues of voluntary contributions, establishing a waiting week, and procedural and statutory changes. Nationally recognized experts in unemployment insurance were hired as consultants to assist the task force. The consultants, Dr. Wayne Vroman and Dr. Chris O'Leary, will assist the Task Force in developing a model for employer contributions and employee benefits.

After the Task Force determines the appropriate model for employer contributions and employee benefits, it will consider modernization strategies that will make Kentucky eligible for an estimated \$90 million in unemployment insurance incentive funds from the federal government through 2011. The 2009 federal stimulus package provided incentive funds to states that make permanent changes in their unemployment in-

surance laws relating to benefits and eligibility requirements. If Kentucky adopts an alternative base period to determine a claimant's monetary eligibility, approximately \$30 million in incentive funds will be provided by the federal government. An additional \$60 million in incentive funds could be received if Kentucky makes two of the following four changes in its law: provide an additional monetary allowance to claimants for dependents; extend the benefit period for claimants engaged in approved training programs; make part-time employees eligible for benefits when they seek part-time rather than full time work; or provide benefits to employees who leave work for compelling family reasons, such as to care for an ill family member or because of domestic violence.

The 2009 federal stimulus package (American Recovery and Reinvestment Act) has already benefitted Kentucky by providing the additional \$25 to a claimant's weekly benefit payments and relief of interest payments on the federal loans until December 31, 2010. Also, \$50 million has been received for the Office of Employment Training to upgrade technology, hire temporary employees, improve administrative programming, and increase training opportunities for displaced workers.

Secretary Mountjoy thanked members of the committee and the General Assembly for enacting legislation during the recent special legislative session that allowed Kentucky's unemployed workers to receive federal extended benefits. The 2009 federal stimulus package provided federal funding for up to 20 weeks in federal extended benefits if the state's extended benefit trigger was based on the total unemployment rate rather than the insured unemployment rate. Kentucky will participate in the federal governments' extended benefit program as long as 100% of the funding is provided by the federal government. Funding is scheduled to terminate on December 31, 2009.

Senator Tapp commented to Secretary Mountjoy that if the Task Force recommends an increase in the taxable wage base, the impact on small employers should be considered because of the possibility of another tax imposed by Congress for healthcare reform. He also asked why unemployed workers who are receiving Workforce Investment Act funds for training are exempt from



the normal job search requirements. Secretary Mountjoy explained that participation in job training for full time permanent jobs is considered an investment opportunity because the trained worker is more likely to obtain a better job for a longer period of time.

Representative Yonts asked if legal issues will arise from withdrawal of the emergency regulation that included language relating to extended benefits and that language was subsequently referenced in statutory language included in the budget bill. Sec. Mountjoy said she didn't expect a problem because the federal government approved the language and methodology.

Representative Yonts also asked if the federal loans will ultimately be the responsibility of employers. Secretary Mountjoy said interest accrued on the debt cannot come from regular contributions made by employers; it must come from unemployment insurance interest and penalty funds or another source such as the general fund. If the debt is not paid back within 2 years of the date due, there are consequences that will affect an employer's credit against the federal unemployment tax.

Senator Stine asked if there are proactive employment programs in place by the Education and Workforce Investment Cabinet to assist unemployed workers to find jobs. Secretary Mountjoy explained that regionally located programs are available to the unemployed for assistance in finding employment.

Senator Stine also asked how soon an unemployed worker would become available for other assistance programs like K-Chip. Secretary Mountjoy said she did not know but would obtain the information.

Representative Hoffman asked if the Task Force will recommend safeguards that will prevent inadequate contributions for the trust fund in the future. Secretary Mountjoy said the Task Force will make such recommendations and that many states tied their rates to inflation.

Representative Nelson asked how much is being lost by the trust fund because reimbursing employers do not make regular contributions to the fund as the contributing employers do. Secretary Mountjoy said she did not know but that is being evaluated by agency staff. She also said that federal law mandates that certain nonprofit and public employers be given the option to be reimburs-

ing employers.

Representative Farmer asked if the Task Force would be able to meet the October deadline for submitting recommendations. Secretary Mountjoy said the Task Force is working toward that date and that the recommendations will be provided to the General Assembly with sufficient time for review and consideration.

Representative Farmer asked when interest on the federal loans will be due and how long borrowing from the federal government will be necessary to pay benefits. Secretary Mountjoy said the interest would become due at the end of 2010 and it is unknown how long borrowing will be necessary. She said in 1982, the state had to borrow for 3 years and it took 6 years to repay the loan with interest.

Senator Stine asked what impact the provision in the budget that prohibits expansion of programs based on stimulus funds would have on the recommendations of the Task Force. Secretary Mountjoy responded that legislation would be required to adopt the modernization programs contained in the stimulus package.

Representative Koenig asked if the maximum number of weeks an unemployed worker could receive benefits is 79. Secretary Mountjoy responded that it is.

Representative Henderson asked if the additional \$25 on the weekly benefit amount was sunset. Secretary Mountjoy said it would end on December 31 of this year.

Representative Siler asked why employees of some nonprofits were ineligible to receive unemployment benefits. Secretary Mountjoy said generally employees of nonprofits are eligible to receive benefits, but that a 501(c)(3) organization with 3 or fewer employees is prohibited from participating in the unemployment compensation system.

Senator Harper-Angel commended Secretary Mountjoy for the work she is doing on the Task Force and for utilizing her agency's funds to hire the consultants to assist the Task Force.

The meeting adjourned.

## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

**Minutes of the 3rd Meeting  
of the 2009 Interim  
August 11, 2009**

The 3rd meeting of the Interim Joint Committee on Licensing and

Occupations was held on Tuesday, August 11, 2009, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Gary Tapp, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Perry B. Clark, Julie Denton, Denise Harper Angel, John Schickel, Dan "Malano" Seum, Kathy W. Stein, and Damon Thayer; Representatives Tom Burch, Larry Clark, Ron Crimm, Tim Firkins, David Floyd, Joni L. Jenkins, Adam Koenig, Reginald Meeks, Charles Miller, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Carl Rollins II, Sal Santoro, Arnold Simpson, Ron Weston, and Susan Westrom.

Guests: Richard Moloney, Commissioner, George Mann, Deputy Commissioner, Ken Leathers, Chief Electrical Inspector, Office of Housing, Buildings and Construction; Richard Vincent, Executive Vice President, Associated General Contractors of Kentucky; Buckner Hinkle, Jr., Stites & Harbison, PLLC; Daniel Adams, PE, Thermal Equipment Sales, Inc.; Paul Ganoe, Director, Division of Engineering and Contract Administration, Hiren Desai, Deputy General Counsel, Finance and Administration Cabinet; and John Brazel, Assistant Executive Director, Associated General Contractors of Kentucky; Charles Lovorn, Executive Director of the Kentucky Association of Highway Contractors.

LRC Staff: Tom Hewlett, Committee Staff Administrator; Bryce Amburgey; Carrie Klaber; Michel Sanderson; and Marlene Rutherford

Minutes of the July 10, 2009, were approved as submitted without dissent.

First on the agenda were representatives of the Office of Housing, Buildings and Construction; Richard Maloney, Commissioner, George Mann, Deputy Commissioner, and Ken Leathers, Chief Electrical Inspector. They discussed the new changes to the state electrical code, how constituents may be affected, and what the agency is doing through inspectors or supply houses to get the word out that there will be a new electrical code enforced beginning September 1.

Mr. Mann stated that September 1 is the date the department would begin enforcing the new state electrical code which was approved July

29. Any requests for permits submitted for building construction on or after September 1 would require compliance with the new electrical code. Notification of the new code has been accomplished through e-mails to local governments, building inspectors, fire officials, and administrators. Mr. Leathers said that notices have also been sent to all certified inspectors, active and inactive, who will notify electric companies and local supply houses.

Senator Tapp asked, for clarification, if a permit was pulled in July for a construction project the new permit would not come under enforcement of the new electrical code. Mr. Leathers indicated that was correct. Senator Tapp also asked if there was a timeline to allow supply houses to get rid of old receptacles. Mr. Leathers indicated it would take 30-40 days which would depend on the amount of supply in inventory.

Senator Tapp asked for an overview of situations that have the most drastic change in the code. Mr. Leathers indicated it was in single family dwellings. He said arc fault circuit interrupters have been required since 1999 in bedrooms but now they will be required in other areas of the home. He also explained that an arc fault circuit interrupter is a device designed to detect any arcs in a circuit, especially extension cords. It is a safety device to prevent electrocution and fire.

Representative Meeks asked if the new code was just for new construction. Mr. Leathers said it was. Representative Meeks also asked if an individual wanted to retro fit their home with the new upgrades how would they go about doing it. Mr. Leathers indicated that it would depend on how the receptacles are wired and said that a new receptacle could always be added to feed an old receptacle, as long as they do not share a conductor.

Representative Owens asked if an individual wanted to renovate a home after September 1, would the permit fall under the new code. Mr. Leathers said that it would. If a room was being added and an electrical line was dedicated to the addition, the whole house would not be affected.

Representative Clark indicated that he understood from training seminars, that if fifty percent of a home was being renovated that it would come under the new electrical code. Mr. Leathers was not aware of that provision.

Senator Tapp indicated that electrical inspectors need to know if the fifty percent rule does or does not apply, that all counties need to be consistent. Mr. Leathers said that there was a meeting in Lexington with inspectors this week and that he would relay this information to them.

Mr. Leathers also discussed tamper-resistant receptacles. Tamper-resistant residential receptacles cost about fifty cents more than a regular receptacle however they are for safety. Commercial are more expensive. The new commercial industrial code does not require the tamper proof receptacle.

The committee heard next from Paul Ganoë, Director, Division of Engineering and Contract Administration, and Hiren Desai, Deputy General Counsel for the Finance and Administration Cabinet. They discussed the cabinet's plans to revise regulations on the debarment of contractors under the Model Procurement Code.

Mr. Desai stated that the proposed regulation is going through the administrative regulation review process. The reason for the proposed changes is a matter of housekeeping for the cabinet and was not filed for any particular issue with contractors. As a result of the public hearing on the regulations, the cabinet requested an additional 30 days to review comments made at the public hearing. The cabinet's response is due the end of this week on those comments. Mr. Desai indicated that the current regulation states that the cabinet may take disciplinary action against a vendor for certain types of things, most of which are contractual in nature. The current regulation; however, has no definitions. The current regulation also allows for a Chapter 13B hearing process. The proposed changes do not remove the Chapter 13B hearing process. He also said that the proposed regulation does not take away the opportunity for judicial review. Mr. Desai pointed out that the cabinet has only debarred five vendors in the last eight years. The cabinet does not anticipate that by making these changes to the regulation that it would begin debarring vendors on a regular basis. They are attempting to clean up the rules so that all vendors, good and bad, know what the rules are. He said the purpose of the regulation is not to be able to debar more vendors.

Senator Tapp asked if there are no

problems with specific contractors, why is the regulation being changed, and if the regulation is going to be enforced would the cabinet not have to have more employees. Mr. Desai respectfully disagreed. Mr. Desai indicated that one of the complaints the cabinet has received through the years concerns the definition of certain items. He pointed out that the statutes have been changed since the regulation was first promulgated and added statutory provisions requiring a suspension or debarment by the state but, the current regulation does not reference those changes. From a vendor perspective, they need one document that outlines all the consequences. Many good comments were received from the public hearing.

Representative Floyd feels that some of the proposed changes are harsh, such as changing the words "may" to "shall." He is more comfortable knowing that these proposed changes are still in the preliminary stages and are not finalized and that based on the comments changes can still be made.

Senator Stein commented on Section 2, subsection (2)(g) of the proposed regulation regarding the collusion or collaboration in the submission of bids for the purpose of reducing competition. If a person or persons were convicted that would mean that they could no longer contract with the state. Mr. Desai said that was correct, but to the best of his knowledge that provision had not been used to suspend or debar any one.

Representative Keene asked about Section 2, subsection (2)(c). That section states that the failure to comply with the terms and conditions of a solicitation or contract, including failure to complete performance within the time specified in the contract, could result in debarment. Representative Keene asked if that provision would include highway contractors. Mr. Desai said this would be clarified in the statement of consideration that will be filed the end of this week. He said that the highway contractors are managed by the Transportation Cabinet and follow the federal rules for debarment. He said that this regulation would not change how the federally funded highway contracts are managed. Representative Keene also asked about the statement in Section 3, subsection (2)(b) which states that debarment may also include princi-

pals or affiliates of the contractor if the principals or affiliates are specifically named and given written notice of the proposed action and provided with an opportunity to respond. Mr. Desai said that one of the ways in which the state manages and regulates state contracts is through the financial system. If a vendor has a taxpayer ID number, that is one of the unique identifiers used to identify which vendors to debar. He said principals and affiliates were included and that is similar to what the federal government uses, but it also allows the state to take action against a vendor if they form another company and continue to inadequately perform. Mr. Desai added that new vendor would receive notice, and be afforded due process under 13B. The regulation is not designed to regulate individuals but companies. Representative Keene also noted that Section 5 states that a bidder or contractor who has been debarred may appeal the action to the Secretary of the Finance and Administration Cabinet. Representative Keene asked if the cabinet is qualified to handle those appeals and treat the contractors fairly. Mr. Desai stated that if an appeal is made to the Secretary of Finance, a hearing officer is assigned from the Attorney General's Office who then handles the hearing process.

Senator Tapp asked if this debarment regulation as currently written more stringently than the federal regulation as it relates to highway contractors. Mr. Desai said that one area in which the proposed regulation may be more stringent is that debarment may be for up to five years rather than twelve or twenty four months. The reason for that is because there is a five year bidding cycle. This regulation applies to all state contracts with the exception of state highway contracts. He said most of the comments at the public hearing were from highway contractors. Mr. Ganoë stated that the proposed changes to the regulation add clarity for the cabinet. Most of the vendors that have been disciplined under this regulation have been those dealing with prevailing wage.

Senator Buford stated that some of the grounds for debarment under this regulation include a breach of contract, and any breach could be used to justify a five year debarment of a contractor. He said he feels this may be arbitrary and too punitive. The proposed regulation is also

flawed because it does not afford due process to a contractor. Senator Buford was concerned that politics could become a factor in eliminating a contractor. Mr. Desai pointed out that the manner in which notices are given or a hearing is conducted is not being changed. The changes that amend the current regulation do not affect the requirement that the cabinet make the preliminary determination regarding vendor suspension. The vendor can then request a hearing. Once the hearing is complete, the final debarment is effective. Mr. Desai said the comments received at the public hearing indicated that this is not clear in the regulation and this will be corrected in the proposed amendment.

Representative Meeks noted there have only been five debarments in the last eight years. He asked how many complaints or cases had been investigated during that time. Mr. Desai said that he was unsure since investigations are performed at the agency level. He added that this regulation should only be used for serious and repeated offenses.

Senator Stein asked what the ramifications would be in the current situation concerning the court action involving Leonard Lawson and his companies. Mr. Desai said that based, on the current and proposed regulation, the contracts awarded by the Transportation Cabinet would not be governed by this regulation because their procurements follow the federal debarment regulation for highway contracts. The Transportation Cabinet would have to modify their regulations on debarment and adopt this proposed regulation for it to apply to the Transportation Cabinet.

John Brazel, Assistant Executive Director, Associated General Contractors of Kentucky (AGC), and Buckner Hinkle, Jr., from Stites and Harbison, a board member of the Associated General Contractors of Kentucky, and Charles Lovorn, Executive Director of the Kentucky Association of Highway Contractors, also discussed their concerns with the proposed debarment regulation.

Mr. Brazel said the commercial construction industry and the AGC members agree that debarment is a serious matter and should be reserved for the most serious violations. Three main changes under the proposed regulation which are of concern are; lengthening of the period of debarment, increasing the types



of violations that lead to debarment, and the lack of procedural due process. Under the previous regulation there were nine specific grounds for debarment. Under the proposed regulation, five additional grounds have been added, which raises questions from the AGC membership. Grounds for debarment based solely on breach of contract unfairly penalizes a contractor for infractions for which the law already provides remedy. Public contracts normally include liquidated damages for delays, so would a contractor also be subjected to debarment for five years for being late on a contract. He said that under the previous regulation permissive language is now mandatory. Mr. Brazel indicated that comments have been made to the cabinet and they are willing to work with the cabinet to make the regulation better so that there are fewer unintended consequences.

Mr. Hinkle said that in the proposed regulation there are three classes of violation; criminal, statutory and breach of contract. He said there is already adequate remedy by law and suggested that debarment is not an appropriate remedy for breach of contract. Procuring agencies have all the power they need to exercise penalties for breach of contract. With regard to due process, he said the previous regulation allows debarment for a maximum of two years. By increasing the penalty to five years, he said that consideration should be given as to whether a hearing process in accordance with Chapter 13B is in appropriate, given that the scope of judicial review of those proceedings is limited. He said that when the Model Procurement Act was passed in 1979, the process for an aggrieved contractor was through Franklin Circuit Court. He allowed that if this regulation is adopted the contractor should have the right to go to Franklin Circuit Court in an initial proceeding. He stated that debarment should be the last resort after all judicial remedies have been exhausted.

Mr. Lovorn said there is concern that the proposed changes would allow certain conditions that are part of a single project, or conditions of a contract that could lead to debarment. He stated that under federal guidelines, transportation contractors are exempt from this regulation. Yet even though the Transportation Cabinet projects are exempt from this regulation, there is concern because other contractors that the Kentucky

Association of Highway Contractors represents work for the Finance and Administrative Cabinet on projects.

Next, Richard Vincent, Executive Vice President, Associated General Contractors of Kentucky; Buckner Hinkle, Jr., Stites and Harbison; and Daniel Adams, Professional Engineer, Thermal Equipment Sales, Inc., discussed value engineering.

Mr. Adams said that value engineering is a modification that occurs after a contract has been bid, and occurs between bid and award. The intention of value engineering is to find pragmatic ways to get the best value to the state with respect to the expenditure of taxpayer monies.

Mr. Hinkle explained how the current system functions from a procurement standpoint. The preferred and predominate methods of awarding contracts in Kentucky are competitive sealed bidding, competitive negotiations, and noncompetitive negotiations in certain limited situations. Mr. Hinkle noted that school projects are local projects and not necessarily subject to the procurement code. He said it is up to the local governments to opt into the model procurement code.

Senator Tapp asked that staff get information on how many local governments participate in the model procurement code.

Senator Stein said it appeared to her that value engineering would encourage green building. Mr. Adams responded that it could. Mr. Hinkle observed that sustainable design and construction has generated a lot of enthusiasm. One of the requirements in value engineering is collaboration between everyone involved in the project, which is hard to do if the design is 100% complete. Value engineering gives you an opportunity to open up the design and discuss other alternatives.

Senator Tapp said that if there was a base of the cost per square foot for a school building that meets the Department of Education's minimum standards, then value engineering could be allowed on top of that minimum to be decided at the local level as to what the final product would cost the local school system. If the school system wanted to spend more per square foot it could but the local level would be responsible, not the whole state. He asked that staff look into this.

Representative Owens asked where in the process value engineering comes into play and what the

cost was. He also asked about any cost savings split or who receives the savings, the state or the contractor. Senator Tapp said he thought the savings would depend on whether it was a local agency, a state agency or private industry, but everyone would benefit from the savings.

Mr. Adams said that value engineering comes typically after the bids have been received but before award. It could also happen after the award of the contract, i.e. suggestions for that project to bring it more value or save money. Mr. Adams said that value engineering is a proposal and typically there is no charge or fee.

Representative Clark indicated concern that when a subcontractor bids to a general contractor, that contractor shops the bid. His fear is that savings in value engineering may be good for the general contractor, but he expressed concern that the subcontractors also share in the savings. He said that if value engineering is going to be done it needs to be defined so that all the subcontractors become a part of value engineering and participate in the savings.

There being no further business, the meeting adjourned at 2:45 p.m.

#### **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Minutes of the 2nd Meeting of the 2009 Interim July 29, 2009**

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, July 29, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, Ernie Harris, Dan Kelly, Alice Forgry Kerr, Mike Reynolds, John Schickel, and Elizabeth Tori; Representatives Ron Crimm, Mike Denham, Ted Edmonds, Dennis Keene, Adam Koenig, Stan Lee, Tom McKee, Reginald Meeks, David Osborne, Arnold Simpson, Kevin Sinnette, Ancel Smith, Ken Upchurch, and Jim Wayne.

Guests: Representative Larry Clark, Speaker Pro Tem; Tony Wilder and Lynsey Womack, Department for Local Government; Jack Reckner, Kentucky Association of Fire Chiefs; Richard Moloney, Dawn Bellis, and George Mann, Department of Housing, Buildings, and Construction;

Jerry Carlton, Barbara Teague, James Cundy, Department for Libraries and Archives; Bill May, Kentucky County Clerks' Association; Laurie Dudgeon, Administrative Office of the Courts; Richard Peddicord, State Fire Marshal's Office; Shelley Hampton, Kentucky County Judge/Executives Association; J.D. Chaney and Bert May, Kentucky League of Cities; Ron Wolf, Louisville Metro Government; and Dan Walton, Labor Cabinet.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Kris Shera, Tom Dorman, Matt Niehaus, Tom Willis, and Cheryl Walters.

Upon the motion of Representative Meeks, seconded by Representative Edmonds, the minutes of the June 11, 2009 meeting were approved.

Representative Riggs recognized Senator Thayer for an announcement. Senator Thayer announced that the topic of the committee's next meeting would be the fiscal management of the Kentucky League of Cities and the Kentucky Association of Counties. He added that representatives of those two groups would be invited to appear before the committee.

The first order of business was the review of Executive Order 2009-540, relating to the establishment of the Department for Local Government, and Executive Order 2009-543, relating to the establishment of the Department for Local Government Economic Development Fund program. Representative Riggs introduced Commissioner Tony Wilder of the Department for Local Government. Commissioner Wilder told the committee that Executive Order 2009-540 renames the Governor's Office for Local Development (GOLD) to the Department for Local Government (DLG). He stated that the name Department for Local Government better reflects their mission and that local officials are more comfortable with that name. Commissioner Wilder noted that the executive order is just a name change and they are not reorganizing the department. Commissioner Wilder explained that Executive Order 2009-543 just transfers the multi-county Local Economic Development Fund program from the Economic Cabinet to the Department for Local Government.

Representative McKee moved, seconded by Representative Crimm, that the committee accept Executive Orders 2009-540 and 2009-543. The motion carried by voice vote.

The next order of business was

the discussion of local government permanent records preservation. Representative Riggs told members that in light of the recent courthouse fire in Madison, Indiana, he felt the preservation of courthouse records was an issue of concern for the committee. A video presentation of a news article on the courthouse fire was shown. Representative Riggs then introduced Chief Jack Reckner, with the Kentucky Association of Fire Chiefs, to address the committee.

Chief Reckner told the committee that available space for records storage is in government buildings. He explained that there is an improved ability to pile higher and deeper due to improved indexing. Chief Reckner noted that old official records do not lose value and cannot be cycled out. He added that there is unlimited public access to those records.

Chief Reckner cited cases of fire in government buildings where records were destroyed. He then discussed issues to be considered for fire protection: (1) arrangement of fuel—open shelving, storage of records in cardboard boxes, height on storage, is it an open area concerns, and floor, shelf and/or box failure; (2) early detection; (3) sprinkler design and engineering; and (3) emergency plans--development, updates, and rehearsals.

Representative Riggs next introduced Mr. George Mann, Deputy Commissioner for the Division of Building Codes Enforcement with the Department of Housing, Buildings, and Construction. Mr. Mann told the committee that the Kentucky Building Code addresses the preservation of local government records. He said that storage spaces are required to be protected by automatic sprinklers. Mr. Mann stated that fire prevention systems could be chemical as well. He noted that if storage exceeds 100 square feet, there must be a fire prevention system. Mr. Mann added that they get questions asking if the system can be removed over concerns of water damage. He said that there are no exceptions to this requirement. Mr. Mann continued to say that in a fire, the records would be damaged anyway. He mentioned that some local officials do not even know that the building code exists.

Representative Riggs commented that most people have a "Hollywood" understanding of how sprinklers work and that this is a wrong impression. He then asked if the building code requires that a cer-

tain fire prevention system be used. Mr. Mann replied that different storage systems require different sprinkler engineering, but inspection and maintenance are required.

Representative Crimm commented that he understood the need to retain paper, but if everything were on computer at least there would be a backup.

Representative Meeks asked if quick response heads were required for sprinkler systems in the building code. Mr. Mann replied yes, but the design is optional.

Representative Riggs asked what the failure rate was of the sprinkler systems. Chief Reckner said one in 16 million sprinkler heads is defective.

Representative Riggs next introduced Mr. Jerry Carlton, Public Records Branch Manager with the Department for Libraries and Archives (KDLA). Mr. Carlton told the committee that there have been 107 courthouse disasters in Kentucky since 1887. He noted that there are different types of disasters besides fire, such as floods.

Mr. Carlton stated that KRS 171.410-.740 gives broad authority for the management of state and local government records to KDLA. He proceeded to explain that Kentucky's Local Records Grant Program is the first program of its kind in the nation, and first to address local records issues with a statewide program. He added that the mandate of the program is to preserve and secure the archival records created and maintained by local government agencies. Mr. Carlton noted that the program also provides emergency response training. He mentioned that the program has been copied by many other states. Mr. Carlton stressed how important it was to ensure the continuance of the program and that all citizens must be made aware of the importance of local archival records. He pointed out that disaster costs are expensive and that 60% to 70% of all local records are permanent. Mr. Carlton concluded by saying that the program has been very successful in preserving Kentucky's local public records, but the job will never be completed.

Senator Gibson asked if fees go to the area of protection. Mr. Carlton answered that the fees go directly to the local governments for protection of the records. He added that the fees do not cover construction.

Representative Koenig asked if

anyone can apply for the grant program. Mr. Carlton replied that the program is open to all local public agencies.

Representative Meeks asked if the amount of the grants are determined by the General Assembly. Mr. Carlton said a portion of the amount is determined by the General Assembly.

Representative McKee provided anecdotal evidence and agreed that it is very important to preserve records.

Mr. Carlton mentioned that the flood damage sometimes contaminates records beyond repair and that people actually remove records from offices.

Representative Riggs next introduced Ms. Laurie Dudgeon, Director of the Administrative Office of the Courts (AOC). Ms. Dudgeon told the committee that out of 137 courthouse facilities, 26 do not have fire protection systems. She noted protection built into the new facilities, while discussing the fact that the counties usually take over the old court facilities. Ms. Dudgeon further noted that there is a data backup system in Frankfort and files can be recreated if damaged or destroyed. She discussed the action of the AOC relating to records retention. Ms. Dudgeon stated that more space is needed for record retention. She said electronic case records or e-filing is available. Ms. Dudgeon added that they can store records for 20 years for the same cost as scanning the records.

Senator Gibson asked if the court system gets fees for the protection of records. Ms. Dudgeon replied that no money goes to the court system for the retention of records and that she was not sure if additional fees assessed for records retention would be the answer due to certain circumstances around their storage issues.

Representative Denham asked if all records are archived at KDLA. Ms. Dudgeon answered some stay but others are transported to Frankfort once they are closed.

Representative Meeks asked if e-filing is being used now. Ms. Dudgeon stated that several states are using e-filing but not all.

Representative Riggs next introduced Mr. Bill May, Executive Director of the Kentucky County Clerk's Association. Mr. May told the committee that county clerks receive a fee for records preservation. He pointed out the importance of emer-

gency and post emergency handling of records. Mr. May added that it is important for the clerks to have records management training. He noted that space and mold is an issue for records preservation. Mr. May further noted that most clerks microfilm their records and store them off-site. He stated that micro-filming and digitizing is not complete. Mr. May said that money from fees used for preservation has been diverted in the past because of budget issues. He concluded by saying that a fire in the Franklin County courthouse destroyed important records, and mentioned that Frankfort's Paul Sawyer Library experienced one of the infrequent sprinkler malfunctions.

Representative Crimm asked what fees are charged for open records requests. Mr. May responded that for providing copies, a fee is allowed. Ms. Dudgeon agreed with Mr. May and added that no fees are provided by statute for staff time.

Representative Riggs next introduced Mr. Richard Peddicord, Assistant Director of the Division of Fire Prevention in the State Fire Marshal's Office. Mr. Peddicord told the committee that there are three goals for fire safety in courthouses: (1) the reduction of property destruction; (2) the reduction of record destruction; and (3) the promotion of cost efficiencies. He noted that fire safety in courthouses should include maintenance, adding that "hot work" should not be allowed to be performed without following proper guidelines. Mr. Peddicord said hazards should be eliminated or reduced by removing debris and properly storing cleaning items, gas, and lawn mowers; He stated that there should be early detection, to include smoke alarms that would be heard in the middle of the night, monitoring service, and security service. Mr. Peddicord explained that fire safety in courthouses should include automatic suppression, which includes limited area sprinklers and chemical suppression. He added that there should be containment by having doors with automatic closers and that offer protection from heat and water.

Representative Riggs asked if there were any dedicated programs for local governments regarding fire safety. Mr. Peddicord said no, but his office would be happy to answer questions from anyone who called.

Senator Schickel commented that he would hate to see problems with sprinklers minimized.



The last item of business was review of Kentucky Administrative Regulations: 815 KAR 7:120 (Kentucky Building Code), 815 KAR 7:125 (Kentucky Residential Code), 815 KAR 10:060 (Kentucky standards of safety), 815 KAR 20:020 (Plumbing—parts or materials list), 815 KAR 20:060 (Plumbing—quality and weight of materials), 815 KAR 20:070 (Plumbing—fixtures), 815 KAR 20:071 (Plumbing—storage and installation of Schedule 40, ABS and PVC plastic pipe and fittings), 815 KAR 20:074 (Plumbing—installation standards for steel and wrought iron pipe), 815 KAR 20:079 (Repeal of 815 KAR 20:077, plumbing—storage and installation of aluminum soil, waste vent and storm water piping and fittings), 815 KAR 20:090 (Plumbing—soil, waste, and vent systems), 815 KAR 20:100 (Plumbing—joints and connections), 815 KAR 20:120 (Plumbing—water supply and distribution), 815 KAR 20:130 (Plumbing—house sewers and storm water piping; methods of installation), 815 KAR 20:170 (Plumbing—mobile home park waste systems and connections), and 815 KAR 20:195 (Plumbing—medical gas piping installations).

Representative Riggs introduced Ms. Dawn Bellis, General Counsel for the Department of Housing, Buildings, and Construction, and Mr. Mann, who addressed the committee previously, to answer any questions members may have about the regulations.

Representative Wayne commented that all home builders should abide by the codes.

Representative Denham asked if these regulations would hamper building in rural areas. Mr. Mann replied that the regulations would not hamper building but should improve it.

Representative Riggs stated that the LRC would be notified that the regulations had been reviewed.

There being no further business, the meeting was adjourned at 11:40 a.m.

## **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Minutes of the 1st Meeting of the 2009 Interim July 29, 2009**

The first meeting of the Interim Joint Committee on State Government was held on Wednesday, July 29, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Mike Cherry, Chair, called the meet-

ing to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Walter Blevins Jr., Ernie Harris, Mike Reynolds, John Schickel, Elizabeth Tori, Johnny Ray Turner, and Ed Worley; Representatives Eddie Ballard, Johnny Bell, Dwight Butler, John “Bam” Carney, Larry Clark, James Comer Jr., Will Coursey, Danny Ford, Jim Glenn, Derrick Graham, Mike Harmon, Charlie Hoffman, Jimmie Lee, Brad Montell, Lonnie Napier, Sannie Overly, Tanya Pullin, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Kent Stevens, Tommy Thompson, John Tilley, and Jim Wayne.

Guests: Arch Gleason and Howard Kline, Kentucky Lottery Corporation (KLC); Stephanie Marshall and Tracie Meyer, Personnel Cabinet; Mike Burnside and Jennifer Jones, Kentucky Retirement Systems; Hiren Desai and Paul Gannoe, Finance and Administration Cabinet.

LRC Staff: Judy Fritz, Kevin Devlin, Brian McCoy, Karen Powell, Bill VanArsdall, and Peggy Sciantarelli.

Representative Cherry recognized new members of the interim committee, Senators Mike Reynolds and John Schickel, and Representatives James Comer and Ron Weston (absent). He also recognized the newest members of staff, Kevin Devlin and Brian McCoy.

First on the agenda was a status report on the Kentucky Lottery, presented by Arch Gleason, President and CEO, and Howard Kline, Chief Financial Officer. The meeting materials included copies of their PowerPoint presentation.

Mr. Gleason gave an overview of Lottery operations. The discussion focused on sales and dividends history, where the money goes, distribution of proceeds, operating results, KLC restructuring in FY 2009, dividend distributions, and future challenges. Following are highlights of his presentation.

Mr. Gleason said that since 1993, annual sales have risen from just under \$500 million to more than \$800 million for FY 2009, an increase of about 60 percent. He said for that same period annual profits have risen from \$100 million to \$204 million. Sales performance for the online games has been flat for the past several years and totaled about \$292 million in each of the last two years. Of the \$778 million sales in FY 2008,

about \$486 million was for instant tickets. As a result of budget concerns for FY 2009, KLC made the decision to begin awarding free instant tickets for some low tier prizes in lieu of cash. As a result, from an accounting standpoint, of the \$810.5 million total sales in FY 2009, actual cash sales were approximately \$765 million. KLC initially had concerns about changing the prize structure to give free tickets in lieu of cash; however, the change apparently has not had a negative impact on players.

Mr. Gleason said that total sales since the inception of the Lottery in 1989 through June 2009 amounted to \$11.7 billion. Of that, operating expenses were \$846.1 million (7.3 percent); \$725.6 million, or 6.2 percent, was paid to retailers; \$7.03 billion, about 60.2 percent, was paid to winners; and \$3.07 billion—26.3 percent—was returned to the Commonwealth from lottery profits. The \$3.07 billion proceeds were distributed as follows: \$1.663 billion to the General Fund, including \$214 million to the SEEK (Support Education Excellence in Kentucky) funding program; \$1.333 billion for grants, scholarships, and the KEES (Kentucky Educational Excellence Scholarship) Reserve Fund; \$30 million for literacy development; and \$20.8 million to the Affordable Housing Trust Fund (FY 1999 through FY 2003).

Mr. Gleason stated that in FY 2010, the first \$3 million in proceeds will go toward literacy development. Also, the statutes now specifically designate unclaimed prize moneys for the KEES Reserve Fund. Unclaimed prizes normally range from \$8 to \$10 million each year but reached \$10.9 million last year. Budget actions now provide that after those distributions, 78 percent of the remaining funds will go to scholarship and grant programs—45 percent for KEES, and 55 percent for the College Access Program (CAP) and Kentucky Tuition Grants (KTG). The current budget (HB 406, Part III, Sec. 34) states that the remaining 22 percent “shall remain in the General Fund to be used to support restoration of higher education funds.”

Mr. Gleason reviewed operating results for FY 2004 through projections for FY 2010. He noted that FY 2005 was dubbed the “year of the player” because an unexpectedly high 64.7 percent of sales was paid in prizes. In the following fiscal year prize payout decreased to 59.9 percent. In FY 2009, prize payout amounted to

61.5 percent of sales. Operating expenses since FY 2004 have been fairly constant and decreased from \$46.5 million in FY 2008 to \$42.1 million in FY 2009. Dividend transfers generally have ranged from 25 to 26 percent of sales and were 26.7 percent last fiscal year. It is expected that dividend transfers will be approximately 28 percent of sales in FY 2010.

Mr. Gleason stated that KLC restructuring was prompted by the FY 2009 budget direction. In addition to reducing instant ticket cash prizes by substituting free tickets for low tier scratch-off ticket prizes, KLC reduced per-drawing liability limits for the Pick-3 and Pick-4 games. He explained that the change in liability limits should, over the long term, stabilize the percent of payout, although in FY 2009 the payout was 63.3 percent. KLC also restructured and slightly reduced retailer incentive compensation in order to keep it at a manageable level. Nevertheless, KLC was pleased to see that retailers achieved a slightly better level of compensation in FY 2009 than the previous year.

Mr. Gleason went on to say that as part of the restructuring, KLC eliminated 28 staff positions and displaced or laid off 25 staff, which reduced operating expenses by \$1.6 million. Advertising expenses were reduced to \$8.4 million, which was \$2 million (18.7 percent) less than the previous fiscal year. KLC was able to achieve a cost savings of \$200,000 for instant ticket printing and other contracted services, even though instant ticket production increased 7-8 percent. Capital and other operating expenditures were significantly reduced, with an overall savings of \$4.2 million (11.2 percent) from the previous fiscal year. Mr. Gleason said the changes were not easy to absorb. He said he is proud of the way KLC made these significant changes, and he commended the employees for their efforts throughout the process.

Mr. Gleason discussed future challenges of the Lottery. He said KLC is projecting a two percent increase in instant ticket sales—a more modest increase than in previous years. Historically, KLC has been able to compound a six or seven percent annual growth rate in sale of instant tickets, but being able to increase any ticket sales in the current economic environment will be difficult. KLC also hopes to increase online game sales by 2.5 percent, or \$7.3 million. Sales in this game category have re-

mained flat or have fallen for several years. Other challenges include the current economic conditions, high unemployment, a maturing product mix, increased competition for gaming sales, and expansion of more active forms of gaming in neighboring states. He said that coming up with games that fit within the parameters deemed acceptable by the General Assembly is another factor that somewhat limits results. Surrounding states have continued to expand into more active forms of gaming. Most recently, the state of Ohio, through executive order, is planning to implement slot machine operations at its racing facilities, although this will likely face a court challenge. Mr. Gleason concluded his presentation and offered to answer questions.

Representative Cherry said there was talk a few years ago that KLC would not be able to continue meeting KEES costs but, apparently, this has not been the case, and students are still receiving the full awards. Mr. Gleason said that is correct, so far as he knows, and that funds have been available to meet the level of KEES funding as originally implemented. He said the matter could be better answered, however, by the Kentucky Higher Education Assistance Authority. Representative Cherry said he is unsure whether General Fund monies have been used to supplement KEES. Mr. Gleason said he did not believe any monies have been taken from the General Fund but that it is his understanding that the KEES Reserve Fund has been used to some extent. Representative Cherry said he views scholarship programs, including KEES, as a priority. He also noted that the KEES portion of lottery proceeds going to scholarship and grant programs is fixed by law and would require legislative action in order to be changed.

Representative Rollins said that the current budget cycle is the first time that 22 percent of the proceeds has been designated to remain in the General Fund for use in supporting restoration of higher education funds—which means less money available for need-based scholarships. He said, too, that the Reserve Fund is used almost every year to meet KEES obligations. Representative Cherry noted, then, that he is correct when he tells people that 100 percent of lottery proceeds are still directed toward education, even though 22 percent of proceeds is deposited in the General Fund.

Representative Pullin asked which programs receive the \$3 million designated for literacy development. Mr. Gleason said that KLC does not track how the money is used after it is turned over to the Commonwealth. Representative Pullin also asked whether colleges and universities are including proceeds from the lottery when they refer to state funding. Mr. Gleason said he believes they are only speaking of appropriations in the budget but that he cannot authoritatively answer that question.

At Representative Pullin's request, Mr. Gleason discussed past attempts to offer the Keno game. He said that KLC attempted to implement Keno in 1990 but were ordered by then Governor Wilkinson to halt the implementation the night before the game was to begin. The first president of KLC was summarily dismissed over that issue. He went on to say it is KLC's view that Keno could be offered legally under the current lottery statutes. In late 2004, Governor Patton directed KLC's Board of Directors to authorize Keno. It was expected at that time that Keno could possibly realize \$100 to \$125 million sales and about \$30-\$40 million profit annually. The Board authorized the game, but immediately after the Board meeting, Governor Fletcher, House Speaker Richards, and Senate President Williams expressed opposition. Mr. Gleason said he then conferred with the Board Chairman, and it was decided to not go forward with Keno. The Board did not actually rescind the earlier direction to implement Keno but chose to not act upon it, and there has been not been any subsequent action by the Board regarding Keno.

Senator Thayer congratulated Mr. Gleason for his recent contract renewal and commended KLC for doing a good job. He asked what amount KLC is required by statute to pay to the Commonwealth and what amount is currently being paid. Mr. Gleason said the current statutory amount is 28 percent and that KLC is now paying 26.7 percent. When Senator Thayer asked why the 28 percent is not being paid, Mr. Gleason said it was the result of a management decision. He explained that an additional one percent could have been earned potentially at the time the prize payout for instant tickets was changed; however, it was decided not to pull the unexpired cash-prize instant games from the marketplace because it was felt it would be far more dam-

aging to suffer the loss of those sales. Senator Thayer said he understands the difficulties faced by KLC and that a compromise in the budget negotiations allowed the KLC Board to make the changes, but he questioned why the statutory amount has not been complied with over the years. Mr. Gleason explained that the statute [154A.130], which was enacted in the 1980s in a different competitive environment, specifies a goal of 35 percent. Prize payout at that time was commonly about 50 percent. Today across the country lotteries are usually paying 60 to 70 percent on scratch-off tickets. He stated that it is a classic argument. Members of the General Assembly basically accepted the premise put forward by former KLC president James Hosker, former executive director of the Massachusetts lottery—which makes a per capita profit of \$55, twice the national average. The Kentucky lottery makes about \$50 per capita. Mr. Gleason said it is a matter of balance. KLC now has a clear mandate of 28 percent in the budget bill. He said KLC is making as strong an effort as possible and that he had concluded it would have been a worse outcome to meet the 28 percent and realize less net sales revenue and thus less profit for the Commonwealth. He said KLC believes it can reach 28 percent next year if the economy holds up but that there is also an element of luck involved. He added that, from a budget perspective, the payout expectation has been raised to 61 percent for the next year, based on this year's experience. Mr. Kline said that they have seen better profitability from the instant games in the last quarter. Senator Thayer thanked them for the report.

Representative Carney said the presentation has been very informative. He asked about operating expenses today relative to past years. Mr. Gleason explained that some expenses—e. g., printing of instant tickets, retailer commissions, and the cost of computerized games—are tied to actual sales production and will increase in dollars as sales increase. The computer system had a much higher cost two years ago, but KLC was able to reduce that cost by getting a substantial rate reduction when the contract was extended. Generally, expenses are lower now than they have ever been in dollar terms. When the computer system is replaced in 2011, costs may be driven up. Representative Carney said he

is sorry that some lottery staff lost their jobs but glad that KLC was able to achieve a cost savings. He asked how many are currently employed at KLC and how much of operating expense goes for salaries. Mr. Gleason said there were previously about 200 employees but, roughly, 165 today. Mr. Kline said that last year salaries and benefits totaled \$13 million.

Representative Wayne said he is concerned about the 28 persons who lost their jobs. He asked whether it is reasonable to say that maintaining the level of staff could have been considered a business investment that would lead to increased sales. He asked, too, whether the jobs were eliminated because the Governor requested KLC to cut its budget, as he did with state agencies. Mr. Gleason said the decision to cut staff was in response to the budget mandate of the General Assembly that KLC return 28 percent to the Commonwealth and that there was no specific direction from the Governor. He said they looked at the entire operation to see what could be done to reduce expenses. In addition to the staff reductions, they took the risk of reducing prizes to the players and reducing retailer commissions by about \$750,000. Advertising expenses were reduced by about \$2 million, which could carry some risk by having a negative impact on sales. KLC also closed the Bowling Green office. Mr. Gleason added that he did not believe the workforce reduction negatively affected sales. Representative Wayne said that job loss is a large policy issue for legislators to consider. He questioned whether it is reasonable for KLC to cut jobs—with the resultant loss of tax income from the families involved—when the Economic Development Cabinet is offering tax subsidies and incentives to private corporations to create jobs in depressed areas. Mr. Gleason said they share Representative Wayne's concern but had tried to make the wisest decisions they could that would have the least negative effect on sales. He said they have worked very hard to ensure the same quality of operation and delivery of service.

Representative Cherry expressed appreciation to Mr. Gleason and Mr. Kline. He also thanked Mr. Gleason for changing his vacation plans in order to speak to the Committee.

Next on the agenda was a briefing on the Kentucky Employees Health Plan wellness program by Stephanie Marshall, State Wellness



Director in the Personnel Cabinet. She was accompanied by Tracie Meyer, State Wellness Specialist. They provided copies of their PowerPoint presentation to the Committee. Ms. Marshall gave an overview of the program, summarized as follows.

Ms. Marshall said that health care costs in America amount to \$1.7 trillion annually. Only 30 percent of that cost is actual health care expenditure; 70 percent is tied to productivity losses, absenteeism, and presenteeism [when employees come to work in spite of illness]. She said that 133 million Americans have one or more chronic health conditions, which accounts for 75 percent of all spending on health care. Statistics indicate that 80 percent of all heart disease and 40 percent of all cancers are preventable.

Ms. Marshall said that Kentucky's program, "Journey to Wellness," is a voluntary program that serves all state agency employees. At present she and Ms. Meyer are the only staff, but there is also a wellness coalition of about 25 active members who represent various state agencies, primarily in Frankfort. There are plans to potentially partner with the Health Department to assist in channeling the program throughout the state. She said the program focuses on building a culture that supports wellness. It is also a business strategy for the state. On average, for every dollar of medical costs, about \$2.30 or more is spent through lost productivity and absenteeism.

Ms. Marshall said "Journey to Wellness" started as a pilot program in the Personnel Cabinet last summer. At Governor Beshear's request, it was launched agency wide January 1, 2009. The program has four phases: Know Your Numbers; Fitness Challenge; Weight Management Challenge; and Prevention. The program focuses on relationship/support building on multiple levels; promoting awareness and education; engagement and empowerment; and utilization of Humana and Virgin HealthMiles products. The program creatively markets activities such as the Wear Red Day campaign, presentations on heart health; St. Patrick's Day Parade, summit screenings, fitness challenge, Farmers' Market event, and cafeteria intervention. She said the fitness challenge just concluded, with score cards being returned from all across the state. The statewide Weight Management Phase of the 2009 program will launch at

the end of August with 12 weeks of weight-loss competition, in partnership with the Frankfort Chamber of Commerce and will include Weight Watchers programs. The final phase for 2009 is the Prevention Phase, which will focus on stress management, offering flu shots through the Cabinet for Health and Family Services, cancer awareness, and the Great American Smoke Out. A smoking cessation program will launch in January 2010.

Ms. Marshall discussed progress in meeting the program's goals. She said that summit screenings have been offered to 8,020 employees (49 percent of goal), and to date 634 participants have been screened (19 percent of goal). The goal to offer a minimum of three awareness building activities has already been satisfied, and the goal to successfully implement at least two cultural changes has been partially met by the cafeteria intervention. Another goal is to have at least 15 percent of the state agency employee population participate in at least one Journey to Wellness/Humana activity. So far there have been about 2,000 participants. Ongoing goals include reducing the number of people in moderate and high risk categories and increasing employee engagement in the wellness program. Ms. Marshall noted that Journey to Wellness is a finalist for a feature in a fall issue of People magazine.

Ms. Marshall spoke at length about Virgin HealthMiles, an incentive based program that is available to over 160,000 health plan members (employees, adult dependants, and retirees), as well as friends and family. Participants receive rewards for multiple activities. She said the goal is to enroll 10,000 people. So far there are 6,318 participants, who have taken more than three billion steps—equivalent to 1,674,597 miles. Over 97 percent have completed the Virgin HealthMiles health assessment, and over 83 percent visit the website more than eight times monthly. In September, Virgin HealthMiles will partner with the STOP Obesity Alliance for the National Employee Wellness Month Challenge—a three-week step challenge among all participating organizations. HealthZone kiosks will also be installed at various locations in the next few months where persons can have their blood pressure and Body Mass Index (BMI) measured, whether a Virgin participant or not.

Concluding her presentation, Ms. Marshall said that feedback on Virgin HealthMiles has been very positive, with 97.5 percent indicating they are very satisfied or delighted with the program.

Representative Graham applauded the wellness program and said he hopes many more state employees will participate. He asked how many Virgin HealthMiles participants are from outside Frankfort. Ms. Marshall said they do not have a breakdown by location but that she could provide a breakdown by state agency and school system. Representative Graham inquired also about the cultural change goal and wellness initiatives in other state governments. Ms. Marshall said that one example of cultural change is the "painting of stairwells" project, which is designed to encourage the use of stairs rather than elevators. It has been approved as a pilot project in the State Office Building but is not yet funded. She said that Mississippi and Alabama have strong wellness initiatives underway and that she plans to contact those states to learn about their programs. Representative Graham said he encourages an idea previously offered by Senator Julian Carroll—that workout facilities might eventually be provided for state employees in conjunction with the wellness program.

Representative Clark commended the good job being done in the wellness program. He suggested to Ms. Marshall that it would be helpful in securing funding if she would provide the General Assembly with a cost analysis and potential cost savings for the various program initiatives. He said, too, it might be a good idea to contact LG&E in Louisville and other large employers in Kentucky that offer wellness programs for their employees. He further suggested that the wellness program focus more aggressively on preventive measures. Ms. Marshall thanked Representative Clark and said that they would work on this.

The final item on the agenda was review of administrative regulations referred to the Committee on July 1, 2009. Reviewed first was Kentucky Retirement Systems administrative regulation 105 KAR 1:130, relating to hazardous duty coverage. The Administrative Regulation Review Subcommittee approved 105 KAR 1:130 at its June 2008 meeting. Mike Burnside, Executive Director, explained the administrative regulation. Jenni-

fer Jones, Assistant General Counsel, accompanied him.

Mr. Burnside said that 105 KAR 1:130 implements provisions in House Bill 1, enacted in the June 2008 special session on pension reform. He stated that House Bill 1 limited the definition of hazardous duty coverage for anyone hired in the County Employees Retirement System after September 1, 2008. The administrative regulation requires that any employer who wishes to provide hazardous duty coverage for an employee hired after that date in a position that meets the statutory definition of hazardous may do so only after petitioning the Board of Trustees of Kentucky Retirement Systems and obtaining board approval for hazardous coverage for that position. He explained that after enactment of House Bill 1, there was some controversy about whether it would be necessary to recertify a position as hazardous if it was already designated as hazardous prior to September 1. An Attorney General opinion stated that 105 KAR 1:130 complies with statutory intent. It also opined that there may be statutes outside KRS Chapter 61 that require employers to provide hazardous coverage for certain positions, and that clarification is found in Section 8 of the administrative regulation. Mr. Burnside noted that once a position is recertified as hazardous after September 1, from that point forward, anyone hired in that position will be eligible for hazardous coverage. There were no questions, and Representative Cherry thanked Mr. Burnside and Ms. Jones. He also advised the Committee that the August meeting will include an in-depth report on Kentucky Retirement Systems' unfunded liability, investment return, and other issues.

Reviewed next was the Finance and Administration Cabinet's administrative regulation 200 KAR 6:070, relating to high performance building standards. The Administrative Regulation Review Subcommittee approved 200 KAR 6:070 at its June 2009 meeting. Present today from the agency were Hiren Desai, Deputy General Counsel, and Paul Gannoe, Director of the Division of Engineering and Contract Administration. Mr. Desai said the administrative regulation is a direct result of House Bill 2, enacted in the 2008 regular session, which required the Cabinet to promulgate an administrative regulation to establish high performance build-

ing standards. He went on to explain that the statute specifically requires the administrative regulation to apply to state agencies and state universities that manage their own capital construction projects. House Bill 2 required the Cabinet to promulgate administrative regulations and develop standards and criteria. It also established an advisory committee composed of several members from state government, local government, and industry to make recommendations to the Finance and Administration Cabinet.

Representative Cherry questioned why the definitions section of 200 KAR 6:070 defines some of the terms only through statutory reference. Mr. Desai explained that the terms are defined in that manner in order to comply with drafting rules. There were no questions from the Committee, and Representative Cherry thanked Mr. Desai and Mr. Gannoe.

Business concluded, and the meeting was adjourned at 2:45 p.m.

#### **INTERIM JOINT COMMITTEE ON TRANSPORTATION Minutes of the Second Meeting of the 2009 Interim August 4, 2009**

The second meeting of the Interim Joint Committee on Transportation was held on Tuesday, August 4, 2009, at 1:00 PM, in Room 149 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 Hubert Collins, Co-Chair; Senators Walter Blevins Jr., David E. Boswell, David Givens, Bob Leeper, R.J. Palmer II, John Schickel, Brandon Smith, Gary Tapp, and Ed Worley; Representatives Eddie Ballard, Linda Belcher, Tim Couch, Will Coursey, Jim DeCesare, David Floyd, Keith Hall, Richard Henderson, Melvin B. Henley, Jimmie Lee, Charles Miller, Lonnie Napier, Rick G. Nelson, Tanya Pullin, Marie Rader, Steve Riggs, Sal Santoro, Arnold Simpson, Ancel Smith, Fitz Steele, Jim Stewart III, Tommy Turner, and Alecia Webb-Edgington.

Guests Appearing Before the Committee: Bill May, Executive Director, County Clerks Association; Beverly Calvert, Allen County Clerk; Frank Friday, Jefferson County Deputy Clerk; Richard Dobson, Executive Director, and Jim Oliver, Director, Office of Sales and Excise Taxes, De-

partment of Revenue; and from the Kentucky Transportation Cabinet: Mike Hancock, State Highway Engineer; and Chuck Knowles, Deputy State Highway Engineer for Project Delivery.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Linda Hughes.

Representative Charlie Miller moved to approve the Committee's June 2, 2009 minutes, as submitted. Senator Boswell seconded the motion, which was adopted by voice vote.

The first person testifying before the Committee was Mr. Bill May, Executive Director, County Clerks Association. Mr. May noted a polling of county clerks regarding the feasibility of the county clerks issuing operator's licenses, yielded (of the responses received) 27 county clerks were in favor of obtaining that responsibility, while 45 clerks stated they were not in favor of this charge. Mr. May indicated that the majority of the clerks asked for additional information before offering their final decision. Clerks in some of the smaller counties were especially concerned about additional expenses, office space, and employees.

Mr. May said that the concept of county clerks assuming the responsibility of issuing driver licenses is not a new one. He noted that county clerks were polled in the early 1990s for this same issue and he recalls that it was near a 50/50 split decision at that time, with the same concerns being raised by opponents.

Representative Henderson stated that he understood and sympathized with the increased workload for county clerks, but at the same time that he was more sympathetic with the taxpayers and streamlining state government.

Chairman Collins informed the Committee that he asked for the survey to study options in light of the new KAVIS system due to come online, and discussions with the Transportation Cabinet, AOC, circuit and county clerks, and the KSP regarding the future of the system. He also stated further discussion will take place at later meetings.

The treatment of roadside memorials was next time on the Committee's agenda. Mr. Mike Hancock, State Highway Engineer, and Mr. Chuck Knowles, Deputy State Highway Engineer for Project Delivery, gave this presentation. Mr. Knowles said that while no Cabinet policy ex-

isted on the treatment of roadside memorials, he indicated that it was the Cabinet's decision to treat these memorials respectfully and allow them as long as they do not interfere with traffic safety. He said that on occasion the state has had to remove a few memorials, particularly those of a large size or composed of materials that could cause a roadside hazard, but that on a whole, the majority of them have been allowed to remain.

Senator Blevins asked if there were any Federal restrictions on roadside memorials. Mr. Knowles stated no, not to his knowledge.

The next topic to be discussed was speed limits on the I-64/I-75 corridor in Lexington/Fayette County. Mr. Hancock and Mr. Knowles also testified on this subject. Mr. Hancock noted the inconvenience of the changing from 70MPH to 65MPH at that section of highway and stated that the Cabinet was presently considering raising that section to 70MPH. He noted that before that change could occur the Cabinet would look into several factors, i.e. road and public safety being the most important factor.

Chairman Collins noted that the speed limit sign was not noticeable from the outside lanes and if the Cabinet decided to keep the 65MPH limit, then he suggested that the Cabinet find a way to better inform the motoring public of the speed limit reduction.

The next item on the Committee's agenda was the implementation of the trade-in credit for calculation of usage tax on new motor vehicles. Mr. Richard Dobson, Executive Director, and Jim Oliver, Director, Office of Sales and Excise Taxes, in the Department of Revenue spoke on this issue. Mr. Dobson stated that programming is underway in AVIS to allow county clerks to accept trade-in credit on new car transactions beginning September 1, 2009. He said that training sessions are scheduled for the middle of August for county clerks in Frankfort and four other remote sites across the state.

Mr. Dobson stated that with the cap at \$25 million, the Department will file a regulation within the next few days outlining how car dealers will be kept informed about the running credit cap total and how the county clerks will be notified when the cap is reached. The Department will be communicating closely with clerks and dealers as the total credit claimed approaches the \$25 million

cap.

Mr. Dobson said that the credit program information will be placed in Department publications and other communications directly to stakeholders such as NADA and their member dealers, other dealerships, and the county clerks.

Chairman Collins encouraged the Department to be vigilant in reviewing affidavits to avoid problems experienced in the past with individuals possibly under reporting the amount paid for used vehicles, and pursuing those who do under report.

Co-Chairman Harris invited and informed the members of the Committee's September 1, 2009 meeting, luncheon, and social event that will be held in LaGrange, Kentucky.

With no further business before the Committee, the meeting adjourned at 2:20 p.m.

#### **INTERIM JOINT COMMITTEE ON TRANSPORTATION Subcommittee on Kentucky Waterways Minutes of the First Meeting of the 2009 Interim August 4, 2009**

The first meeting of the Subcommittee on Kentucky Waterways of the Interim Joint Committee on Transportation was held on Tuesday, August 4, 2009, at 10:30 AM, in Room 149 of the Capitol Annex. Representative Will Coursey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Will Coursey, Co-Chair; Senators Ernie Harris, John Schickel, and Ed Worley; Representatives Charles Miller, and Alecia Webb-Edgington.

Guests Appearing Before the Subcommittee: Greg Pritchett, Chairman, Kentucky Association of Riverports; and Mike Tagert, Administrator, Tennessee-Tombigbee Waterway Development Authority.

LRC Staff: Brandon White, Dana Fugazzi, John Snyder, and Linda Hughes.

Chairman Coursey welcomed the members to the newly formed Subcommittee on Kentucky Waterways and then called first person testifying before the Subcommittee, Mr. Greg Pritchett, Chairman of the Kentucky Association of Riverports. Mr. Pritchett said that Kentucky is unique in that it has three large bodies of water on its borders, the Mis-



Mississippi River, Ohio River, and the Big Sandy River, as well as the largest lake east of the Mississippi River.

Mr. Pritchett said that statistics state that international trade will more than double by year 2030, further stressing our already congested landside transportation system. He noted that a single inland vessel can ship over 450 trucks or 225 rail cars from road and rail. Per ton mileage, inland vessels generate 38 percent less greenhouse gases than trucks, and 28 percent less greenhouse gases than rail. Mr. Pritchett said that the U.S. moves approximately 2 percent of its domestic freight by water, compared to Europe, who moves 44 percent, and China, who moves approximately 61 percent of its domestic freight by water.

Mr. Pritchett stated that some of the advantages of utilizing a marine highway are that it relieves gridlock, enhances safety, is less stressful on the environment, and uses less fuel consumption. He said that water based transportation can provide much of the freight transportation needs of industry while saving public dollars. He discussed enhancing connections between the Transportation Cabinet, Economic Development Cabinet, and the infrastructure authority agencies related to public safety and homeland security, as well as creating Kentucky State Government connections to the private and public port terminals in Houston, New Orleans, and Mobile, along with their respective state agencies.

The next person testifying before the Subcommittee was Mr. Mike Tagert, Administrator, Tennessee-Tombigbee Waterway Development Authority. Mr. Tagert said that no other state in the nation is more suited to take advantage of waterway transportation than the Paducah/Western Kentucky region. He said that statistically over 84 million tons of materials flow in and out of Kentucky waterway each year.

According to a study completed by Troy University and the University of Tennessee, the Paducah/Western Kentucky region has an economic impact to Kentucky of over \$1.6 billion dollars, and 15,000 jobs. That study also shows Kentucky's direct, indirect, and induced employment impact (1996 through 2008) is 15,000, while Alabama's is 19,000, Mississippi's is 33,000, and Tennessee's 1,000. Mr. Tagert stated that Kentucky's labor income during those same years is reported

to be \$525 million, Alabama's \$871 million, Mississippi \$1.5 billion, and Tennessee \$68 million. Economic impact for 1996-2008 is reported to be Kentucky \$1.6 billion, Alabama \$16.5 billion, Mississippi \$9.5 billion, and Tennessee \$2.5 billion.

Mr. Tagert said that in 2007, 83.9 million tons of goods were shipped to or from Kentucky: 29.5 million tons shipped to Kentucky, and Kentucky shipping out over 54.4 million tons. Recent economic measures to enhance its waterway traffic by other states include Mississippi's Intermodal Fund, Mississippi's Income Tax Credit, Alabama's Mobile Container Terminal and Turning Basin, and Alabama Waterway Advisory Board (within their Economic Development Agency).

With no further business before the Subcommittee, the meeting was adjourned at 11:55 with the Chairman indicating the members would be informed as to when the next meeting would be held.

**ADMINISTRATIVE  
REGULATION REVIEW  
SUBCOMMITTEE  
Minutes of the July Meeting  
of the 2009 Interim  
July 14, 2009**

The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 14, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Leslie Combs, Co-Chair; Senators David Givens, and Joey Pendleton; Representatives Robert R. Damron, and Jimmie Lee.

Guests: Tom Crawford, David Gordon, DeVon Hankins, Finance and Administration Cabinet; Richard Carroll, Board of Accountancy; Michael Burleson, Kentucky Board of Pharmacy; Nathan Goldman, Board of Nursing; Margaret Everson, Dan Figert, Darin Moore, Catherine York, Department of Fish and Wildlife Resources; Mac Stone, Clint Quarles, Kentucky Department of Agriculture; Carrie Banahan, Julie Brooks, Guy Delius, Kathy Fowler, Paula Goff, Shane O'Donley, Charles Kendall, Stuart Owen, Melanie Randolph, Chandra Venettozzi, Cabinet for Health and Family Services.

LRC Staff: Dave Nicholas, Donna Little, Sarah Amburgey, Emily Harkenrider, Karen Howard, Emily Caudi-

ll, Jennifer Beeler, and Laura Napier.

The Administrative Regulation Review Subcommittee met on Tuesday, July 14, 2009, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:030 & E. Property and severance. Tom Crawford, policy advisor, and David Gordon, executive director, represented the department.

In response to a question by Co-Chair Tori, Mr. Crawford stated that this amendment updated forms used for property valuation matters.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 1 through 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Accountancy: Board

201 KAR 1:065. Individual license renewal and fee. Richard Carroll, executive director, represented the board.

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, 2, and 4, and the material incorporated by reference to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 1:100. Continuing professional education requirements.

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 4, 6, 7, and 9, and the material incorporated by reference to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agree-

ment of the agency, the amendments were approved.

Board of Pharmacy: Board

201 KAR 2:045. Technicians. Michael Burleson, executive director, represented the board.

In response to questions by Senator Givens, Mr. Burleson stated that there were two (2) different formats for certification because two (2) different organizations had programs for certification with different requirements. He stated that the board wanted to require nuclear pharmacy certification pursuant to the standards of a national organization but that there wasn't such an organization yet. Subcommittee staff stated that the nuclear pharmacy certification provision pertaining to the national organization was too vague and was not compliant with KRS Chapter 13A drafting requirements.

A motion was made and seconded to approve the following amendment: to amend Section 1(2) to put back the original requirement for nuclear pharmacy training at the University of Tennessee. Without objection, and with agreement of the agency, the amendment was approved.

Board of Nursing: Board

201 KAR 20:056. Advanced registered nurse practitioner registration, program requirements, recognition of a national certifying organization. Nathan Goldman, general counsel, represented the board.

201 KAR 20:057. Scope and standards of practice of practice of advanced registered nurse practitioners.

201 KAR 20:162. Procedures for disciplinary hearings pursuant KRS 314.091.

201 KAR 20:260. Organization and administration standards for prelicensure programs of nursing.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to delete a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; (3) to amend Section 2 to establish criteria for approval to: (a) extend the time frame for an interim program administrator; and (b) establish conditions for granting a waiver for the appointment; and (4) to amend Sections 1 through 3 to make technical corrections and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agree-

ment 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 permits, and quota hunts. Darin Moore, administrative director, and Catherine York, counsel, represented the department.

**GENERAL GOVERNMENT CABINET:** Department of Agriculture: Division of Regulation and Inspection: Purchase of Agricultural Conservation Easement Corporation

302 KAR 100:030. Procedures for determination of agricultural productivity diminishment in subdivision. Clint Quarles, staff attorney, and Mac Stone, executive director, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3(1) to clarify that a homeowner's election to waive subdivision rights for land restricted by an agricultural conservation easement shall be irrevocable, whether the election is made when the land enters into the easement program or it is made later as an amendment to the easement; and (2) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 3 for clarity and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Office of Health Policy: State Health Plan

900 KAR 5:020. State health plan for facilities and services. Carrie Banahan, executive director; Shane O'Donley, policy advisor; and Chandra Venettozzi, data administration, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to change the edition date of the material incorporated by reference; and (2) to amend the material incorporated by reference to: (a) correct typographical errors; and (b) amend the review criteria for megavoltage radiation equipment. Without objection, and with agreement of the agency, the amendments were approved.

E-Health

900 KAR 7:030. Data reporting by health care providers.

A motion was made and seconded to approve the following amendments: (1) to add a new section requiring Medicare provider-based entities to be separately identifiable through a facility-specific NPI; (2) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (3) to amend Sections 1 through 5, 8 through 10, and 14 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Health Provider Surveillance Data

902 KAR 19:021. Repeal of 902 KAR 19:020.

Department for Public Health: Division of Public Health Protection and Safety: Hazardous Substances

902 KAR 47:200. Public health methamphetamine contamination. Guy Delius, director, and Kathy Fowler, assistant director, represented the department.

In response to questions by Representative Lee, Mr. Delius stated that the Kentucky State Police made the initial determination of methamphetamine contamination. After a warning sign has been posted by the department pursuant to the Kentucky State Police's findings, a contractor certified by the Energy and Environment Cabinet would do the decontamination. After the decontamination, the warning sign would be removed by the department if approval was granted by the Energy and Environment Cabinet. Subcommittee staff stated that administrative regulations promulgated by the Energy and Environment Cabinet establishing guidelines for the conditions of the removal of the warning signs were already in effect.

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; (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 through 5 to make technical corrections and to comply with the drafting and format requirements of KRS Chapter 13A; (4) to amend Section 3 to clarify that the

sixty (60) day appeal deadline begins as of the postmarked date on the appeal envelope; (5) to amend Section 6 to incorporate two (2) versions of the warning sign, which will allow the division to save money by using up existing copies before printing the new version; and (6) to amend the warning sign to: (a) make technical corrections; (b) correct statutory citations; and (c) provide an edition date on the form. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Division of Provider Operations: Medicaid Services

907 KAR 1:028 & E. Independent laboratory and radiological service 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; and (2) to amend Sections 1 through 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:901E. Repeal of 907 KAR 1:029.

Department for Public Health: Division of Maternal and Child Health: Kentucky Early Intervention System

911 KAR 2:200. Coverage and payment for Kentucky Early Intervention Program services. Julie Brooks, quality assurance administrator, and Charles Kendell, commissioner's office, represented the department.

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 2 through 6 to make technical corrections and to comply with the drafting and format 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 August 11, 2009, meeting of the Subcommittee:

**GENERAL GOVERNMENT CABINET:** Board of Veterinary Examiners: Board

201 KAR 16:015. Fees.

Board of Chiropractic Examiners:

Board

201 KAR 21:090 & E. Coursework for two (2) year prechiropractic education.

**OFFICE OF THE GOVERNOR:** Department of Veterans' Affairs: Kentucky Veterans' Program Trust Fund

201 KAR 37:010 & E. Kentucky Veterans' Program Trust Fund, administration of fund.

**TOURISM, ARTS AND HERITAGE CABINET:** Kentucky Horse Park Commission: Kentucky Horse Park

300 KAR 7:010. Golf carts, all-terrain vehicles and horse trailers.

**ENERGY AND ENVIRONMENT CABINET:** Department for Environmental Protection: Division of Water: Public Water Supply

401 KAR 8:510. Disinfectant residuals, disinfection by-products, and disinfection by-product precursors.

**JUSTICE AND PUBLIC SAFETY CABINET:** Office of the Secretary: Special Law Enforcement Officers

500 KAR 2:011. Repeal of 500 KAR 2:010.

500 KAR 2:020. Filing and processing SLEO commissions.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Kentucky Board of Education: Department of Education: Food Service Programs

702 KAR 6:010. Local responsibilities.

702 KAR 6:020. District school nutrition director

702 KAR 6:031. Repeal of 702 KAR 6:030.

702 KAR 6:040. Personnel; policies and procedures.

702 KAR 6:045. Personnel; school nutrition employee qualifications.

702 KAR 6:075. Reports and funds.

702 KAR 6:090. Minimum nutritional standards for foods and beverages available on public school campuses during the school day; required nutrition and physical activity reports.

**PUBLIC PROTECTION CABINET:** Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:025. Licensing thoroughbred racing.

Harness Racing

811 KAR 1:070. Licensing standardbred racing.

The Subcommittee adjourned at 1:30 p.m. until August 11, 2009.



## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE Minutes**

**August 10, 2009**

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Monday, August 10, 2009, at 3:15 PM, in Room 131 of the Capitol Annex. Representative Kent Stevens, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Kent Stevens, Co-Chair; Senator Ken Winters; Representative Harry Moberly Jr..

Guests: Mr. Wayne Young, Kentucky Association of School Administrators; Mr. Kevin Brown and Mr. Ken Draut, Kentucky Department of Education; Mr. Keith White, Office of Education Accountability; and Mr. Clyde Caudill, Jefferson County Public Schools and Kentucky Retired Teacher Association.

LRC Staff: Ken Warlick, Audrey Carr, Janet Stevens, and Lisa Moore.

Chairman Stevens said the committee would pass over the approval of the minutes of the June 9, 2009, meeting due to a lack of a quorum. He said the committee would hear testimony on administrative regulation 703 KAR 5:080 (and E), but would send the regulation to the Interim Joint Committee on Education for consideration due to the lack of a quorum.

Chairman Stevens asked Mr. Kevin Brown, General Counsel, to explain 703 KAR 5:080 (and E), Administrative Code for Kentucky's Educational Assessment. Mr. Brown and Mr. Ken Draut, KDE Associate Commissioner of the Office of Assessment and Accountability, Kentucky Department of Education, gave the review of the administrative regulation.

Mr. Brown said 703 KAR 5:080 (and E) were written in response to the Senate Bill 1 requirement that directs the Kentucky Board of Education to act within 60 days to update policy prohibitions on inappropriate test preparation activities by school districts and employees. He said the administrative regulation specifically addresses the Senate Bill 1 prohibition against teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal workday. In addition, Senate Bill 1 required that KDE include disciplinary sanctions

that may be taken towards a school or individuals regarding testing violations of the Administrative Code.

Mr. Brown said this administrative regulation established an Administrative Code for Kentucky's Educational Assessment Program for appropriate testing practices for state required tests. The proposed amendment incorporates by reference the document, "Administrative Code for Kentucky's Educational Assessment Program, date May 2009, to replace the previous copy dated February 2009. The revisions to the document add language prohibiting inappropriate test preparation and clarify the Educational Professional Standards Board process for possible educator sanctions during the Kentucky Department of Education's testing allegations review procedure. Revisions align the document with new statewide testing requirements and update and remove statements and terminology that are no longer applicable.

With no questions from the committee members and no quorum present, the meeting adjourned at 3:22 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE Committee Minutes August 11, 2009**

The Government Contract Review Committee met on Tuesday, August 11, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, 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 and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Tom Harris, Bill Harris, Doyle Friskney, Nicole Biddle, F. Ryan Keith, Joe Barrows, Tandy Hubbard, Tonia Wells, Bobbe Morris, Bob Fortney, Kiley Whitaker, James Keene, David Blackburn, Christi Marksburly, Dennis Taulbee, Adina O'Hara, Janet Hartlage, Hiren Desai, Tim Pollard, Cheryl Hatcher, Fran Pinkston, Holland Spade, Katie Smith, Lisa Borders, and Scott Robinson.

LRC Staff: Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Representative Montell to approve Minutes of the July 14, 2009 meeting of the committee. Representative Yonts 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 Montell 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. Representative Montell 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 Montell 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 Montell seconded the motion, which passed without objection.

Representative Yonts stated his intention to abstain from any discussion or approval of the Office of Workforce Investment contract with the Muhlenberg County Board of Education, PON2 531 1000000189, item number 108 on the Memoranda of Agreement for \$50,000 and Under List. Representative Yonts is representing the Muhlenberg County Board of Education in the property transfer.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Gary M. Beckstrom, 1000000149.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Radical Rehabilitation Solutions, LLC, 0900013002.

DEPARTMENT FOR NATURAL RESOURCES:

Bowser Morner Associates Incorporated, 0900012877; ATC Associates Incorporated, 0900013190.

EASTERN KENTUCKY UNIVERSITY:

Diabetes Center for Excellence/ Madison County Health Department,

10049.

EDUCATION, DEPARTMENT OF: Multi, 0900013044; Multi, 1000000071.

EDUCATION, OFFICE OF THE SECRETARY:

Urban Institute, 0900012909.

FINANCE AND ADMINISTRATION CABINET:

Conliffe Sandmann & Sullivan, 0900013206.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Grossman Chapman Klarer Architects Incorporated, 0900012401; Bennett Rosser International, LLC, 0900012990; Third Rock Consultants, LLC, 0900013200.

INFRASTRUCTURE AUTHORITY:

First Southwest Company, 0900013201; Peck Shaffer & Williams LLP, 1000000040.

JUSTICE CABINET:

Access to Justice Foundation, 1000000049; New Mexico Office of the Medical Investigator, 1000000103.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

G. Herbert Pritchett & Associates Incorporated, 410; Sirk & Company, 411; Lewman-Miller Appraisal Company, 412; Thurston Freeman, 413; E. Clark Toleman, 414; Integra Realty Resources, 415; Kentucky Field Service Realty Incorporated, 416; SCATES Incorporated, KCTPS417.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Marshall Alex Shore, 1000000057; Godfrey's Associates Incorporated, 1000000058; Nelda Moore, 1000000070; The Singer Group Incorporated, 1000000088; Allan Martin Kleiman, 1000000108.

NORTHERN KENTUCKY UNIVERSITY:

Stepping Stone Holdings, LLC, 2010531.

PSYCHOLOGISTS, BOARD OF EXAMINERS OF:

Charles D. Auvenshine, PhD, 0900013140.

TRANSPORTATION CABINET:

Robert Edwards, 0900012413; Jere Kennedy, 0900012414; Carl J. Bensinger & Associates, 0900012530; Davis Law, PSC, 0900012531; Fulkerson & Kinkel, PLLC, 0900012532; Kim Hunt Price, 0900012533; Vanantwerp, Monge, Jones, Edwards & McCann, LLP, 0900012534; Kentucky Waterways Alliance, 0900013139; BTM Engi-

neering Incorporated, 0900013199; URS Corporation, 0900013207; Aaron Engineering PLLC, 1000000109; Entran, PLC, 1000000125; URS Corporation, 1000000126.

UNIVERSITY OF KENTUCKY:

Marshall Emergency Services Associates, PSC, K10121; St. Elizabeth Medical Center, K10122.

WESTERN KENTUCKY UNIVERSITY:

Contemporary Services Corporation, 091010; Blackbaud, 091015.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Access to Justice Foundation, 0800007560.

DEPARTMENT FOR NATURAL RESOURCES:

R M Johnson Engineering Incorporated, 0900011876.

DEPARTMENT FOR PUBLIC HEALTH:

St. Elizabeth Medical Center, 0800008084.

FINANCE AND ADMINISTRATION CABINET:

621 Law Partners, 0800009146.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Evans Murphy Graves Architects, 0600002221; Michael Baker, Jr. Incorporated, 0600002724; CMTA Incorporated, 0700004269; GRW Engineers Incorporated, 0700006167; Voelker Blackburn Niehoff Architects, 0700006447; Voelker Blackburn Niehoff Architects, 0900011541; Stantec Consulting Services Incorporated, C-01187237; Tate Hill Jacobs Architect Incorporated, C-05322021-1.

MILITARY AFFAIRS, DEPARTMENT OF:

Family Dynamics Behavioral HealthCare, PLLC, 0800009438; Timothy D. Law, 0800010560; Thomas P. Pendleton, Jr., 0800010770; Edgar Satchwell, 0800010771; Edward Hood Drury, 0800010772; Lanny Walls, 0800010773.

MURRAY STATE UNIVERSITY:

Kelsh Wilson Design Incorporated, 012-09.

NORTHERN KENTUCKY UNIVERSITY:

Multi, 2010447.

OFFICE OF HOMELAND SECURITY:

Mountjoy & Bressler, LLP, 0800008549.

TRANSPORTATION CABINET:

Burgess & Niple Incorporated, 0700003366; American Engi-

neers Incorporated, 0700005389; GRW Aerial Surveys Incorporated, 0800007048; Mary Jane Hensley, 0800009046; Thelen Associates Incorporated, 0800010581; Aircraft Owners & Pilots Association, 0800010727; Thurston Freeman, 0900011397; H A Spalding Incorporated, C-00120549-5; Municipal Engineering Company, C-01318541-6; Gresham Smith & Partners, C-04251089; Palmer Engineering Company, C-05447171.

UNIVERSITY OF KENTUCKY:

JRA Architects, A091110.

WESTERN KENTUCKY UNIVERSITY:

McDonald Transit Associates Incorporated, 080935; Kersey & Kersey Architects, 080937.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Dare To Care Food Bank, 1000000007; Feeding America Kentucky's Heartland, 1000000008; Gods Pantry Food Bank Incorporated, 1000000009.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Big Sandy Area Development District, 0900011882; Fivco Area Development District, 0900011886; Gateway Area Development District, 0900011887; Kentucky River Area Development District, 0900011890-1; Lake Cumberland Area Development District, 0900011891; Northern Kentucky Area Development District, 0900011893.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Corbin Independent Schools, 0900013107; Daviess County Public Schools, 0900013109; Floyd County Board of Education, 0900013112; Jefferson County Public Schools, 0900013133; Marion County Board of Education, 0900013145; Pike County Board of Education, 0900013150; Pulaski County Board of Education, 0900013151; Trigg County Board of Education, 0900013161; Warren County Public Schools, 0900013163.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Cash Creek Generation, LLC, 0900012926; Icon Construction Incorporated, 0900012940; Adica, LLC, 0900012951.

EDUCATION, DEPARTMENT OF:

Boyle County Board of Education, 0900012205; Carter County Board of Education, 0900012218;

Larue County Board of Education, 0900012257; Newport Independent Board of Education, 0900012292; Warren County Board of Education, 0900012380; Bullitt County Board of Education, 0900012572; Clark County Board of Education, 0900012577; Clinton County Board of Education, 0900012666; Elliott County Board of Education, 0900012674; Estill County Board of Education, 0900012678; Monroe County Board of Education, 0900012683; Newport Independent Board of Education, 0900012684; Franklin County Board of Education, 0900012686; Harlan County Board of Education, 0900012687; Jackson County Board of Education, 0900012689; Knott County Board of Education, 0900012690; Knox County Board of Education, 0900012691; Lyon County Board of Education, 0900012692; Russell County Board of Education, 0900012694; Shelby County Board of Education, 0900012695; Spencer County Board of Education, 0900012696; Warren County Board of Education, 0900012698; Hardin County Board of Education, 0900012700; Leslie County Board of Education, 0900012702; McCreary County Board of Education, 0900012703; Owensboro Independent Schools, 0900012707; Owsley County Board of Education, 0900012708; Perry County Board of Education, 0900012709; Pike County Board of Education, 0900012710; Washington County Board of Education, 0900012714; Wolfe County Board of Education, 0900012715; Jenkins Independent Board of Education, 0900012717; Murray Independent Board of Education, 0900012720; Nelson County Board of Education, 0900012721; Paris Independent Board of Education, 0900012723; Williamsburg Independent Board of Education, 0900012724; Livingston County Board of Education, 0900012729; Bath County Board of Education, 0900012746; Allen County Board of Education, 0900012803; Bath County Board of Education, 0900012804; Lincoln County Board of Education, 0900012828; Barren County Board of Education, 0900012881; Metcalfe County Board of Education, 0900012883; Carter County Board of Education, 0900012886; Caldwell County Board of Education, 0900012953; Fleming County Board of Education, 0900012969; Larue County Board of Education,

0900012977; Jefferson County Board of Education, 0900013105; Audubon Area Community, 0900013117; Eastern Kentucky Child Care Coalition, 0900013170; Whitley County Board of Education, 0900013203; Bullitt County Health Department, 1000000015; Owen County Board of Education, 1000000138.

INFRASTRUCTURE AUTHORITY:

Mountain Water District, 1000000054; City of Pikeville, 1000000128; City of Pikeville, 1000000129.

MILITARY AFFAIRS, DEPARTMENT OF:

Louisville Jefferson County Metro EMA Hazard Mitigation, 0900011626; Multi, 0900012812.

MURRAY STATE UNIVERSITY:

Paducah Public Schools Board of Education, 90410.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Union County Fiscal Court, 0900012896; Union County Fiscal Court, 0900012899; Floyd County Fiscal Court, 0900013038; Knott County Fiscal Court, 0900013097; Clay City, 0900013142; Hopkins County Fiscal Court, 0900013164; Letcher County Fiscal Court, 0900013166; Owen County Fiscal Court, 0900013202; Bluegrass Area Development District, 0900013208; Fivco Area Development District, 0900013209; Harlan County Fiscal Court, 1000000002; Harlan County Fiscal Court, 1000000004; Harlan County Fiscal Court, 1000000006; Multi, 1000000062; Graves County Fiscal Court, 1000000112.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011666; Multi, 0900012044.

EDUCATION, DEPARTMENT OF:

Ohio County Board of Education, 0800008337; Graves County Board of Education, 0800010368; KET Foundation, 0800010944.

LEGISLATIVE RESEARCH COMMISSION:

Frankfort Fire Department, 080902.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Hanson, 0600001462; City of Wickliffe, 0600002352; Rockcastle County Fiscal Court,



0600002358; Leslie County Fiscal Court, 0600002445; City of Russellville, 0600002492; Owsley County Fiscal Court, 0600002537; Eddyville Riverport & IDA, 0600002570; Pine Mountain Trail Conference, 0600002643; City of Augusta, 0600002645; Mountain Water District, 0600002787; Mountain Water District, 0600002928; Letcher County Fiscal Court, 0600002930; Letcher County Fiscal Court, 0600002932; Letcher County Fiscal Court, 0600002936; Floyd County Fiscal Court, 0600003009; Pike County Fiscal Court, 0600003012; City of Liberty, 0600003057; City of Olive Hill, 0600003072; Floyd County Fiscal Court, 0700003574; City of Manchester, 0700003617; Mountain Water District, 0700003703; Christian County Fiscal Court, 0700003782; Henderson County Fiscal Court, 0700003811; Henderson County Fiscal Court, 0700003833; Henderson County Fiscal Court, 0700003838; Letcher County Fiscal Court, 0700004134; Henderson County Fiscal Court, 0700004483; Henderson County Fiscal Court, 0700004484; City of Whitesburg, 0700004517; Pike County Fiscal Court, 0700004850; Pike County Fiscal Court, 0700004897; Pike County Fiscal Court, 0700004899; Pike County Fiscal Court, 0700004902; Pike County Fiscal Court, 0700004933; City of Columbia, 0700005004; Owsley County Fiscal Court, 0700005398; City of Clay, 0700005454; Pike County Fiscal Court, 0700005638; Pike County Fiscal Court, 0700005640; City of Owensboro, 0700005656; Henderson County Fiscal Court, 0700005770; Pike County Fiscal Court, 0700005777; City of Bardwell, 0700006410; Mountain Water District, 0700006465; Owsley County Fiscal Court, 0700006477; Union County Fiscal Court, 0700006582; Leslie County Fiscal Court, 0700006651; Leslie County Fiscal Court, 0700006657; Letcher County Fiscal Court, 0700006672; Letcher County Fiscal Court, 0700006673; Letcher County Fiscal Court, 0700006717; Mountain Water District, 0800007250; Lee County Fiscal Court, 0800007924; Floyd County Fiscal Court, M-01235265-7; Martin County Fiscal Court, M-02383428-9; Harlan County Fiscal Court, M-02383528-7; Cumberland City, M-05357105; Perry County Fiscal Court, M-05450586; City of Danville, M-05505511; Union

County Fiscal Court, M-06038503-1; Letcher County Fiscal Court, M-06055506-1; Mountain Water District, M-06131736-1; Mountain Water District, M-06193696-1; Letcher County Water and Sewer, M-06244009; Letcher County Water and Sewer, M-06244474.

#### WORKFORCE INVESTMENT, OFFICE OF:

Barren River Area Development District, 0800008066; Bluegrass Area Development District, 0800008173; Eastern Kentucky CEP Incorporated, 0800008180; Green River Area Development District, 0800008181; Lincoln Trail Area Development District, 0800008182; Pennyriple Area Development District, 0800008188; Northern Kentucky Area Development District, 0800009145; Russell Independent School District, 0800009913.

#### DEFERRED CONTRACTS DEPARTMENT FOR PUBLIC HEALTH:

First Onsite, LLC, 0900011834; St. Elizabeth Medical Center, 0900011834. A motion was made by Representative Yonts to defer the contracts to the September meeting of the committee. Representative Montell seconded the motion, which passed unanimously.

#### UNIVERSITY OF KENTUCKY:

Cornett Integrated Strategic Marketing, K10114. Tom Harris and Bill Harris 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 unanimously.

#### THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

##### DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Neurobehavioral Resources Limited, 0800007214-1. Tonia Wells & Bobbe Morris 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 unanimously.

##### EDUCATION, DEPARTMENT OF:

Multi, 0900013074. Bob Fortney, Kiley Whitaker, and James Keene discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

MURRAY STATE UNIVERSITY: FWAJDB, 00910; 361 Studios, LLC, 01110. David Blackburn and Christi Marksburly 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 unanimously.

#### POST SECONDARY EDUCATION, COUNCIL ON:

The Council for Adult and Experiential Learning, 1000000111. Dennis Taulbee and Adina O'Hara 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 unanimously.

#### UNIVERSITY OF KENTUCKY:

Software Information Systems, 10119; Hammond Communications Group Incorporated,

K10116; LeapFrog Interactive, K10117; Artifex Technology Consulting Incorporated,

K10118; 352 Media Group, K10120. Bill Harris and Doyle Friskney discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Tori seconded the motion, which passed unanimously.

#### THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

##### EDUCATION, DEPARTMENT OF:

Greenwood & Associates, 0900011642. Janet Hartlage 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 Senator Tori voting NO and Senator McGaha and Representative Montell electing to abstain (pass).

#### FINANCE AND ADMINISTRATION CABINET:

Stoll Keenon Ogden, PLLC, 0800009454. Hiren Desai 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 unanimously.

#### KY HORSE RACING AUTHORITY:

Stoll Keenon Ogden, PLLC, 0800010572. Nicole Biddle and F. Ryan Keith discussed the contract

with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

#### OFFICE OF HOMELAND SECURITY:

Goldberg & Simpson, P.S.C., 0800008537. Joe Barrows and Tandy Hubbard 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 unanimously.

#### TRAVEL, DEPARTMENT OF:

Gosh PR L, 0800009443. Tim Pollard, Cheryl Hatcher, and Fran Pinkston 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 unanimously.

#### THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10,000 AND UNDER WAS SELECTED FOR FURTHER REVIEW:

##### FINANCIAL INCENTIVES, DEPARTMENT OF:

Stites and Harbison, 0900013194. Holland Spade and Katie Smith discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

#### THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

##### EDUCATION, DEPARTMENT OF:

Boyd County Board of Education, 0900012636; Jefferson County Board of Education, 0900012646; Lawrence County Board of Education, 0900012649; Powell County Board of Education, 0900012657; Trigg County Board of Education, 0900012659. Debbie Anderson and Karla Tipton 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 unanimously.

#### ENERGY AND ENVIRONMENT CABINET:

Lisa Borders and Scott Robinson discussed an exemption request regarding GCRC Policy Statement 99-4 as it applies to multi-year contracts. A motion was made by Representative Yonts to approve the request to June 30, 2011. Representative Montell seconded the motion, which

passed unanimously.

With no further business before the committee, the meeting adjourned at 11:45 AM.

**LAND STEWARDSHIP AND  
CONSERVATION TASK FORCE**  
**Minutes of the 1st Meeting**  
**of the 2009 Interim**  
**July 9, 2009**

The 1st meeting of the Land Stewardship and Conservation Task Force was held on Thursday, July 9, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Robin L. Webb, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Robin L. Webb, Co-Chair; Rick Allen, Hugh Archer, Larry Arnett, C. V. Bennett, Frances Brown, William Brown, Mark Dennen, Don Dott, Jon Gassett, Tim Guilfoile, Elizabeth Lloyd Jones, Temple Juett, Bob Marrett, William Martin, K.A. Owens, Scott Travis, Larry Whitaker, and Bruce Williams.

Guests: Representative Charlie Hoffman; Leah MacSwords, Division of Forestry; Greg Kuhns, vice president of the Kentucky Woodland Owners Association; Lynn Garrison, formerly of Kentucky Department of Fish and Wildlife Resources; and Stephen A. Coleman, Division of Conservation.

LRC Staff: Stefan Kasacavage, Ashlee McDonald, and Katie Carney.

Representative Webb, Chair, called the meeting to order. A quorum was present. Chair Webb made opening remarks regarding the goals that the task force would be trying to achieve. The purpose of the task force was to bring together the diverse group of Kentuckians affected by land stewardship and conservation policy. Together, they could discuss legislation that had been passed in other states in order to craft a policy that would be effective in Kentucky. She acknowledged that the Commonwealth was facing difficult economic times, but through creative and thoughtful proposals, the task force could help to draft legislation that would preserve our land and better utilize the resources that we have. She welcomed and thanked the members to the meeting and then asked Co-Chair Smith if he had any opening comments.

Co-Chair Smith welcomed the members of the committee and said that he looked forward to working with them.

After the members introduced themselves, Chair Webb asked Bruce Williams from the Kentucky Conservation Committee to briefly discuss the 2008 Report of the Land Stewardship and Conservation Task Force (Research Memorandum No. 502).

Mr. Williams began by stating that the purpose for forming the original Land Stewardship and Conservation Task Force in 2007 was to respond to the rapid land development that was then occurring within the Commonwealth. The state had four separate entities that were trying to accomplish land preservation, but each had its own agenda and often times the entities would compete with each other over limited resources to accomplish their goals. There was no coherent, comprehensive mechanism for making land conservation decisions, especially for large tracts of land that had high recreational and environmental value. Unfortunately, Kentucky has very little land under any protection from development relative to other states – Brown County State Park in Indiana is larger than all of Kentucky's state parks combined. The first task force did well to raise awareness for land conservation challenges within the Commonwealth, but little was accomplished legislatively. The current task force is limited in its scope by 08 HCR 93 to producing legislative proposals relating to the funding, assessment, prioritization, and acquisition of conservation, recreation, and preservation properties in the Commonwealth for consideration by the 2010 General Assembly. Mr. Williams concluded by stating that this was a narrow charge, and that he is interested in developing a comprehensive statewide land conservation program with a stable funding source.

Chair Webb outlined the meeting agenda and asked Commissioner Gassett of the Kentucky Department of Fish Wildlife Resources (KDFWR) to discuss the current state of land stewardship and conservation programs being administered by the department.

Commissioner Gassett began with a power point presentation regarding KDFWR's land stewardship programs. The KDFWR focuses on land acquisition and protection – from purchasing land or conservation easements to entering into conservation or land use agreements with private landowners. KDFWR also spends a tremendous amount of re-

sources protecting habitats and critical areas on private lands without a formal agreement between KDFWR and the landowners. This is done using funds from the federal farm bill (KDFWR spends over \$20 million per year to protect wildlife habitats on family farms).

About two years ago, the department developed a five year strategic plan, which is being aggressively pursued. The department's mission is to provide stewardship for Kentucky wildlife and to provide ample opportunity for citizens to engage in recreational enjoyment of that wildlife. KDFWR is completely user-funded; its revenues are generated from license sales, federal funds from excise taxes on the sale of firearms, ammunition, and other hunting implements. The top priority for the department is to provide access for recreational hunting and fishing and other outdoor activities by acquiring lands for users to participate in those activities. The department has acquired 2,888 acres through a variety of funding sources since the last meeting of the task force. These sources include the Recovery Land Grant (federal program), the Forest Legacy Program (federal program), the Kentucky Land Heritage Trust Fund, the Fees in Lieu of Fund (FILO), and private donations. The total land owned by KDFWR is currently 137,069 acres.

Commissioner Gassett continued by discussing land access agreements. Land access agreements do not transfer ownership of the land to KDFWR, but the department does get to exercise a reasonable amount of control over the lands. Through these agreements, private landowners allow public access to their land for hunting, fishing, and wildlife-related activities in exchange for increased law enforcement protection, signage, and gates from KDFWR. They are typically five year agreements that are renegotiated on a rotating basis. The total acreage under land access agreements currently is about 200,000 acres, which is an almost sevenfold increase over the past three years. Most of these lands are in the eastern part of the state where the elk herd can be found. KDFWR is currently pursuing a wide range of land acquisitions within the Commonwealth.

Commissioner Gassett concluded his presentation by citing public opinion polls that he believed was useful in guiding land acquisition

decisions. Nearly two million Kentucky residents (almost half of the Commonwealth's population) over the age of sixteen have participated in wildlife recreation of some sort. These outdoor recreationalists are not just hunting or angling, in fact hunters and anglers are in the minority. The majority of the recreationalists are enjoying outdoor wildlife activities such as photography, boating, hiking, wildlife watching. Resident wildlife enthusiasts have spent \$1.9 billion and nonresidents had spent \$200 million to enjoy wildlife recreation in Kentucky according to a 2006 national survey. According to a 2008 survey by the UK Survey Research Center, 70% of those polled favored direct tax credits for land donated for conservation and access, 36% were more likely to fish with greater access, and 15% were more likely to hunt with greater access. Those surveyed were willing to drive on average 33 miles to hunt, 44 miles to fish, and 42 miles to watch wildlife. Commissioner Gassett believes that these average driving distances show that it is necessary to offer more access closer to more densely populated areas of the Commonwealth (the Golden Triangle between Louisville, Lexington, and Northern Kentucky) so that wildlife recreation can compete with other forms of diversion.

Commissioner Gassett recommended that the task force consider the following for their legislative proposals: enacting a conservation easement tax credit program, implementing recommendations from the long-term funding task force, increasing land purchases emphasizing the Golden Triangle and the 30 minute drive, and increasing land use agreements.

Mr. Brown asked if bird watching was a wildlife-associated recreation and Commissioner Gassett responded that it was, and that it was a component in considering land acquisitions. Commissioner Gassett said that this brought up the important point of how to charge non-consumptive users for their access to conserved lands. Non-consumptive users account for seventy-six percent of the use of the department's wildlife management areas (WMAs), which were paid for with hunting and angling licenses. Everybody needs to pay for conservation and wildlife-associated access, not just the consumptive users (anglers and hunters).



Mr. Archer commented that Kentucky was the only state in the southeast that did not provide tax credits for land donated for conservation and access and that he was glad that 70% of Kentuckians favored the implementation of tax credits. He then asked if the 70% was specifically in favor of the tax credit for lands donated for hunting and fishing access. Commissioner Gassett responded affirmatively, which would imply that offering tax credits for other conservation uses would garner even broader support.

Co-chair Smith asked about legislation that had passed several years ago that required the purchase of a sticker to be placed on the windshield of a boat before it could be launched. Only some counties in eastern Kentucky complied with the law, which was later repealed. He also asked about the money paid to boaters in the eastern part of the state who had complied with the law before it was repealed.

Commissioner Gassett replied that it was a state parks program, so he assumed that the money went into the general fund through the Department of Parks.

Mr. Owens asked what FILO funds were.

Commissioner Gassett responded that FILO stood for “fees in lieu of” mitigation. When streams are disrupted by development, the developer has three options: onsite mitigation by repairing the stream that was damaged, offsite mitigation by repairing a stream in a different location, or if he or she is approved, he or she can pay a fee in lieu of mitigation. The fee is paid for each foot of stream that is damaged, which goes into a pool of money that is managed by KDFWR, the Army Corps of Engineers, EPA, the US Fish and Wildlife Service, and the Division of Water. Louisville and Northern Kentucky MSDs manage their own FILO program.

Chair Webb added that the mitigation program was in compliance with the federal 404 water program, which was studied exhaustively in a previous task force.

Dr. Kuhns asked for more information regarding working forest easements.

Commissioner Gassett said that KDFWR does not currently hold a working forest easement, but there is one pending in Crittenden and Union County. He is not sure if the Division of Forestry holds any or not.

A working forest easement restricts development and subdivision of the property, but still allows a timber company who owns the property to responsibly manage the timber resources on that property. In other words, they adhere to best management practices and in many instances are certified through sustainable forestry initiatives. It keeps property intact and promotes responsible timber management.

Dr. Kuhns then asked if most of KDFWR’s lands are held in conservation easements.

Commissioner Gassett responded that the most of their lands are not under conservation easements, because once KDFWR owns a piece of land, it is protected in perpetuity. In the future, the department will try to hold more easements because it is a cheaper alternative to land acquisition. The only problem is that it is difficult to spend KDFWR money on a conservation easement if there is no access component because the people who provide revenue to the department demand access.

Mr. Williams commented with regard to the Kimble property that it demonstrated the state’s inability to act quickly to make large-scale land acquisitions when they became available. He would like to see this problem addressed.

Commissioner Gassett said that the Kimble property was a \$20 million acquisition that happened in a matter of hours at an auction. Only a private corporation could have made that deal. It takes KDFWR between eighteen months and two years to buy a piece of property. When a private corporation is liquidating, they cannot wait that long to sell their property. He agrees that the state does need to be able to act more quickly in those situations.

Mr. Guilfoile asked about KDFWR using FILO for land purchases for protection from development, he questioned their flexibility with the FILO funds, and asked if it is under the purview of the board. Mr. Guilfoile also asked if there are federal regulations that say a certain percentage of the money must be spent in that way.

Commissioner Gassett responded that it was both: the expenditure must be approved by the board and he believes that a maximum of ten percent of the money that has been paid into that watershed can be used on protection and the other ninety percent must be spent on restora-

tion.

Mr. Juett asked if the department was more interested in pursuing more land use agreements or outright land acquisitions as part of its future land conservation strategy.

Commissioner Gassett replied that the department had to do both. The limited funds that the department had must be maximized to the greatest extent possible, which meant pursuing both paths.

Mr. Juett then asked if the current recreational land use statutes were sufficient to cover liability issues in the department’s land use agreements with private landowners.

Commissioner Gassett said that as long as landowners were not charging for access, then the landowners were sufficiently protected under the current recreational land use statutes. If land is leased, however, the statutes may need to be amended to further protect landowners.

Chair Webb added that this same issue is being faced in adventure tourism, a good example of which is the issue of liability for offsite events for the upcoming World Equestrian Games. Chair Webb continued that there were three important points that have been discussed before and that the task force needs to continue to think about. The amount of time it takes to purchase property: inter-agency cooperation has improved, but a more seamless process for acquiring these properties would be very helpful in the future. Out of state timber companies are divesting large tracts of property in eastern Kentucky, so time is of the essence to acquire these tracts as they become available. Green spaces in high population areas should be identified and put to better use. These areas add value to surrounding properties and citizens like to be close to these areas.

Chair Webb next asked Director Leah MacSwords to give an update on the state of the Division of Forestry’s land conservation programs. Chair Webb added that she wanted to apologize for the budget cuts that the division had suffered in recent years, but that the department should be commended for the work that it does under the circumstances.

Director MacSwords began her power point presentation on the Division of Forestry’s land conservation programs. There are forests in every county in the state of Kentucky, the

forestlands are not solely found in the eastern part of the state. There are 11.1 million acres of forestland in Kentucky, which is about 47% of the land area of the state. About 78% of the forestlands are owned by private landowners. Forest industry owns 2% of the forestland, 10% is owned by “other corporate ownerships” and 9% is publicly held. The forest industry has an annual impact of \$8.7 billion dollars on the state’s economy, which includes all forest industries, direct, indirect and induced costs. The forest industry is second only to the horse industry in Kentucky in economic impact. The primary threat to Kentucky forestlands is their conversion to other uses. Other threats include urban growth, forest fragmentation, and uncontrolled wildfire. Insects and diseases as well as invasive foreign species also threaten our forest lands.

Director MacSwords continued by discussing the future of the DOF and its land acquisition priorities and strategies. The 2008 Farm Bill required all state forestry agencies to prepare a statewide assessment of their forest resources and their strategies before they can apply for funds made available to the states by the US Forest Service. However, the DOF does not have, and was not provided with, sufficient funds to formulate the assessment. The DOF will probably rely heavily on a similar statewide assessment done by KDFWR to draft its own assessment which must be completed by June 1, 2010. The top five forestry-related issues identified in a recent DOF online public survey were: forest health, water quality and quantities, loss of forestlands, forest management, and funding. Using these issues, the DOF will develop the statewide assessment and strategy.

Mr. Guilfoile asked if there was a good definition for “forest”.

Director MacSwords responded that there are multiple definitions. Under the US Forest Service definition, there must be a certain number of stems per acre. There is no definition for “forest” in the Kentucky statutes, but there is a definition of “timberland” – it must be capable of timber production and protection of wildlife.

Mr. Guilfoile said that the reason why he asked was because he saw a map of Kentucky forests that made them to appear to be very fragmented, so they would not lend themselves to creating wildlife corridors.

Director MacSwords agreed that there was an increasing amount of fragmentation of Kentucky's forests, primarily due to infrastructure development. This fact makes it even more important for state agencies to work together to buy large tracts of forest as they become available so that they can be kept together and wildlife corridors can be maintained.

Mr. Archer observed that most of the forest ownership lots are less than 40 acres, and that lots must be one to two thousand acres before they can be managed efficiently and effectively. It is difficult to encourage forest owners to keep their properties intact, since it costs them more to own it than they can make off of a timber cutting which occurs only once every 40-70 years. Mr. Archer then asked if Director MacSwords could talk about future plans for forest owner cooperatives that bring small tracts together into economically manageable areas.

Director MacSwords responded that the DOF had been working with the University of Kentucky to try to establish local forestry organizations that will work together in their own areas to set local conservation priorities. There are currently about 6 local organizations that are either single county organizations or multi-county organizations addressing forestry issues in their own areas.

Mr. Bennett asked what impact the renewable energy requirements would have on Kentucky's forest.

Director MacSwords said that wood will play an important role in meeting Kentucky's renewable energy needs. The challenge will be to make sure that the timber being harvested for energy production is harvested and recultivated sustainably.

Mr. Bennett continued that he believed that forests would be decimated within a 100 mile radius of the coal-fired power plants where the timber would be co-fired with the coal. People underestimate how much wood will be taken from forests to meet these renewable energy requirements. Given the BTU content of wood versus that of coal, it will take twice as much wood as coal to produce the same amount of energy.

Director MacSwords responded that this would be an issue that the task force should consider because currently there are no restrictions on any forest landowner as to how much they can harvest or where they can harvest. The only restriction is that they cannot pollute the waters

of the Commonwealth through their harvesting operation; best management practices must be used. It will be important to consider whether the type of wood used for energy production should be restricted to certain types or whether the area from which wood could be harvested for energy production should be restricted. Also, federal standards for what kind of woody biomass will count towards meeting a renewable energy standard will need to be considered.

Mr. Travis asked if there was a university study of what species of trees would be ideal for quick cultivation for energy production.

Director MacSwords responded that those studies have been conducted to determine what trees would be ideal for cultivation for energy production. Right now, wood sold for product production is more valuable than wood sold to be chipped for energy production. This may change in the future.

Dr. Kuhns asked how agricultural districts could be used to bring smaller private woodland landowners together for joint forest management.

Director MacSwords replied that such agricultural districts were in existence – if there are landowners in an area that is agricultural land, which includes forestland, then they can come together to form an agricultural district. Once formed, they could be eligible for certification programs for the management of larger blocks of forestlands.

Chair Webb noted that the University of Kentucky was a national leader in reforestation and biomass research. She added that the current discussion would be interesting to Rep. Ballard and the Energy Committee and that this information should be shared with that committee. She also thanked Rep. Hoffman for being in attendance. Next, Dr. William Martin from the Kentucky Heritage Land Conservation Fund (KHLCF) was asked to give his report.

Dr. Martin began by explaining that the KHLCF was the state's program that provides funds for all of the state natural resources agencies, as well as for local governments, colleges, universities, and other agencies that can acquire land in order to maintain the land in its natural state. The fund board was created by statute in 1990 with the purpose of offering land conservation funding to preserve lands that fall into

one of the following four categories: lands that have unique features that harbor important or unique species, lands that host migratory animals, lands that have important natural functions such as watersheds, wetlands, and old-growth forests, and lands that are used for outdoor recreation, public use, or environmental education. However, it was not until 1994 that the General Assembly provided funding for the board to make those acquisitions. The three sources of revenue for the fund are: the state portion of the unmined minerals tax, environmental fines collected by the Environmental and Public Protection Cabinet (Energy and Environment Cabinet), and the sale of the state nature license plates. The fund is administered by a twelve member board, through which each of the state's resource agencies are represented either directly or indirectly, along with seven citizen members, as dictated by statute. The statutes also determine how the money in the fund, which historically has \$4-6 million per year, is spent: 10% goes to Kentucky Department of Fish and Wildlife Resources, 10% to Department of Parks, 10% to the Division of Forestry, 10% to the Nature Preserves Commission, and 10% to the Wild Rivers Program. The remaining 50% is awarded in grants to local governments, which is broadly defined as anything that has an elected body that will be governing the use of the land, including state colleges and universities and other agencies. During the 2008 fiscal year, the KHLCF was used to purchase over 12,000 acres of natural areas and wildlife habitats in 10 different counties. Over the 15 year history of the KHLCF, 175 projects in 65 counties have been approved and land has been acquired through 116 projects in 55 counties, totaling 32,000 acres. This may seem like a lot, but the latest federal report on the subject said that Kentucky's land was disappearing at the rate of 130 acres per day, which is over a square mile per week. If you assume that only 100 acres per day is being converted, then more land is disappearing in one year than has been acquired by the fund in 15 years.

Mr. Brown asked if other states, like North Carolina, are able to conserve more land than Kentucky in a shorter period of time due to better funding mechanisms.

Dr. Martin responded that other states were better able to conserve

more land and that Lynn Garrison would be discussing land conservation programs and legislation in other states. Taxes, bonding, and other dedicated funding streams in other states lead to a much more land conservation in those states.

Mr. Archer commented that land acquisition process problems in state government need to be addressed, especially in Finance Cabinet staffing shortages.

Mr. Marrett said that he was skeptical that 130 acres of land were being developed per day in Kentucky. He is a very active developer in Jefferson County, and there is nothing going on there right now. That study may have been accurate years ago, but given the current economic downturn, he does not believe that the number is still accurate. Maybe land is being lost to farming or other things, but not to real estate development.

Dr. Martin replied that land was not only being lost to real estate development but also to the construction of highways. The report was from the Natural Resources Conservation Service. It was a federal report, but the number quoted was only for Kentucky. The amount of development going on now is very small compared to a few years ago, but the economic slowdown will end eventually and Kentucky will continue to increase in population and convert undeveloped land into developed land.

Chair Webb added that you must also consider the environmental degradation caused by a development that is not solely limited to the project's footprint. She then asked Frances Brown from the Purchase of Agricultural Conservation Easements Board to give her presentation.

Ms. Brown began by explaining that PACE is an appointed board with a number of government officials as well as 6 members representing each Kentucky Congressional district. PACE purchases agricultural easements from voluntary participants in the program. Since 1994, PACE has executed 122 easements, 88 have been purchased, and 34 have been donated. Many of the donated easements have been acquired over the past few years from applicants who have grown tired of waiting for funds to become available to purchase the easements. There are 667 PACE applications pending, which represent 129,000 acres that could be entered into agricultural easements. PACE



currently has over 25,000 acres under agricultural easements. Since there is no available money for PACE at the moment, they cannot purchase new easements and they are losing federal matching funds that would otherwise be available. In fact, there is not even enough money available to process the donated easements – donation applicants are being asked to help with processing costs.

Mr. Brown commented that Shelby and Henry County are starting their own PDR programs because PACE is so short on money.

Rep. Hoffman commended the co-chairs for their leadership on land conservation issues. Although there is currently a lull in development in the state, there is still quite a bit of development going on, especially within the Golden Triangle. As a member of the Tobacco Oversight Committee, he recently heard a proposal by Scott County to start a PDR funding using tobacco oversight money. The tobacco settlement fund money has been raided by the General Assembly to pay for water and sewer projects throughout the state. Ironically, by using tobacco settlement money to pay for laying water and sewage lines in rural areas of the state, we are expediting urban sprawl. The money that is supposed to be used to diversify agriculture away from tobacco dependence is being used to promote the development of agricultural land.

Chair Webb thanked Rep. Hoffman for his remarks and asked Lynn Garrison to come forward to give his report.

Mr. Garrison began by updating the task force on the dedicated funding approaches being used for land conservation programs in other states. Other states use a variety of different funding sources for land conservation programs: tax incentives, including credits for conservation easements, bonding, both general obligation bonds and revenue bonds, fractional sales tax increases (in some states these have been constitutionally protected), lottery revenues (Arizona, Colorado, Maine, Minnesota, Nebraska, and other states), real estate transfer tax (eastern seaboard states and Tennessee), mineral leases (Louisiana and Michigan), and user fees (hunting and fishing licenses and access fees). The most important state land conservation funding initiative passed since 2007 was the Minnesota sales tax increase. Minnesota

passed a constitutional amendment that increased the sales tax there by 3/8 of 1% to be used for clean water, wildlife, cultural heritage, and natural area protection. Initially, this was projected to provide about \$300 million per year, but due to the economic downturn, it has provided \$241.6 million in its first year. Iowa has a similar amendment that will be a ballot initiative in 2010. In 2007, Texas lifted the \$32 million cap on the sporting goods sales tax which is used for parks and wildlife. Connecticut, New Hampshire, and West Virginia have increased their deed fees to fund land conservation. Florida extended its \$300 million bond-funded land conservation program until 2020. Maryland added a 25% on existing agricultural transfer taxes in 2008 to be used for rural land preservation and should bring \$2-3 million per year.

Chair Webb thanked the presenters, members, and staff for an informative meeting.

There being no further business, Chair Webb adjourned the meeting.

#### **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE** **Minutes** **August 5, 2009**

The 6th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, August 5, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dottie Sims, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Dottie Sims, Co-Chair; David Givens, Vernie McGaha, and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Legislative Guest: Representative Fred Nesler.

Guests: Roger Thomas, Joel Neaveill, Angela Blank, and Brian Thomas, Governor's Office of Agricultural Policy; Sharon Clark and Tonya Parsons, Department of Insurance; Van Ingram, Amy Andrews, and Heather Wainscott, Kentucky Agency for Substance Abuse Policy.

LRC Staff: Lowell Atchley, Biff Baker, Dane Bowles, and Kelly Blevins.

The July 1, 2009 minutes were approved by voice vote and without objection, on a motion made by Representative McKee, seconded by

Senator McGaha.

Co-chair Sims asked Mr. Roger Thomas, Executive Director, and Mr. Joel Neaveill, Chief of Staff, Governor's Office of Agricultural Policy (GOAP), to report on the projects considered by the Agricultural Development Board (ADB) during its July meeting.

Mr. Neaveill reviewed the County Agricultural Investment Program (CAIP) report for July. No state projects were acted on at the previous ADB meeting. He then turned to the Deceased Farm Animal Disposal Program, which prompted additional discussion and questions from committee members. They told the committee that 16 counties had developed local disposal programs thus far, with most contracting with hauling services to pick up dead livestock. A total \$83,042 had been committed to the overall program.

Responding to Representative McKee, Mr. Thomas said they did not know what will happen as renderers face an October 2009 deadline to fully comply with a federal Food and Drug Administration rule dealing with processing cattle carcasses. Mr. Thomas said he hoped Griffin Industries and other renderers would continue their service.

According to Mr. Thomas, who responded to questions from Senator Givens later in the meeting, livestock picked up in 11 counties under the Deceased Farm Animal Disposal Program undergo rendering. Other disposal methods include landfills or shipment to fertilizer production facilities. Landfill disposal is viable option based on the landfill disposal experience of Madison and Estill counties, according to testimony.

During his appearance, Mr. Thomas told the committee that, of the approximate \$17 million available to counties through the CAIP, approximately \$11.3 million had been committed to projects. He announced that Karen Curtis of Robertson County was recently appointed to the ADB. Also, the ADB was approved for \$2 million in federal stimulus funds to commit to energy-related investments in agriculture.

Next, Co-chair Sims called on Ms. Sharon P. Clark, Commissioner, Department of Insurance, and Ms. Tonya Parsons, Director, Kentucky Access, to discuss the Health Care Improvement Authority (HCIA) and the Kentucky Access insurance program.

First, Ms. Clark discussed the ac-

tivities of the HCIA, which has oversight over four programs receiving tobacco settlement funds – Kentucky Access, the Kentucky Lung Cancer Research Program, the Tobacco Use Prevention and Cessation Program, and the Kentucky Agency for Substance Abuse Policy (KY-ASAP).

In particular, Ms. Clark directed the committee's attention to charts showing FY 09 tobacco settlement appropriations and expenditures by the agencies. She noted that in FY 09, a total of \$64,139,300 was transferred from Kentucky Access accounts to the general fund. She said they were able to retain approximately \$10 million to assure adequate funds are available to cover claims the next year. A total of \$5,385,900 is anticipated to be transferred from Kentucky Access to the general fund in FY 10.

Ms. Clark told the committee the program continues to function well and continues to experience challenges. They continue to monitor the Congressional health care reform debate, she said.

In response to Co-chair Sims' question about ovarian cancer screening, Ms. Clark indicated representatives of the Kentucky Lung Cancer Research Program could answer specific questions, but the program seemed to be a success.

Next, Ms. Parsons briefed the committee on the status of Kentucky Access, a state-run health insurance program that receives tobacco settlement funds. According to her report, Kentucky Access, as of June 30, had a total enrollment of 12,440. Their fiscal year budget totaled \$62,595,505. Member claims payments totaled \$57,926,986.

According to their report, new developments included an on-line application procedure, a new disease management program, and the introduction of a new insurance carrier in the state.

In subsequent discussion, they told Representative Adams that the new on-line application process would be implemented in the fall.

Responding to Senator McGaha, Ms. Parsons said the average premium among all plans is about \$480 per month, with premium rates varying depending on one's age or other factors.

In continuing discussion with Senator McGaha about the \$64 million-plus budget transfer, Ms. Clark said Kentucky Access began FY 10 with about \$10 million, but had the

assurance of the State Budget Office that funds would be available to pay claims. According to Ms. Clark, the program maintains 6-7 percent administrative costs, which are low. Ms. Parsons said they anticipate premium revenues will increase in FY 10.

The witnesses told Senator Givens that the number of applicants is increasing, although slowly, with about as many leaving the program as come into the program. They said there are eligibility requirements such as the availability of other coverage, like Medicare or Medicaid, or residency status.

Responding to Representative McKee, they indicated they periodically review the plans offered, and are considering a higher deduction plan, which would be more affordable. Representative McKee complimented them on their work.

In later discussion, Senator Givens asked about trends they are seeing. Although they had not studied trends per se, according to the witnesses, they will use data from the disease management program to help track trends. They described the disease management plan to the senator, noting the plan administrator provides patients with materials that they need to cope with their disease, as well as work with physicians.

Following that discussion, the chair called on officials with KY-ASAP. In brief remarks, Mr. Van Ingram, Executive Director, Office of Drug Control Policy (ODCP), described KY-ASAP and how it is structured.

Next, Ms. Andrews, Coordinator, KY-ASAP, discussed the board's organizational structure, events of the past year, which included a review by the Legislative Program Review and Investigations Committee, the status of the state board and its meetings, their budgetary situation, the outcome of a state audit, and their partnerships with other agencies.

Following Ms. Andrews, Ms. Wainscott, Branch Manager, ODCP, described KY-ASAP's association with the Partnership for a Drug-Free America. She discussed how they are creating localized media messages for distribution through local media.

Responding to Senator Pendleton and Co-chair Sims, Ms. Wainscott described public service work in the legislators' particular districts.

Mr. Ingram elaborated on a question that Representative Nesler asked earlier about dealing with ef-

forts to combat drug abuse. He told the committee that the most critical drug problem currently is the rise in prescription drug abuse. To combat that, he said they have had a number of meetings with insurers, health agencies and associations, and others to discuss the problem and how to combat it.

Representative Nesler said he would be interested in knowing how much is spent in Kentucky to deal with the problem. Mentioning the stories that he sees in the local newspaper, the representative expressed a hope that the state is making some headway. In subsequent discussion, Mr. Ingram described some of the agencies involved in the anti-drug abuse effort. Alluding to the KY-ASAP funds available for local boards, Mr. Ingram indicated that as more local boards are formed, the amount of funds of available for them will shrink.

Representative Nesler asked about funds for drug treatment. Ms. Wainscott said counties have differing initiatives and they may receive funds from other sources in addition to the KY-ASAP funding.

Senator McGaha asked about any involvement in local drug courts. According to Ms. Andrews, counties may use funds to help train drug court staff and pay for some incentives for those involved in drug recovery classes, such as limited use gas and phone cards.

In later discussion, Ms. Andrews told Co-chair Sims that only Jessamine County did not apply for funding during the fiscal year. She said the county was going through a transition. According to the testimony, they are working at this time with seven of the counties that do not receive KY-ASAP funds.

Senator Givens complimented the KY-ASAP administrators. He asked if they have some performance measures that they use to measure their progress. Ms. Andrews mentioned a survey that is geared to assessing alcohol and tobacco use among young people. She said that is a way to gauge what is happening in communities because young people are forthright in their responses. Mr. Ingram said they also monitor the National Alliance for Health survey. According to that survey, there are states with worse prescription drug problems than Kentucky, but not many, his testimony revealed. He added that 10 percent of young people in Kentucky responded they have

used powerful pain killers.

Asked if the system allows them to be nimble regarding emerging trends and if counties share information with each other, Mr. Ingram said they can be flexible because of their small staff. He said Ms. Andrews and Ms. Wainscott urge local boards to work together. He said they would like to offer some regional training, but that would require more funding.

Responding to Co-chair Sims about investigating known methamphetamine labs, Mr. Ingram, a former law enforcement officer, indicated it is sometimes difficult to prove something is occurring. Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 11:45 a.m.

## Public records, from page 2

signed to presume that the fire would not spread across the face of the boxes," he said.

Like some local officials and contractors, retired law enforcement officer and Sen. John Schickel, R-Union, believes water sprinklers can do more harm than good. "I spent my whole adult life, professional career, in courthouses—federal courthouses, county courthouses and city buildings. And I hate to see minimized the effect of sprinkler systems going off because ... there's a lot of damage associated with this," Schickel said.

Kentucky has a Local Records Program through the Department for Libraries and Archives that helps local governments in all 120 counties protect important records, said program official Jerry Carlton. So far, the program has produced over 52,000 rolls of microfilm of records from local governments with funding from a fee on county clerk services.

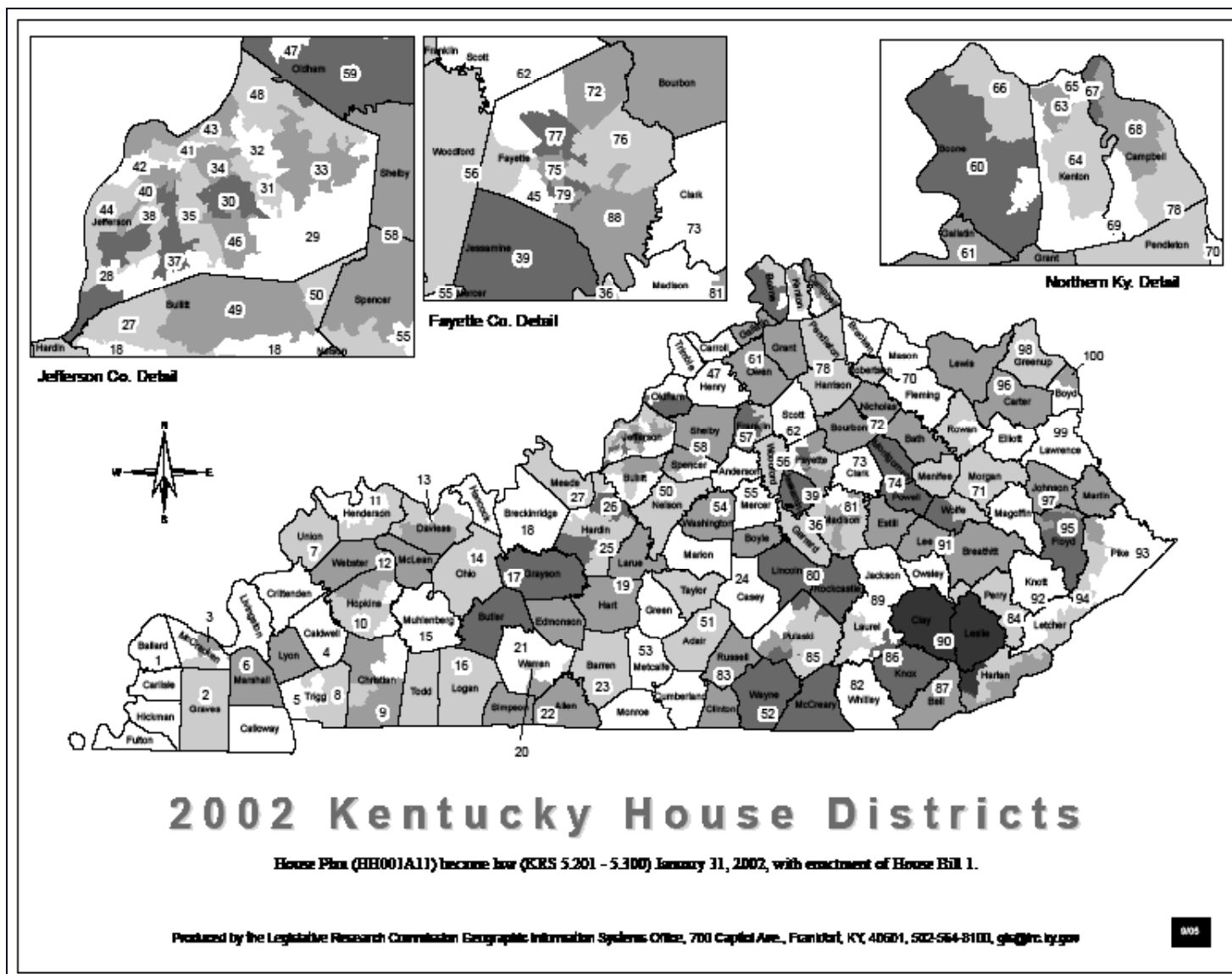
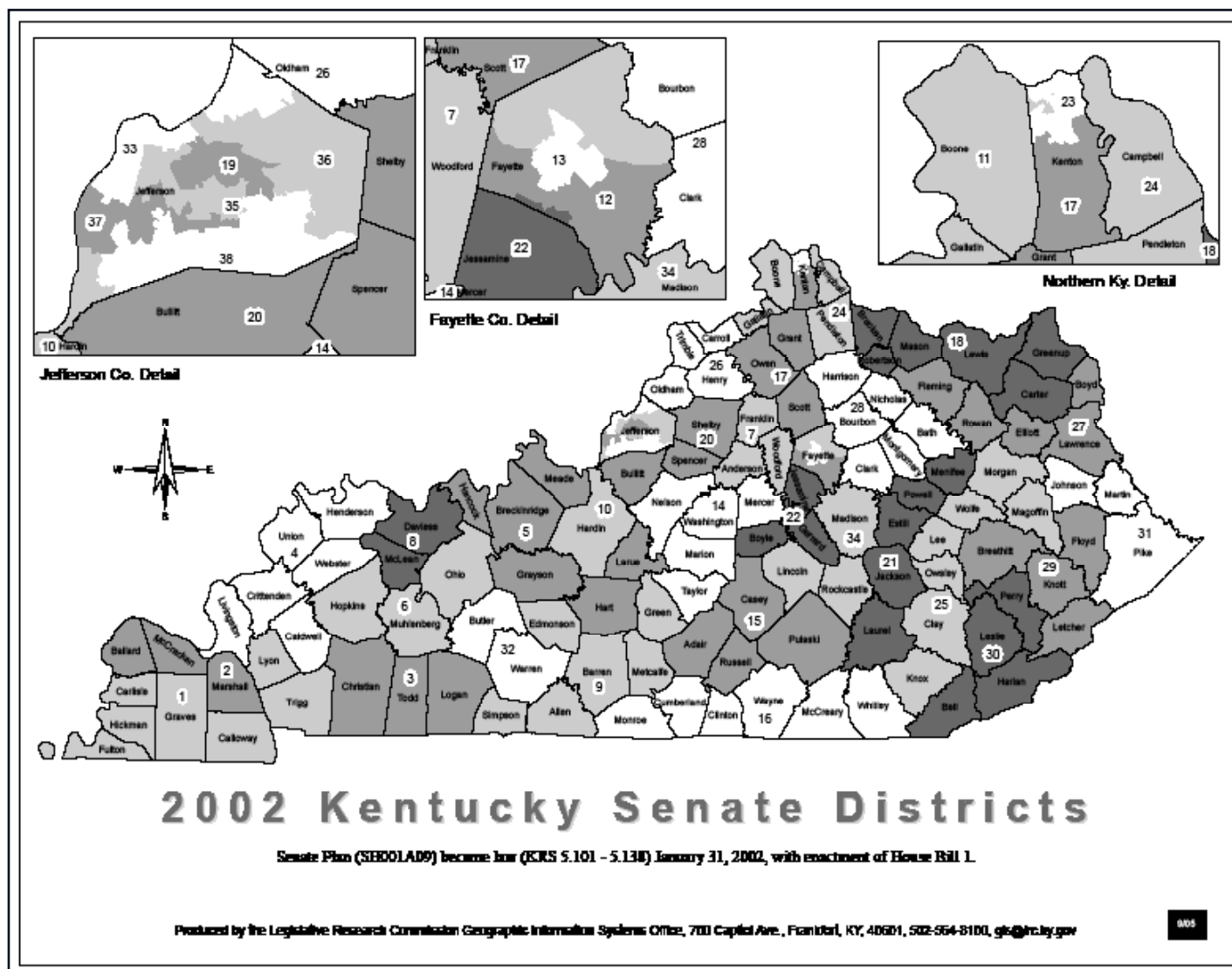
"Those fees go directly to any local government through our grant program for records management issues, primarily for security microfilming in (local governments)," and protecting records long-term, said Carlton.

Sen. Carroll Gibson, R-Leitchfield, added that it might be helpful if records could be protected from both fire and sprinkler systems. As for paper records, Carlton said they will not be going away anytime soon.

"I hear the term 'paperless,' and it might come someday, but it's not going to get here for a long, long time," he said.

The committee hearing on fire protection of government records was called about two months after fire destroyed records and caused structural damage at the 154-year-old county courthouse in Madison, Indiana. The courthouse was undergoing renovation at the time of the fire.







The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

**David L. Williams**  
SENATE PRESIDENT

**Katie Kratz Stine**  
PRESIDENT PRO TEM

**Dan Kelly**  
MAJORITY FLOOR LEADER

**Ed Worley**  
MINORITY FLOOR LEADER

**Dan Seum**  
MAJORITY CAUCUS CHAIRMAN

**Johnny Ray Turner**  
MINORITY CAUCUS CHAIRMAN

**Carroll Gibson**  
MAJORITY WHIP

**Joey Pendleton**  
MINORITY WHIP

**Greg Stumbo**  
HOUSE SPEAKER

**Larry Clark**  
SPEAKER PRO TEM

**Rocky Adkins**  
MAJORITY FLOOR LEADER

**Jeff Hoover**  
MINORITY FLOOR LEADER

**Robert Damron**  
MAJORITY CAUCUS CHAIRMAN

**Bob DeWeese**  
MINORITY CAUCUS CHAIRMAN

**John Will Stacy**  
MAJORITY WHIP

**David Floyd**  
MINORITY WHIP

2009 Interim  
**LEGISLATIVE  
RECORD**

Published monthly by the Legislative Research Commission, the Interim RECORD is designed to inform the citizens of Kentucky of the between-sessions work of the General Assembly.

Subscriptions are free upon request. Contact LRC's Public Information Office, Capitol Annex, Frankfort, KY 40601, phone 502-564-8100.

Stories may be reprinted without permission, although credit would be appreciated.

**Bobby Sherman, Director**  
Legislative Research Commission

**Robert Jenkins, Deputy**  
Director for Committee and Staff Coordination

**Rob Weber**  
Public Information Officer

**Joe Cox**  
Publications and Printing Officer

**Rebecca Mullins**  
Editor, Typography and Design

**Mike Sunseri**  
Chief Photographer

**Karen Bourne**  
**Jeff Fossett**  
**Steve Gatewood**  
**Bruce Phillips**  
**Bud Kraft**  
**Keith Krey**  
**Jeanie Mitchell**  
**Scott Payton**  
**Chuck Truesdell**  
Public Information Staff

2009 Interim

**LEGISLATIVE  
RECORD**  
**KENTUCKY GENERAL ASSEMBLY**

700 Capitol Avenue  
Frankfort, Kentucky 40601

Change Service Requested

Pre Sorted Standard  
U.S. Postage  
**PAID**  
Frankfort, Kentucky  
Permit Number 308