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State energy research earning awards, panel told

by Rebecca Mullins Hanchett
LRC Public Information

The Center for Applied Energy Research at the University of Kentucky is raking in federal grants for everything from work in synthetic fuels for NASA to improving the cost and efficiency of carbon capture at coal-fired power plants.

A $14.5 million grant awarded to the university by the Department of Energy (DOE) in August will help the Center develop a system that uses a plant's waste heat to improve efficiency and hold down electricity costs created by carbon capture's use, the legislative Special Subcommittee on Energy heard on Aug. 19. Researchers hope the project will remove at least 90 percent of generated carbon dioxide emitted by the plant while holding down increased electricity costs to 35 percent or less, according to a DOE release.

The project will be carried out at the LG&E/KU Brown power plant in Mercer County.

CAER Director Dr. Rodney Andrews said the project is part of the Center's goal to find cost-effective technologies that can reduce carbon dioxide emissions related to coal-fired power plants. The testing of solvents for processes like corrosion will also be part of the project, he said.

Other projects underway at the CAER include the creation of synthetic aviation fuels for NASA, using algae to capture carbon dioxide, and using algae in the production of biofuel.

> Andrews credits legislation passed by the 2007 General Assembly for giving UK the ability to pursue construction of a new lab building.

Algae has become another "possibility" for carbon capture, although Andrews said its use is not dramatically cheaper than using what are called chemical "scrubbers" to remove carbon.

"The biggest issue with algae is the amount of land it takes," he said. "We don't know the answer yet of whether it is going to be practical."

Energy Co-Chair Rep. Keith Hall, D-Phelps, praised the work of CAER and the university.

"I'm very proud of the fact that UK…is addressing those issues and concepts," Hall said.


Special Subcommittee on Energy member Rep. Jim Gooch, D-Providence, comments during the subcommittee's recent meeting.

The CAER is also set to open a new 36,000 square foot laboratory for biomass and biofuel research, research and development for Kentucky-Argonne Battery Manufacturing's lithium-ion product, state-of-the-art transportation fuels and work in solar energy. Andrews said the lab, built at an approximate cost of $20 million, will free up significant space at CAER's current 43,000 square

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Legislators receive primer on redistricting law, process

by Chuck Truesdell
LRC Public Information

As state legislators prepare plans for Kentucky's 38 Senate seats, 100 House seats and six Congressional districts, a number of laws and practical factors must be considered, a national redistricting expert said on July 21.

Tim Storey, a Senior Fellow with the National Conference of State Legislatures, spoke to members of the Interim Joint Committee on State Government. "This is a redistricting primer or Redistricting 101," said Senate Co-Chair Damon Thayer, R-Georgetown.

Kentucky is one of nearly 40 states where lawmakers draw their own maps rather than a commission or other panel. "In some way it does make sense for legislators to draw their districts," Storey said, because they know their communities best. The new lines must be drawn before the filing deadline for 2012 races on January 31, although the filing deadline can be altered by statute if new lines are not ready by then.

Storey also cautioned that although January 31 is a hard deadline, there are other concerns as well. "Local officials are paying attention to this," he said. "It is a courtesy thing to think about them." Local authorities are re-drawing their precinct boundaries as part of this process.

Legal guidelines and precedents are different for state legislative and Congressional districts, Storey said. The state's six U.S. House districts must be drawn as equal in population "as practicable," and in the last round of redistricting Kentucky's districts varied by a single voter. Of the 13 states that have already passed their plans this year, 10 followed that pattern in order to head off lawsuits.

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foot facility and nearly double current lab space.

The lab should be in operation by next February, he said.

Andrews credits legislation passed by the 2007 General Assembly for giving UK the ability to pursue construction of the lab building. Most federal grants require the state to provide some money to share in the cost of a project, he explained.

"Without the money we received directly from the university…we would be limited in the number of awards we could go after," said Andrews.

Some lawmakers on the committee took time at the beginning of the meeting to voice their strong support for the coal industry and the state's Eastern and Western Kentucky regions that have been affected by holds on new coal-fired power plant permits and EPA regulatory practices. Senate Majority Floor Leader Robert Stivers, R-Manchester, said regulation also played a role in a 17 percent increase in electricity rates for many Eastern Kentuckians in 2010.

House Majority Floor Leader Rocky Adkins, D-Sandy Hook, said another round of EPA regulations would "have a devastating impact on the rates that the people in the Commonwealth have to pay for electricity." Right now, he said, Kentucky produces some of the least expensive energy in the U.S.

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Arkansas, one of the states that did not follow such an exacting standard, aims to not split counties between districts, a plan Kentucky follows for state House and Senate seats under case law. The federal "one person, one vote" principle has been interpreted by the courts to allow up to five percent variation above or below the ideal population.

Although the state does have majority-minority districts, Kentucky is not subject to federal pre-clearance under the Voting Rights Act.

Another goal for redistricting in many states is to make each district into a sensible, compact shape. "'Compact' is very much an eye of the beholder thing," Storey said. "There are five or six measures of compactness." In addition, he noted, geographical features or boundaries can greatly affect measures of compactness.

Keeping "communities of interest" together can also affect the appearance of districts, Storey told lawmakers. In addition to race, ethnicity, and other demographic factors, lawmakers may try to draw districts that reflect common characteristics.

Lawmakers hear of wine industry's growth

by Rob Weber
LRC Public Information

No longer in its infancy, Kentucky's wine industry is maturing and thriving, a state agriculture official told lawmakers during the Aug. 12 meeting of the Licensing and Occupations Committee.

Kentucky wines earned 11 honors, including two gold medals, at the recent Indy International Wine Competition, one of the nation's premier wine festivals, said Mac Stone, executive director of the Office of Agriculture's marketing office. He also noted that the number of Kentucky wines entered in Kentucky State Fair competitions has doubled, from 100 to 200, within the past two years.

> Stone says wineries "are quite an economic engine for their local communities."

Kentucky wineries have expanded beyond the central part of the state to areas including Owensboro, Paducah, Morehead and southeast Kentucky, Stone said. In addition to making wine, 42 wineries have tasting rooms; five have restaurants; 21 host special dinners; and 28 host concerts or music.

"That shows that it's not just selling wine," Stone said. "They are getting people out into the countryside. They are quite an economic engine for their local communities."

Roger Leasor of the Kentucky Grape and Wine Council told lawmakers the state's wine industry that took years to develop is now firmly established.

"I've been working with them for 17 years and at no time has it been healthier or looked brighter than it is now," he said.

Kentucky wines are expected to have a spot on menus at several Kentucky State Resort Parks, which plan to begin selling alcoholic beverages soon, Stone said.

Sen. Julian Carroll, D-Frankfort, described the growth of Kentucky's wine industry as "phenomenal," and noted that Kentucky was once a top wine producer.

"Kentucky was a leading wine producer in 1900 in the United States, and then Prohibition put us out of business," he said.

Now that the wine industry has returned in Kentucky, hard-won gains must be protected, Leasor said.

"We must defend the things that are working and not take any step backward."

New air quality rules come at a cost, lawmakers told

by Rebecca Mullins Hanchett
LRC Public Information

New air quality regulations handed down by the Environmental Protection Agency are going to cost Kentucky business and residents money, state lawmakers heard in Frankfort in August.

State Division for Air Quality Director John Lyons told the Interim Joint Committee on Natural Resources and Environment that final and proposed EPA air quality standards regulating so called "criteria" pollutants such as sulfur dioxide—which is created by burning coal—lead, ozone, particulate matter, nitrogen dioxide and carbon monoxide will likely make it harder for Kentucky communities to remain in compliance with future Clean Air rules. Historically, Kentucky's non-attainment areas have been in Louisville, Northern Kentucky and the Ashland area.

Ironically, Kentucky has no violations in air quality based on current monitoring of the criteria pollutants, Lyons said. But that will change with the new standards, particularly standards affecting ozone, although the full effect of the change is yet unknown.

"Most likely we will have more non-attainment areas," said Lyons.

Under new rules being put

Rep. Reginald Meeks, D-Louisville, comments during the August Interim Joint Committee on Natural Resources and the Environment.

into effect by the EPA this summer, states will be required to meet more stringent ozone standards and more stringent particulate matter standards. In addition there are changes under the EPA's Cross-State Air Pollution rule for electricity generating power plants, issued on July 7 of this year. This rule set limits on the amount of nitrogen oxide and sulfur dioxide allowed to cross state lines by at least half of what was allowed in 2005 by the time the rules are in full effect in 2014, along with emission limits to reduce airborne ozone and fine particulate matter transported over state lines.

Under the Cross-State Air Pollution rule, companies here and in other states will be able to trade credits to meet a cap on emissions for utilities. Lyons said Kentucky's sulfur dioxide and nitrogen dioxide emissions will be limited to 273,000 tons in 2012-2013 for existing utilities.

Changes to persistent felony offender, other laws could save state money, official says

by Rebecca Mullins Hanchett
LRC Public Information

The state's public advocate is asking state lawmakers to consider limits on who can be considered a persistent felony offender and violent offender in Kentucky.

Kentucky Public Advocate Ed Monahan told the Interim Joint Committee on Judiciary on Aug. 5 that "modest adjustments" to the state's persistent felony offenders (PFO) and violent offender laws would result in more prisoners being released at a time when they are least likely to reoffend, save the state millions of dollars, and create a more balanced criminal justice system where the longest sentences are reserved for felons who Monahan described as more of a risk to public safety.

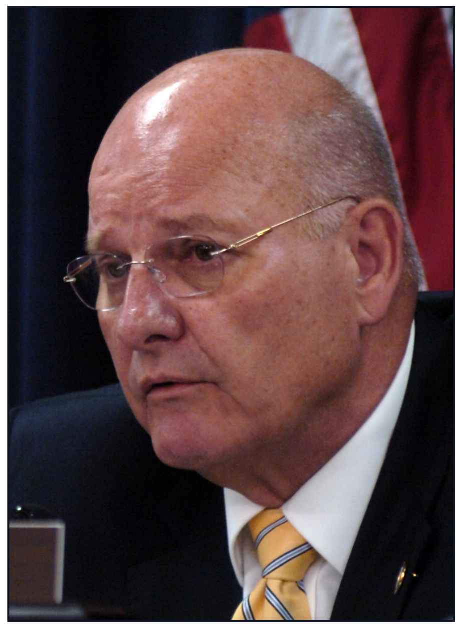
Today, Monahan said, there are 7,792 inmates in Kentucky sentenced as persistent felony offenders, violent offenders or both at a cost to the state of $169 million. Many are offenders who were convicted of the lowest level, often non-violent felonies.

In fact, Monahan said 1,441 Kentucky inmates are serving an average sentence of 11 years for an underlying offense classified as only a Class D felony, the lowest level felony offense under state law.

"One felony is a serious conviction with serious consequences. But if you look at the 7,700 you have a lot down at the Class D range. A question that one might ask is, do you really want to incarcerate those persons for this aggravated length of time at a significant cost to you?" said Monahan.

Many PFOs in Kentucky today are felons who have never served time for a prior offense, said Monahan. That has been the case since 1976 when, Monahan said, the Kentucky General Assembly tightened the state's PFO statutes by abolishing the requirement that a person be imprisoned on a prior offense before being sentenced as a PFO and lengthened the time a PFO must serve before being eligible for parole, among other changes. Prior PFO statutes required three prior convictions and two separate periods of incarceration before a person could be sentenced as a PFO, he said.

Instead, the public advocate and his staff suggested that state



Interim Joint Committee on Judiciary Co-Chair Sen. Tom Jensen, R-London, fields questions during the committee's Aug. 5 meeting in Frankfort.

lawmakers consider adjusting the PFO and violent offenders statutes in any number of ways, including eliminating PFO sentencing for non-violent felonies, using PFO status for sentencing of those with two or more prior felonies without a substantial break in criminal activity, repealing the required 10-year period before some PFOs are eligible for parole, and requiring actual imprisonment on prior felonies before a person can be sentenced as a PFO.

For violent offenders, Monahan's office suggested reinstating Kentucky's pre-1998 requirement that 50 percent of a violent offender's sentence, rather than the current 85 percent requirement, be served before a violent offender is parole eligible. The office also suggests that violent offenders be limited to those convicted of six specific crimes including murder as well as rape, sodomy, robbery with a firearm, burglary with a firearm and assault—all in the first degree only.

Changing the PFO and violent offenders statutes would also restore sentencing jurisdiction to judges and juries rather than prosecutors, where it resides now because of legislative changes, said Monahan.

Committee Co-Chair Sen. Tom Jensen, R-London, asked Monahan if he believes the state's PFO statutes from 1974—which Monahan said were more limited—were a better way to go. Monahan said what changes are made is up to the General Assembly.

Fiscal year ends with deposit to rainy day fund

by Rob Weber
LRC Public Information

Kentucky ended the 2010-11 fiscal year with a $156.8 million General Fund surplus, most of which was deposited into the state's budget reserve fund, commonly referred to as the rainy day fund, the state's budget director reported to lawmakers during the July 28 meeting of the Appropriations and Revenue Committee.

General Fund receipts were 6.5 percent higher during the fiscal year that ended on June 30 than in the previous year, said State Budget Director Mary Lassiter. This budget for the recently completed fiscal year was based on projections for 4.5 percent growth.

"We saw healthy growth in all the major taxes," Lassiter said.

Compared to the previous year, the state sales and use tax revenues increased 3.7 percent and the individual income tax grew by 8.3 percent. Those two taxes make up the majority of General Fund receipts.

Although sales tax receipts increased by 3.7 percent, that growth didn't quite meet projections on which the budget was based, coming in 1.5 percent below budget estimates.

Business taxes that came in above projections also contributed to the end-of-year surplus. The corporation income tax was up 26.4 percent and the limited liability entity tax increased 47.8 percent over collections from the previous fiscal year.

Lassiter also highlighted the "very healthy growth" of coal severance tax receipts, which grew by 8.8 percent over collections from the previous fiscal year.

Prior to the 2010-11 fiscal year, Kentucky endured an unprecedented two straight years of declining General Fund revenues. General Fund receipts for the 2010-11 fiscal year were $166.1 million more than expected at the time the budget was enacted. The state was left with its $156.8 million surplus after factoring in unspent funds that lapsed into the General Fund and payments that will be made to local governments with a portion of coal severance receipts that exceeded projections.

As a result of the surplus, a deposit of $121.8 million has been made to the rainy day fund, the largest single deposit the fund has ever received, Lassiter said.

The remaining $35 million from the end-of-year surplus will go toward necessary government expenses, which include expenditures not specifically appropriated in the budget that arise during a fiscal year, such as those made to combat forest fires and respond to natural disasters, and to pay judgments against the state.

Rep. Rick Rand, co-chair of the Appropriations and Revenue Committee, welcomed the budget surplus news, but urged caution.

"Even though we see we had 6.5 percent growth this year, that's measured against what our numbers were last year, which were depressed," said Rand, D-Bedford. "Going forward it's going to be much more difficult to hit those growth numbers because you are measuring against a much larger number. So I think we all need to exercise a little caution as we talk to our constituents and the media and … not make this sound like more than it is. It's good news. It's great news. But we still need to exercise caution."

Sen. Bob Leeper, also a committee co-chair, echoed Rand's call for caution. "A lot of people in my district … when they saw the extra revenue that came in above what was projected, they thought things were OK again. I have to explain to them that things are not OK again. We used some one-time strategies to get us through this budget cycle," said Leeper, I-Paducah. "There's going to be a day of reckoning coming in January..."

2011
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Committee Meetings

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Interim Joint Committee on Agriculture

Minutes of the 2nd Meeting
of the 2011 Interim
July 13, 2011

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Agriculture was held on Wednesday, July 13, 2011, at 10:00 AM, at Farmers Livestock Market in Glasgow, Ky . Senator David Givens, 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 Joe Bowen, Carroll Gibson, Bob Leeper, Dennis Parrett, Joey Pendleton, Robin L. Webb, and Ken Winters; Representatives Royce W. Adams, John "Bam" Carney, Mike Cherry, James R. Comer Jr., Myron Dossett, C. B. Embry Jr, Sara Beth Gregory, Richard Henderson, Kim King, Michael Meredith, Terry Mills, Brad Montell, Fred Nesler, Ryan Quarles, Wilson Stone, and Tommy Turner.

Guests: Dr. Robert Stout, State Veterinarian; Steve Coleman, Director, Division of Conservation; Steve Webb, DVMD; Brad Bailey, PVA; Judge Greer; Mayor Troutman; Mayor Rob Cline, Scottsville; Robert Siddens, President, Barren County Cattlemen's Association; David Beck, Executive Vice President, and Fritz Giesecke, 2nd Vice President, Kentucky Farm Bureau; and Gary Bell, cattle producer.

LRC Staff: Biff Baker, Lowell Atchley, Stewart Willis and Susan Spoonamore, Committee Assistant.

The June 8, 2011 minutes were approved without objection upon motion made by Representative Henderson and seconded by Representative Dossett.

Update on the Eastern Livestock Bankruptcy

Dr. Stout, State Veterinarian, informed the members that he is in frequent contact with the different agencies involved in the Eastern Livestock bankruptcy, but he does not have any new information to report. He emphasized the complexity of the legal process, as the Eastern case involves possible civil and criminal acts in addition to the bankruptcy.

Dr. Stout stated that there are 48 licensed stockyards in Kentucky (including 5 buying stations) and 180 licensed dealers. Since the bankruptcy, communications have improved significantly between the department and the Packer and Stockyard Administration (PSA), particularly regarding non-licensed dealers and stockyards.

Responding to questions, Dr. Stout clarified that the PSA determines the amount of bonding required of stockyard and buying stations. He also shared that Kentucky's definition of stockyards includes buying stations, but PSA's does not. Under PSA, buying stations are licensed and bonded as dealers. Dr. Stout commented that he could not respond to some of the questions because the issues are part of an on-going investigation by the United States Justice Department.

Dr. Stout stated that to his knowledge, no bond money has been distributed because of the bankruptcy process. Investigators have found other assets to add to the bankruptcy pool, but it is still too early in the process to determine which creditors will receive payments. It is important to understand that the bond will only cover a fraction of the losses.

When asked about 2011 RS Senate Bill 92, Dr. Stout said that the bill could help clarify what a buying station is, and would put Kentucky's definitions more in line with PSA.

Dr. Stout was asked by members to contact the Attorney General and ask him to investigate whether the federal government was lax in its oversight of the bonding of dealers and agents here in Kentucky.

Responding to questions from Robert Siddens, President, Barren County Cattlemen's Association, Dr. Stout stated that in his opinion, bankruptcy laws would have to be changed in order to allow bonds to go to farmers. If, through legislation, buying stations were defined and bonds required of them separately, then Kentucky might be able to direct to whom a bond would be payable. The dealer bond is designed to protect livestock markets and the producer who trades cattle. The stockyard bond is to protect the producer so that the producer gets paid for cattle brought to the stockyard.

Gary Bell, producer, told the members that he sold cattle in Edmonton on the afternoon of November 2, 2010. In his situation, there was a direct exchange of goods for a check that was worthless, resulting in an act of theft by deception. He wondered how a bank could have a superior lien on cattle that were received through an act of theft by deception. He also stated that he talked to the bankruptcy trustee, and Mr. Bell was under the impression that the Judge had ruled that the bond would be paid outside of the bankruptcy. Mr. Bell felt that farmers who received bad checks in exchange for cattle are the victims in this case, and they should be entitled to the bankruptcy assets.

Sen. Givens explained that he filed a bill in the 2011 Session, Senate Bill 94, that tried to specifically protect the farmer's ownership interest in the livestock until the farmer received cash proceeds for the livestock.

In conclusion, Mr. Bell asked the committee to look into the money seized by the FBI and to ask the Attorney General to see what information he can obtain.

Update on 2011 Senate Bill 94 (Agricultural Livestock Lien)

Senator Givens stated that Senate Bill 94, which did not pass, attempted to give livestock producers a better security interest in livestock that are sold to stockyards or buying stations. He said that Oklahoma recently passed legislation specifically in response to the Eastern Livestock bankruptcy with the purpose of protecting the rights of Oklahoma livestock owners by granting a statutory lien on any livestock sold. The lien is attached to the livestock, and if the livestock are sold to another party, the lien is attached to the proceeds. The lien is in force until the original livestock owner receives payment for the livestock. Sen. Givens stated that in the 2012 legislative session he would like to reintroduce the bill after any concerns about the bill have been addressed.

Discussion on Dead Animal Disposal

Mr. Steven Coleman, Director, Division of Conservation, explained the division's role regarding dead animal disposal. Mr. Coleman stated that tobacco settlement funds have been utilized in the soil erosion water quality cost share program to assist landowners with dead animal disposal. Fifty-seven counties were approved (approximately $500,000) for some type of community-wide pickup and disposal of fallen animals in their communities. In addition, the division provides a specific cost-share practice to landowners to compost fallen animals on their property. Mr. Coleman said that 37 of 97 requests for on-farm composting have been approved.

Responding to questions, Mr. Coleman stated that farmers interested in dead animal disposal options can contact his office, the local Natural Resources Conservation Service, the local district conservation board, or the Kentucky Department of Agriculture. Mr. Coleman mentioned that much of the funding from the Environmental Stewardship Program comes from tobacco settlement funds and the Department of Agriculture. Without the state cost-share program established by the General Assembly, his agency would not have been able to leverage other federal dollars. The Conservation Districts are pursuing more federal funds dedicated to helping with regional demonstrations of composting technology for the disposal of fallen animals.

Mr. Coleman explained that there are 121 conservations districts throughout the state which are governed by seven locally-elected members in each district. The members administer the programs in their districts and receive and rank applications based on criteria developed by the General Assembly, with water quality ranking high on the criteria list. Mr. Coleman stated that local communities should work together to decide the best approach to dealing with fallen animals and disposal, and that regional efforts could be the most efficient manner to deal with the issue.

Next, Dr. Stout explained the laws and administrative regulations relating to dead animal disposal. It is the owner's responsibility to dispose of a dead animal within 48 hours of the owner's knowledge of the death by burying, incinerating, rendering, composting, or other approved method of disposal. He informed the members that the University of Kentucky Cooperative Extension Service recently did a Fallen Animal survey of all 120 Kentucky counties. The survey gives an overview of the costs of pick up services, on-farm composting, and other options being considered for fallen animals.

Dr. Stout stated that there are 35 licensed renderers in Kentucky offering a variety of services, including pickup and processing, though not all offer the same services. He said that Kentucky Farm Bureau has appointed a task force to look at the issue of dead animal disposal. Dr. Stout feels that composting has a lot of potential and has generated a lot of interest from farmers.

Responding to questions, Dr. Stout said that his employees have encountered very few problems when inspecting renderers. Most of the complaints his office receives involves dead animal removal. Very few violations have been written because the department tries to work with the producer to remedy the situation by getting the producer into compliance rather than penalizing.

The license application for composting involves an inspection and education process and a fee of $25 per year for the license. The process also involves the verification of a water quality plan. Dr. Stout stated that several farmers are composting, especially in the poultry industry.

Dr. Steve Webb, local veterinarian, asked if it was better to spend money for individual farms to have a composting site or to spend money on regional or county-wide composting sites. Dr. Stout responded that for dead animal disposal to be successful, two things were necessary: it had to be inexpensive and convenient. Currently, the regulations regarding composting are the same for everyone, whether it is an individual farm or multiple farms taking all their animals to one place. He said that is one of the issues that the Farm Bureau Task Force is looking at.

Dr. Webb stated that producers in the Glasgow region are concerned about water quality due to the region being prone to caverns and sinkholes. Mr. Coleman stated that they are aware of the various soils in the state and that best management practices are always taken into consideration.

Dr. Stout stated that his office does have concerns about its ability to monitor a large number of producers who might decide to compost on their individual farms. He also said that the $25 yearly licensing fee was being looked at.

David Beck, Executive Vice President, and Fritz Giesecke, 2nd Vice President, Kentucky Farm Bureau, gave a brief overview of the purpose of the dead animal disposal task force that was formed. They told the members that they would be reporting back to the committee with recommendations.

Proposed Congressional Action on Tobacco

Representative Ryan Quarles discussed the actions of United States Representative Linda Sanchez. Representative Sanchez has proposed to exclude tobacco from the Trans-Pacific Partnership free trade negotiations. If that were to happen, Kentucky farm families would suffer and so would the state's economy. He recommended that a letter from the IJC on Agriculture be sent to Kentucky's Congressional Delegation, opposing Representative Sanchez's proposal.

A letter to Kentucky's Congressional Delegates from the IJC on Agriculture, opposing Representative Linda Sanchez's proposal, was approved without objection upon a motion made by Representative Cherry and seconded by Representative Henderson.

There being no further business, the meeting was adjourned, followed by a short tour of the stockyard facility.

Interim Joint Committee on Appropriations and Revenue

Minutes of the 2nd Meeting of the 2011 Interim

July 28, 2011

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 28, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Walter Blevins Jr., Joe Bowen, Tom Buford, Jared Carpenter, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Paul Hornback, Ray S. Jones II, Alice Forgy Kerr, Vernie McGaha, Gerald A. Neal, R.J. Palmer II, Joey Pendleton, Brandon Smith, Jack Westwood, and Mike Wilson; Representatives Royce W. Adams, John A. Arnold Jr., Dwight D. Butler, John "Bam" Carney, James R. Comer Jr., Jesse Crenshaw, Ron Crimm, Mike Denham, Kelly Flood, Danny Ford, Derrick Graham, Keith Hall, Jimmie Lee, Reginald Meeks, Lonnie Napier, Fred Nesler, Sannie Overly, Marie Rader, Sal Santoro, Arnold Simpson, Tommy Turner, Jim Wayne, Alecia Webb-Edgington, Susan Westrom, and Brent Yonts.

Guests: Ms. Mary Lassiter, Secretary of the Governor's Executive Cabinet and State Budget Director; Mr. John Hicks, Deputy State Budget Director; Mr. Kevin Cardwell, Deputy State Budget Director; Mr. Greg Harkenrider, Deputy Executive Director, Governor's Office of Economic Analysis; Ms. Janie Miller, Secretary of the Cabinet for Health and Family Services; Mr. Neville Wise, Acting Commissioner for the Department of Medicaid Services; and Mr. Don Speer, Executive Director of the Office of Procurement Services, Finance and Administration Cabinet.

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

Representative Lee moved for the approval of the minutes as written. The motion was seconded by Senator Bowen. The motion carried by voice vote.

Fiscal Year 2011 Year-End Financial Report

Secretary Mary Lassiter provided the committee with an overview of the Fiscal Year 2011 (FY 11) year-end totals for the General Fund and Road Fund. She updated the committee regarding incoming Tobacco Settlement funds and American Recovery and Reinvestment Act (ARRA) expenditures for FY 11. General Fund revenues increased by 6.5 percent for the year. There was growth in all of the major taxes, with 3.7 percent in sales tax, 8.3 percent in individual income tax, 26 percent in corporate income tax, and 47.8 percent in the limited liability entity tax.

Secretary Lassiter discussed historic revenue growth rates, stating that the FY 11 General Fund revenues and growth have surpassed pre-recession FY 08 levels. The receipts exceeded the official FY 11 estimate by $166.1 million. After deduction for dedicated severance tax appropriations and adding in unbudgeted lapses, the total General Fund surplus is $156.8 million. In accordance with the HB 1 surplus expenditure plan, $35 million will be allotted to FY 12 necessary government expenses, and $121.8 million to the Budget Reserve Trust Fund.

Secretary Lassiter then discussed FY 11 necessary government expenses (NGE). The total NGE for FY 11 was $29.8 million, and that the FY 10 General Fund Surplus to cover the FY 11 NGE was $29.7 million. She provided some recent historical NGE amounts and gave a historical overview of the Budget Reserve Trust Fund, and stated that the $121.8 million deposit into the fund is the largest since its inception. The fund has been used to buffer the impact of revenue shortfalls.

The secretary discussed executive branch FY 11 budget balancing measures. The FY 11 budget required a total of $193 million in reduced spending, which was divided between $62 million in enacted appropriation reductions and a $131 million budgeted gap. The measures mainly consisted of debt restructuring, operation cost reductions, state employee furloughs, non-merit personnel reductions, and asset sales and rebates. Additional measures included reduced contract spending, improved fleet management, reduced state leases, and reduced phone and information technology costs. She provided additional information on contract reductions, stating that $22 million of the reductions were accomplished with contract renegotiations. She outlined the reduction of 105 non-merit employee positions, and provided more detail of additional efficiency measures including the sale of assets and energy management in state-owned buildings.

Secretary Lassiter briefly discussed FY 12 budget balancing plans, stating that most agencies have a 6 percent reduction from FY 10 appropriations levels and a budgeted gap for FY 12 of $189.9 million. The revenue outlook for FY 12 is improving, and FY 12 furlough plans have been halted.

Secretary Lassiter provided the committee with an update of the FY

11 Road Fund revenues. The Road Fund increased by 11 percent in FY 11, primarily through increases in the motor fuels tax and motor vehicle usages tax receipts. Revenues exceeded the projected estimate by $73 million. The Road Fund finished FY 11 with a surplus of $67.5 million, with all surplus funds deposited into the State Construction Account.

Secretary Lassiter discussed Tobacco Settlement Fund receipts for FY 11. The receipts were 10.3 percent less than budgeted so proportionate reductions were made in the Rural Development Fund, and areas of early childhood development and health care improvements.

Secretary Lassiter provided an update regarding the American Recovery and Reinvestment Act (ARRA) expenditures for FY 11. Kentucky was awarded $3.5 billion, which includes funds that are distributed through state government. The total is comprised of 2,645 individual grants, 47 loans, and 916 federal contracts. Approximately $3 billion of the total was channeled through state government by formula, match, or competitive award. To date, 92 percent of the funds have been expended. She gave a brief accounting of the areas where ARRA funds have been distributed.

In response to a question from Chairman Leeper, Secretary Lassiter discussed the meaning of debt restructuring, stating that the goal is to try to achieve debt service savings with no extension in the term or change in principle amount, by restructuring the debt. Payments would be eliminated or significantly reduced during the current period to achieve budgetary relief. The principle is then spread over the remaining term of the debt. Restructuring does not add additional years to the term of the debt. Also, Secretary Lassiter stated that of the budget balancing measures taken, the reduction of non-merit employees and operational cost reduction will be recurring savings.

In response to a question from Senator Higdon, Secretary Lassiter stated that the state has received $72 million from the federal Early Retiree Reinsurance Program and the funds may only be spent to offset cost increases in state employee health insurance plans.

In response to a question from Senator Westwood, Mr. Hicks stated that the full appropriation for SEEK was expended. The difficulty was that at the end of the FY 11 school year once student attendance was compiled there were some school districts which had not received all the funds the SEEK formula would generate for that district. The same situation will occur for the FY 12 school year.

In response to a question from Senator Kerr, Secretary Lassiter stated that around $900 million has been borrowed from the Unemployment Insurance Fund. She stated that the interest payment is around $28 million and is due at the end of September 2011.

In response to a question from Senator Buford, Secretary Lassiter stated that all state contracts, including master agreements, are subject to open records laws.

In response to a question from Representative Rand, Secretary Lassiter replied that there was a 3.7 percent revenue increase in the sales tax, which represents healthy growth for FY 11. The total revenues did not meet anticipated levels, but there was positive upward growth in the tax. Secretary Lassiter stated that if the federal government does not increase the debt limit and shuts down, agencies which receive federal money would be evaluated on a case-by-case basis and state assistance would be given within these programs as available.

Medicaid Managed Care Contracts

Ms. Janie Miller, Secretary of the Cabinet for Health and Family services provided the committee with an update regarding the recently awarded Medicaid managed care contracts. Secretary Miller gave an overview of the history of the Medicaid managed care contracts, and discussed the budgeted shortfall and assumed program management savings for FY 12, which total $177 million. She discussed the cost containment measures implemented July 1 of FY 11, and stated that these would continue into FY 12 to cover the $97.3 million budgeted shortfall. Cost savings anticipated through the managed care contracts for FY 11 is $83.2 million. Additional cost savings of $10.5 million will be realized from Passport contract savings, and $2.4 million from long-term care cost containments. The total funds saved in FY 12 are $97.5, leaving a remainder of $200,000. This will allow the FY 12 Medicaid budget to balance.

Secretary Miller discussed the managed care organizations (MCO) who were awarded contracts. These were Coventry Cares of Kentucky, Kentucky Spirit Health Plan, and WellCare of Kentucky, servicing all regions of the state. The organizations will provide selected Medicaid covered benefits for selected recipients for a fixed per member per month price. The contracts are for a three year term, effective from July 6, 2011 through June 30, 2014. Services will begin starting October 1, 2011, reaching approximately 560,000 recipients throughout the state. The services exclude recipients in long term care waivers and nursing homes. The contracts will reduce expenditures and create an infrastructure to improve healthcare outcomes and quality of care.

Secretary Miller discussed the patient protection provisions included in the MCO contracts. The provisions include a grievance and appeals process, direct state fair hearings, robust reporting requirements, quality assessment and performance improvement programs, and an external quality review organization. Other contract provisions include a termination by the Commonwealth for convenience clause; provisions for termination of the contract for non-performance or non-reporting, financial disclosures regarding key management, caps administrative costs at 10 percent, and that MCOs must comply with open records and open meeting laws.

Secretary Miller provided estimates of MCO savings for the term of the contract. The estimated savings for FY 12 is $289.3 million, FY 13 is $464.1 million, and FY 14 is $552.5 million. The total estimated savings for the term of the MCO contract is $1.3 billion. She gave historical data regarding per member per month costs for FY 03 through FY 10. She provided projected costs for FY 11 through FY 14, and contrasted this projected cost with the lower contracted MCO rates for the same period. She also provided historical and projected data regarding numbers of MCO eligible population in the seven regions, and discussed projected growth rates within the regions.

Finally, Secretary Miller discussed the oversight of the MCOs which will be provided by the cabinet. An administrative unit has been established, staffed with individuals with health plan experience and technical skills. The unit will provide statutory accounting and financial analysis, contract monitoring, auditing and accounting, data analysis, and assess quality of care.

In response to a question from Senator Buford, Mr. Speer stated that the contracts are master agreements, which allows for a longer contract term than a standard government contract. The term "master agreement" is a term given to contracts that are longer than the normal two year governmental contract. These agreements can be for commodities or services provided to the Commonwealth.

In response to a question from Chairman Leeper, Secretary Miller stated that 7 companies responded to the RFP, with one being domiciled in Kentucky. There has been one protest to the contract awards, which was denied. The statutory deadline is within two weeks from the date the reasons for the denial were known to the company.

In response to a question from Senator McGaha, Mr. Speer replied that Passport has a one year contract. Secretary Miller discussed the reason for the contract only having a one year term and the negotiations carried out for the region three contract.

In response to questions from Senator Bowen and Senator Higdon, Secretary Miller stated that the additional cabinet staff is necessary to achieve quality Medicaid care and maximize cost savings. She stated that some cabinet reorganization will likely occur during implementation. Mr. Speer stated that the additional staff will oversee all MCOs and the Passport program. Secretary Miller stated that the cabinet, and not the MCOs, will determine eligibility.

In response to a question from Senator Buford, Secretary Miller replied that the MCOs must maintain the contracted rates for services for the three year term of the contract.

In response to a question from Senator Harris, Secretary Miller stated that eligibles will have two different chances to change MCO after initial enrollment. Mr. Speer discussed the Medicaid claims processing system currently used by the cabinet.

In response to a question from Chairman Leeper, Secretary Miller replied that the MCO contracts do not allow the same termination for convenience that was allowed the cabinet in the contracts. The MCOs cannot withdraw service and leave the state if they desire until the term is fulfilled. The only way the contract can be ended is if the MCO defaults or if the cabinet terminates the contract for non-performance.

In response to questions from Senator Buford, Secretary Miller and Mr. Wise discussed the clawback process and monies received by the cabinet due to clawback repayments. Providers who the cabinet is pursuing for clawback can provide the Department for Medicaid Services with documentation supporting their position, and if the outcome is not satisfactory, the provider may take the decision before an administrative appeals hearing.

Being no further business, the meeting was adjourned at 5:17 p.m.

Interim Joint Committee on Appropriations and Revenue

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

Minutes of the 1st Meeting of the 2011 Interim

July 28, 2011

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint

Committee on Appropriations and Revenue was held on Thursday, July 28, 2011, at 10:30 AM, in Room 129 of the Capitol Annex. Representative John A. Arnold Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative John A. Arnold Jr., Co-Chair; Senator Ray S. Jones II, Representatives Leslie Combs, Terry Mills, Lonnie Napier, Tanya Pullin, Marie Rader, Rick Rand, Fitz Steele, and Susan Westrom.

Guests: Senator Joe Bowen, Representative Brent Yonts, Representative Tommy Thompson, Mr. Dudley Cotton, House Majority Leadership Staff; Ms. Mary Bryan Hood, Director, Owensboro Museum of Fine Art and Mr. Dean Stanley, Chairman, Owensboro Museum of Fine Art.

LRC Staff: Kelly Dudley, Perry Papka, and Christina Williams.

Overview and Budgetary Request of Owensboro Museum of Fine Art

Chairman Arnold welcomed members and guests to the meeting and recognized special guests Senator Joe Bowen, Representative Brent Yonts, House Majority Whip Representative Tommy Thompson, and Appropriations and Revenue Co-Chair Representative Rick Rand to the meeting.

Ms. Hood and Mr. Stanley gave a brief presentation informing the committee on the Museum and possible expansion plans. The Museum has the potential to offer even greater educational opportunities to the people of western Kentucky, and the opportunities are even more important in light of the recent financial challenges faced by regional school systems. The Museum's experience in planning and implementing creative educational programs will benefit the region and state similar to the way the Kentucky Historical Society does with its state-assisted programs. Mr. Stanley noted that eastern Kentucky is represented through the Prestonsburg Mountain Arts Center and the Kentucky Artisan's Center in Berea and a Western Kentucky Center for the Visual Arts could serve the same purpose for western Kentucky. The vision was recently shared with the local legislative team as well the Governor's Office. Mr. Stanley requested on behalf of the Owensboro Museum of Fine Art that the legislature include funding for the museum as a line item in the state's next biennium budget for $500,000 in each year of the 2012-2014 fiscal biennium to support the program expansion efforts while developing the regional center.

In response to a question asked by Representative Napier, Chairman Stanley stated that there are approximately 70,000 visitors each year and of that amount approximately 20 percent are tourists.

In response to a follow up question, Ms. Hood stated that information is given out to participants about other attractions within Kentucky that are geared towards the arts.

Representative Napier suggested the Museum should pay tribute or celebrate Bill Monroe who was the founding father of bluegrass music and the writer of the famous bluegrass song "Blue Moon of Kentucky." Ms. Hood stated the Museum plans to celebrate Mr. Monroe's 100 Birthday with programs such as Bluegrass Splash and Bluegrass Roots. Both celebrations will have emphasis on Bill Monroe and Bluegrass music.

In response to a suggestion made by Representative Pullin, Ms. Hood stated that the suggestion to have the Owensboro Museum of Fine Art get involved with the Governor's School for the Arts program was a wonderful idea and that she would follow up with Representative Thompson on the suggestion.

In response to a question asked by Appropriations and Revenue Co-Chairman, Representative Rand, Ms. Hood stated the Museum's plans to develop the Owensboro Museum of Fine Art into a Western Kentucky Center for the Visual Arts is not only an expansion of buildings but an expansion of programs as well. Programs such as "County Days," where one county in the state of Kentucky is highlighted each day, is a program she would like to see expanded.

In response to a follow up question asked by Representative Rand, Ms. Hood stated that the Museum's annual budget is approximately $800,000.

Senator Bowen stated sometimes things need to be salvaged and he believed it was time for the people of Western Kentucky and their arts programs to be saved.

In response to a question asked by Representative Yonts, Director Hood stated the Museum is privately owned and admission is free and is open to all. When asked if the Museum is a not-for-profit organization, Ms. Hood stated that was correct.

In response to a follow up question asked by Representative Yonts, Mr. Stanley stated that grant operating support for the Museum from the Arts Council has been reduced and is approximately $30,000 annually. Other support is provided by the city, county, private funds, and donations.

Representative Napier suggested also paying tribute to Dottie Rambo, an American Gospel singer and songwriter born in Madisonville, Kentucky.

In an unrelated request, Representative Pullin asked for LRC Staff to research restoring habitat for quail.

Chairman Arnold thanked all in attendance and adjourned the meeting at 11:25 A.M.

Interim Joint Committee on Appropriations and Revenue

Budget Review Subcommittee on Postsecondary Education
Minutes of the 2nd Meeting of the 2011 Interim

July 28, 2011

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 28, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Arnold Simpson, Co-Chair; Senators Gerald A. Neal, and Ken Winters; Representatives Julie Raque Adams, Jim DeCesare, Kelly Flood, Jim Glenn, Melvin B. Henley, Reginald Meeks, Jody Richards, Carl Rollins II, Kevin Sinnette, and Rita Smart.

Guests: Hiren Desai, Associate Commissioner, Office of Administration and Support, Kentucky Department of Education, John Oualline, Parson Commercial Technology Group, Inc., Ed Humble, MGT of America and Charlie Harman, Director, Division of Budget and Financial Management, Kentucky Department of Education.

LRC Staff: Greg Rush, Tom Willis, Linda Ellis, and Amie Elam

Chairman Carpenter requested a motion to approve the minutes of the June 28, 2011 meeting. A motion was made and the minutes were approved without objection.

Status Report on Review of Classification of Primary and Secondary School Buildings

In response to a question asked by Representative Stacy, Mr. Oualline stated that the 75/20/5 split in the weights of suitability versus condition is a recommendation from Parsons. He stated that in Parson's experience the splits are a good breaking point between things that are strictly suitable compared with the condition cost.

Representative Stacy stated that age of the building has been used for two decades as the number one component of assessing the condition of a school. Mr. Desai stated that age is included in this formula under the condition category.

In response to a question asked by Representative Stacy, Mr. Oualline answered that LRC staff would be provided the information from the study in electronic form. Mr. Desai added that KDE wants to provide the General Assembly with all data but, in keeping with the goal of the project, it is important to keep the information fair and objective.

In response to a question from Representative Glenn, Mr. Oualline answered that over 65 different building systems are looked at when evaluating a school. There is a standard used called uniformat. Mr. Oualline added that this is a recognized approach for categorizing and prioritizing costs for each evaluating systems.

In response to a question from Representative Carney, Mr. Humble answered that the data that would allow him to compare Kentucky to other states, are far as condition and suitability, is not yet available. Mr. Humble stated that Kentucky is among the best as far as technology readiness. Mr. Oualline added that Kentucky schools are in slightly worse shape than most states.

Representative Henley stated that the Commonwealth may be making a mistake by not adding the energy and sustainability factor to the assessment. Representative Henley added that a school could hire a company to install energy efficient lights at no cost and then over time pay the company back with the savings.

Representative DeCesare stated that no one should be encouraging the department to weight the categories any differently as it defeats the purpose of getting a third party, non-partisan report.

In response to a question from Representative Miller, Mr. Desai answered that the reports will be able to review by school or by district.

In response to a question from Representative Meeks, Mr. Oualline answered that the report would not discuss the funding capability or source of funds at the district level. Representative Meeks asked that the separate report discussing funding capability be sent to the committee.

In response to a question from Representative Carney, Mr. Desai answered that districts will continue to do district facility plans.

In response to a question from Representative Adkins, Mr. Oualline answered that the final report will be available by November 30th. Mr. Oualline added that the majority of the evaluators are from out of state.

In response to a question from Representative Stacy, Mr. Desai said that he agreed that a category 5 school building under the old system will almost always be a category 5 building under the new system, if the first assessment was done fairly and objectively.

Summary/Comparison of State Grant Allocations- FY11 and FY12

In response to a question from Representative Carney, Mr. Desai stated that the allocations are formula driven. Mr. Desai also stated that the department is more than willing to walk each legislator through the individual district allocations should they wish to do so.

There being no further business before the subcommittee, the meeting was adjourned at 11:54 a.m.

Interim Joint Committee on Appropriations and Revenue

Budget Review Subcommittee on Primary and Secondary Education
Minutes of the 2nd Meeting
of the 2011 Interim
July 28, 2011

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 28, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Gerald A. Neal, and Ken Winters; and Representatives John "Bam" Carney, Will Coursey, Ted Edmonds, Dennis Horlander, Charles Miller, Carl Rollins II, and John Will Stacy.

Guests: Hiren Desai, Associate Commissioner, Office of Administration and Support, Kentucky Department of Education, John Oualline, Parson Commercial Technology Group, Inc., Ed Humble, MGT of America and Charlie Harman, Director, Division of Budget and Financial Management, Kentucky Department of Education.

LRC Staff: Greg Rush, Tom Willis, Linda Ellis, and Amie Elam.

Chairman Carpenter requested a motion to approve the minutes of the June 28, 2011 meeting. A motion was made and the minutes were approved without objection.

Status Report on Review of Classification of Primary and Secondary School Buildings

In response to a question asked by Representative Stacy, Mr. Oualline stated that the 75/20/5 split in the weights of suitability versus condition is a recommendation from Parsons. He stated that in Parson's experience the splits are a good breaking point between things that are strictly suitable compared with the condition cost.

Representative Stacy stated that age of the building has been used for two decades as the number one component of assessing the condition of a school. Mr. Desai stated that age is included in this formula under the condition category.

In response to a question asked by Representative Stacy, Mr. Oualline answered that LRC staff would be provided the information from the study in electronic form. Mr. Desai added that KDE wants to provide the General Assembly with all data but, in keeping with the goal of the project, it is important to keep the information fair and objective.

In response to a question from Representative Glenn, Mr. Oualline answered that over 65 different building systems are looked at when evaluating a school. There is a standard used called uniformat. Mr. Oualline added that this is a recognized approach for categorizing and prioritizing costs for each evaluating systems.

In response to a question from Representative Carney, Mr. Humble answered that the data that would allow him to compare Kentucky to other states, are far as condition and suitability, is not yet available. Mr. Humble stated that Kentucky is among the best as far as technology readiness. Mr. Oualline added that Kentucky schools are in slightly worse shape than most states.

Representative Henley stated that the Commonwealth may be making a mistake by not adding the energy and sustainability factor to the assessment. Representative Henley added that a school could hire a company to install energy efficient lights at no cost and then over time pay the company back with the savings.

Representative DeCesare stated that no one should be encouraging the department to weight the categories any differently as it defeats the purpose of getting a third party, non-partisan report.

In response to a question from Representative Miller, Mr. Desai answered that the reports will be able to review by school or by district.

In response to a question from Representative Meeks, Mr. Oualline answered that the report would not discuss the funding capability or source of funds at the district level. Representative Meeks asked that the separate report discussing funding capability be sent to the committee.

In response to a question from Representative Carney, Mr. Desai answered that districts will continue to do district facility plans.

In response to a question from Representative Adkins, Mr. Oualline answered that the final report will be available by November 30th. Mr. Oualline added that the majority of the evaluators are from out of state.

In response to a question from Representative Stacy, Mr. Desai said that he agreed that a category 5 school building under the old system will almost always be a category 5 building under the new system, if the first assessment was done fairly and objectively.

Summary/Comparison of State Grant Allocations- FY11 and FY12

In response to a question from Representative Carney, Mr. Desai stated that the allocations are formula driven. Mr. Desai also stated that the department is more than willing to walk each legislator through the individual district allocations should they wish to do so.

There being no further business before the subcommittee, the meeting was adjourned at 11:54 a.m.

Interim Joint Committee on Appropriations and Revenue

Budget Review Subcommittee on Transportation
Minutes of the 2nd Meeting
of the 2011 Interim
July 28, 2011

Call to Order and Roll Call

The second meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 28, 2011, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sannie Overly, Co-Chair; Senator Ray S. Jones II; Representatives Hubert Collins, Tim Couch, Danny Ford, Jim Gooch Jr., Richard Henderson, Dennis Keene, Fred Nesler, John Short, and Jim Stewart III.

Guests: Senators Carroll Gibson and David Givens; Representatives Jimmie Lee and Michael Meredith; Terry Martin, Hart County Judge-Executive; Mike Hancock, Secretary, and Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet.

LRC Staff: Stewart Willis, Stephanie Craycraft, and Spring Emerson.

Chairman Higdon requested a motion to approve the minutes of the last meeting. A motion was made by Representative Short, seconded by Representative Keene, and the minutes were approved without objection.

Safer 65 Initiative

Senator Gibson provided a brief overview of the safety issues on a section of I-65 in Hart, Hardin, and Larue counties, as well as a portion of Barren County. Chairman Higdon suggested that a reciprocity agreement with Tennessee should be in place before any work is performed on I-65. Senator Gibson requested that a subcommittee be formed to research the best ways to suggest solutions for safety issues.

Representative Michael Meredith provided a presentation regarding tragic highway statistics, including fatalities that have occurred on this particular section of highway.

Hart County Judge-Executive Terry Martin discussed local concerns relating to safety issues on I-65.

In response to a question from Representative Collins, Mr. Martin said he did not have traffic counts for that section of highway. In response to a question from Representative Collins, Representative Meredith said the average speed in that area is higher than the posted speed limit of 70 miles per hour. Representative Collins asked if tolls had been considered. Representative Meredith replied that had not been discussed as an option. Mr. Martin commented that if tolls were used, most of the money would come from out-of-state travelers.

In response to a question from Representative Henderson, Senator Gibson said the proposed subcommittee would consider other projects throughout Kentucky.

Representative Ford asked if this part of I-65 had ever been included in the Six-Year Road Plan. Representative Meredith replied that some sections of the highway had been but the bulk of the project had not.

Representative Overly thanked the legislators from western Kentucky for coming to the meeting and commented that Kentucky has more needs than resources. Chairman Higdon agreed, stating that it is a pressing issue and there are many demands but few dollars.

Secretary Hancock commented that safety issues in the corridor had been addressed by putting barrier walls and cable guard rails along the entire stretch until the road widening project could be completed.

Representative Lee thanked the Chairman for allowing him to participate in the meeting. In response to a question from Representative Lee, Secretary Hancock said the cabinet is anticipating that the federal government may give states tools to consider tolling.

Federal Transportation Funding Update

Mike Hancock, Secretary, Transportation Cabinet, provided a brief overview of federal transportation funding.

In response to an inquiry from Representative Couch, Secretary Hancock said the cabinet will provide information at a later date relating to the amount of federal gas tax collected in Kentucky. Representative Couch asked what amount of federal funding is received back. Secretary Hancock replied that the rate is between 85 and 92 percent.

In response to a question from Representative Couch, Ms. Branham said the amount of state gasoline tax collected in fiscal year 2011 was $732 million. She added that the state gas tax collection rate was 19.5 cents per gallon for nearly the full fiscal year 2011, and the federal gasoline tax rate is 18.4 cents.

Representative Collins expressed his opinion that SAFETEA-LU had originally been very lenient with the use of their funds, but that had changed some over the years. Secretary Hancock said both the U.S. House and U.S. Senate are considering reforms for federal transportation programs and are interested in consolidating the sheer number of federal programs, but not necessarily canceling programs.

Federal Debt Service Obligations

Ms. Branham provided a brief overview of Grant Anticipation Revenue Vehicle (GARVEE) bonds and federal debt service obligations.

In response to a question from Representative Couch regarding the status of I-75 south of Berea, Secretary Hancock replied it is moving at a pace that will ultimately see the entire road as a six-lane down to Corbin. He said the cabinet has been unable to pursue that in full fashion due to limitations on funding; however, an attempt has been made to work on those sections that present the greatest issues first.

In response to an inquiry from Chairman Higdon regarding usage fees for electric cars, Secretary Hancock said that discussion is ongoing at various levels.

There being no further business before the subcommittee, the meeting was adjourned at 11:37 AM.

Interim Joint Committee on Economic Development and Tourism

Minutes of the 2nd Meeting
of the 2011 Interim
July 21, 2011

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, July 21, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Jared Carpenter, Ernie Harris, and Jack Westwood; Representatives Julie Raque Adams, Royce W. Adams, Linda Belcher, John "Bam" Carney, Larry Clark, Mike Denham, Bob M. DeWeese, Myron Dossett, Ted Edmonds, Kelly Flood, Jim Gooch Jr., Mike Harmon, Dennis Horlander, Wade Hurt, Dennis Keene, Thomas Kerr, Kim King, Martha Jane King, Donna Mayfield, Terry Mills, Fred Nesler, John Short, Fitz Steele, Wilson Stone, Addia Wuchner, and Jill York.

Guests: Marchetta Sparrow, Secretary and Gerry van der Meer, Commissioner, Department of Parks, Tourism, Arts and Heritage Cabinet; Peter Ervin, Office of Legal Services, Kentucky Public Protection Cabinet; Tracy King Sharp, Consultant, Boyette Strategic Advisors; Mandy Lambert, Executive Director, Office of Research and Public Affairs and Holland Spade, Executive Director, Office of Legal Services, Kentucky Cabinet for Economic Development.

LRC Staff: John Buckner, Louis DiBiase, Karen Armstrong-Cummings, and Dawn Johnson.

Minutes

A motion and second by Representatives Nesler and Flood to approve the minutes of the June 16 meeting carried by voice vote.

Alcohol Sales in Selected State Parks

Marchetta Sparrow, Secretary of the Tourism, Arts and Heritage Cabinet, said alcoholic beverage sales at selected state parks has been explored during prior legislative sessions. A study of the state park system commissioned by the cabinet in 2009, which was the most extensive in its 85 year history, resulted in a detailed financial and strategic plan. A key recommendation was the sale of liquor by the drink at selected state parks. Secretary Sparrow stated that peer park systems have demonstrated that liquor sales by the drink have dramatically increased meeting and special event bookings, overall park attendance, and golf operations. She said that given the state's current financial situation, it is the cabinet's duty to explore all avenues to keep facilities running, employees working, and increasing the park system's bottom line. Other states, including Ohio, West Virginia, Tennessee, Georgia, and Arkansas, offer this amenity as do national park lodges, including Mammoth Cave Hotel.

Secretary Sparrow said this spring the Department of Parks applied for alcoholic beverage licenses for the five parks located in areas where the sale of alcohol is allowed: Jenny Wylie State Resort Park, Prestonsburg; General Butler State Resort Park, Carrollton; Lake Barkley State Resort Park, Cadiz; John James Audubon Park Golf Course, Henderson; and My Old Kentucky Home Golf Course, Bardstown. Secretary Sparrow said the agency believes these parks can offer alcoholic beverages responsibly while retaining their family-friendly atmosphere. Parks will not have bars or cocktail lounges and age restrictions will be strictly enforced. She noted that many customers have requested this amenity and there were no negative citizen comments during the 30 day public comment period. The cabinet will not pursue beverage sales for parks in "dry" areas.

Peter Ervin, General Counsel of the Public Protection Cabinet, said initially the parks' authority to sell alcohol was questioned. After reviewing Kentucky statutes, regulations, and the constitution, it was determined that there is no prohibition on the sale of alcoholic beverages at state parks nor prohibitions for an appropriately licensed state agency to make the sale itself. There is a long history involving the sale of alcoholic beverages by state entities on state grounds, beginning with the Kentucky Fair and Exposition Center. For decades it has held a license and engaged in the sale of alcoholic beverages by the drink. Many of Kentucky's cities and municipalities have held alcoholic beverage licenses. Mr. Ervin noted that the Kentucky Horse Park has obtained a license and is selling alcoholic beverages through catering and the park's restaurant during events at the park. Recently, legislation has been introduced to allow special local option elections for state park facilities in dry areas of the state based on current local. There is neither a prohibition nor special permission required to license parks in these areas. Absent this, the parks would apply like any entity to receive a license and engage in the sale of alcoholic beverages.

Gerry van der Meer, Commissioner, Department of Parks, discussed how the parks would responsibly serve alcoholic beverages. All park employees serving alcoholic beverages are required to complete the STAR licensing program (Server Training in Alcohol Regulations), which is sponsored by the Kentucky Department of Alcoholic Beverage Control. The program provides information and testing on serving alcohol, state liquor laws, and the proper method to check customer identification. Over 95 employees have completed training. Security of alcoholic beverages on premises is being addressed as well. Park rangers will work with local law enforcement to enforce the law. Guests at restaurants who do not order food will be limited to two drinks. Mr. van der Meer emphasized that parks will not become local bars.

Representative Clark expressed his support for the five participating parks. Responding to his question, Secretary Sparrow said no other parks beyond the initial five are currently eligible to offer alcoholic beverage sales.

In response to Chair Kerr's question, Mr. van der Meer said to qualify for STAR training a person must be at least 20 year old. Parks policy is to train an employee within 30 days.

Addressing Representative Gooch's question on liability issues, Commissioner van der Meer said the Department of Parks has purchased liability insurance for the protection of state employees who are open to negligence claims and for any negligence claim against a park itself.

Responding to Senator Harris' question, Commissioner van der Meer said parks will serve beer, wine, and spirits. He noted that the focus is increasing restaurant sales and overnight accommodations.

Responding to Chair Kerr's question, Secretary Sparrow said the cabinet will work closely with the Kentucky Distillery Association as well as the Grape and Wine Council on special promotions and marketing. Commissioner van der Meer added that they are looking to rotate different bourbons at state parks. Secretary Sparrow noted that regional wines will be featured at local parks.

Responding to Representative Julie Adams' question, Secretary Sparrow said there are currently no monetary projections but locally businesses reflect an eight to 25 percent increase depending on location after the introduction of liquor sales. The cabinet anticipates having accurate projections in a year's time. Any additional funds generated by sales go into the restricted state park fund—not to specific parks. She noted specific parks may see an economic impact through increased hiring.

Reverend Lee Watts, Chaplain Ministry, expressed concern about the sale of alcoholic beverages in state parks. He said the state's decision to offer alcoholic beverages in state parks is scripturally, constitutionally, and economically unsound. Biblically, it is wrong to consume alcohol. He said the 10th Amendment of the Constitution bars the state from acquiring a liquor license. The state does not have specific authority and should not take it upon itself. Reverend Watts said that economically the state should be more concerned about the private sector. Every meeting or hotel room booked with a state park is one less for the private sector.

Regarding Reverend Watts' comments, Representative Gooch said the 10th Amendment addresses the rights between the federal and state government. Any right not specifically granted to the federal government falls to the states. Reverend Watts' agreed saying the precedent the state may be setting is of concern. He said the state should not be given free rein on issues not specifically laid out by law.

Representative Clark said that as the capitol chaplain Reverend Watts' predecessor never testified before a legislative committee. He said the Reverend is better served helping the legislature spiritually. He noted that continuing to testify before committees would be a disservice to himself, may hinder his relationship with the legislature, and may require registering as a lobbyist. .

Reverend Watts' said his predecessor testified before the legislature many times. As he considered this a spiritual and moral issue, he chose to testify. He said alcohol consumption is unbiblical and the decision to offer alcohol at state parks will hurt the state morally. He will restrain from testifying in the future so as not to cross any lines.

Chair Kerr noted that Reverend Watts signed the guest list to testify as any member of the public can and thanked him for testifying. As a constituent she thanked him for his comments. She added that she is proud of Kentucky's state parks and pointed out that park visitors spend money outside the parks system as well.

Representative Steel thanked the reverend for his comments and noted that several park employees in his district are only working 30 hours weekly and that more business at the parks would be helpful to them.

Representative Kim King noted that she is in the unique position of being an elected official who must keep the state parks' best interest in mind and part of a family business that includes a golf course, convention center, and leased hotel rooms. She said the parks are in competition with the private sector. Their employees are dependent on them and they must be profitable to stay in business. She said it is hard to compete with state parks that have lower fees. Secretary Sparrow said the resort parks are mainly situated where there is little or no tourism development and the parks bring business to rural areas. While they do not seek to compete with the private sector, they do have the responsibility to be good stewards of the parks system. She said the Travel and Tourism Department works hard to promote all sectors of the tourism industry including the private sector.

Strategic Planning Initiatives, Kentucky Cabinet for Economic Development

Holland Spade, Executive Director, Office of Legal Services, Kentucky Cabinet for Economic Development, said the cabinet secretary and the Kentucky Economic Development Partnership Board directed the development of a statewide strategic planning process. Following statutory guidance, Boyette Strategic Advisors were retained. Ms. Spade said there has been a high level of interest and participation statewide.

Tracy Sharp, a consultant with Boyette Strategic Advisors, gave a brief company overview. The company's experience includes the Oklahoma Department of Commerce, which was a project similar to Kentucky's.

Ms. Sharp said the project focus is to develop a statewide strategic economic development plan, entitled "Kentucky's Unbridled Future," to provide direction for the cabinet and the state in economic development efforts over the next five years. It will include a review of economic trends, identification of targeted business sectors, and a review of assets challenges in the state to develop strategic recommendations to move forward, to attract new sectors, and retain existing business and industry. The process began in late May and will continue through late October with the completion of the strategic plan.

Ms. Sharp said plan development is a four-phase process with the competitive assessment portion nearly complete. The assessment includes research and data accumulation of demographics, major employers, economic successes and losses, available sites, and education among others. Consideration will be given to any strategies completed in the last three to five years locally, regionally, or statewide. Assessment of global, national, state, and regional trends that could affect Kentucky in its economic development efforts are part of the process. Ms. Sharp said an important tool that is currently available is three online surveys targeting economic development partners, companies, and residents. In the coming weeks they will conduct statewide economic development visioning sessions inviting anyone wanting to participate.

The next step is identifying the top 10 strategic business or industry sectors for the state to focus its efforts on over the next five years. Through this process niche opportunities will be identified. Policy and procedural changes that are needed to move the state forward will be addressed as well as areas such as workforce education, organization, site building, entrepreneurship, existing industry, global development, incentives, infrastructure, product development, real estate, rural development, and regionalism.

The final phase of the plan is delivery and roll out set for late October. The process includes an implementation action plan.

Representative Clark said as a member of the Kentucky Workforce Investment Board he hoped the recent work by the board would be considered in the plan. He noted that 2010 House Joint Resolution 5 was passed to measure the success of the economic development program and to provide more transparency on tax incentives awarded by the state. He said the legislative Appropriations and Revenue Committee needs more information for the budget process, and that the legislature wants to be advocates of the cabinet. Ms. Spade said the cabinet is working with the Legislative Research Commission on the mandated study. She said new programs under the bill now require that companies who participate in incentives program to self-report. Most have yet to reach the first reporting stage. Once this begins the cabinet should be able to provide better data.

Responding to Representative Julie Adams' inquiry, Mandy Lambert, Executive Director of the Office of Research and Public Affairs, explained that in addition to using cabinet contact information, many partner organizations have shared their own network of contacts to reach individuals during the plan process. She encouraged legislative members to share the questionnaire links to increase participation.

In response to Representative Carney's comments, Ms. Sharp said the economic development trend leans toward regionalism which benefits everyone involved. Ms. Moore said the cabinet is looking beyond on new industry economic development and instead is focusing on existing industry, and that they are working on job retention and working with small businesses and startups.

Representative Denham said economic development in rural areas is suffering with pronounced issues that are reflected in economic trends and population shifts.

Representative Gooch expressed concern about the impending loss of cheap electricity in the state and asked that this be addressed in Boyette's recommendations.

Representative York noted that the meeting locations for plan input have overlooked certain areas such as areas of northeastern Kentucky. Economic development leaders in the area have expressed concerned that they may be underrepresented. Ms. Spade said they are aware and are making sure the area is represented.

There being no further business the meeting adjourned at 2:20 PM.

Interim Joint Committee on Education

Minutes of the 3rd Meeting of the 2011 Interim

August 1, 2011

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Education was held on Monday, August 1, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Carl Rollins II, 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 Jared Carpenter, David Givens, Denise Harper Angel, Jimmy Higdon, Vernie McGaha, Gerald A. Neal, R.J. Palmer II, Jack Westwood, and Mike Wilson; Representatives Hubert Collins, Ted Edmonds, C. B. Embry Jr., Bill Farmer, Derrick Graham, Donna Mayfield, Reginald Meeks, Charles Miller, Ruth Ann Palumbo, Ryan Quarles, Marie Rader, Jody Richards, Tom Riner, Rita Smart, Ben Waide, and Addia Wuchner.

Guests: Jim Thompson, Legislative Liaison, Education and Workforce Development Cabinet; Mark Ryles, District Facilities Consultant, Ohio Valley Education Cooperative; and Clyde Caudill, legislative agent, Kentucky Association of School Administrators and Jefferson County Teachers Association.

LRC Staff: Kenneth Warlick, Jo Carole Ellis, Ben Boggs, Sandy Deaton, Janet Stevens, CJ Ryan, and Janet Oliver.

Approval of July 11, 2011, Minutes

Upon motion by Representative Collins, seconded by Senator Wilson, the minutes were approved by voice vote.

Reports from Subcommittee Meetings

Senator McGaha reported that the Elementary and Secondary Education Subcommittee heard presentations regarding prevention and control of infectious diseases that may prevent students from attending school. Dr. Kevin Kavanagh, HealthCare USA advocate, discussed how the lack of requirements for health care facilities to report incidents of infectious disease prevents the design of effective interventions. Dr. Kraig Humbaugh and Dr. Margaret Riggs from the Kentucky Department of Public Health discussed procedures to control widespread infection and how schools can effectively clean school buildings, furnishings, and equipment to prevent the spread of infectious disease. Roger Wagner, Superintendent, Pike County Schools, discussed a 2007 infectious disease incident that resulted in closure of the school system; the procedures taken to correct the situation; and measures that have been taken, including hiring additional custodial staff, to prevent further outbreaks.

Senator Winters, who presided over the Subcommittee on Postsecondary Education at the request of Senator Kerr, said presentations were given about efforts to close Kentucky's workforce skills gap. Dr. Jay Box, Chancellor, Kentucky Community and Technical College System (KCTCS) discussed collaborative efforts to close the gap. Initiatives include the new Accelerated Opportunity Grant Program, which will streamline adult education pathways so students can move more quickly through the career path pipeline; the Kentucky Workforce Investment Network System that will provide customized training based on emerging workforce needs; and an expansion of the KCTCS Learn On Demand Program that allows students to use online courses to achieve developmental education needs. Reecie Stagnolia, Vice President, Kentucky Department of Adult Education, discussed strategies being used to help adult education students become a more highly trained workforce. Beth Brinly, Commissioner of the Kentucky Department of Workforce Investment, provided information on the Work Smart Kentucky Plan that includes identification of sector strategies and establishment of high impact workforce investment boards and work ready communities focused on solutions-based business services and talent pipeline development. She said 22 of the 25 initiatives in the Work Smart Kentucky Plan have been launched.

Postsecondary Virtual University and Distance Learning Initiative

This presentation was provided by Robert King, President, Council on Postsecondary Education (CPE); Allen Lind, Vice President of Technology and eLearning, CPE; Jay Box, Chancellor, KCTCS; and Terry Birdwhistell, Dean, University of Kentucky Libraries. Members were provided a copy of the PowerPoint slides and a handout on the Kentucky Virtual Library (KYVL).

Dr. King said CPE serves postsecondary, K-12, and adult education and various state agencies and that distance learning has become an integral part of providing those services. The Kentucky Virtual Library (KYVL) is a cost-effective mechanism used to provide high quality services to libraries across the state. The CPE strategic agenda component, known as "Stronger by Degrees," focuses on preparing K-12 students for higher education; making available the necessary financial, emotional, academic, and technological resources to ensure the success of higher education students; and conducting research to improve community, state, and national economies. The strategic agenda includes methodologies for accomplishing these tasks and others in a cost effective manner using new technologies and innovations.

Dr. Lind said that one-third of Kentucky postsecondary students are taking at least one online class and that the KCTCS system ranks first and Kentucky four-year institutions rank seventh among the Southern Regional Education Board (SREB) states on the percentage of credit hours delivered through online classes. Sixty-five percent of postsecondary graduates have taken at least one online class; many have taken up to four online classes; and others have completed their degrees entirely with online classes. Course completion rates are similar regardless of the method of delivery and students who take online classes tend to graduate earlier. ELearning is an umbrella term used for any electronically-enhanced learning, including face-to-face and distance classroom technology. Distance learning relates to a separation in time and distance between student and instructor and online learning refers to courses delivered via the Internet. Innovative distance learning programs now being offered in Kentucky include a Doctorate of Nursing Practice, which is one of five in the nation; a 100 percent online Master's in Telecommunications Management offered by Murray State University; degree completion programs for two year adult learners, particularly at Morehead State University; and a joint engineering program between Morehead and Eastern Kentucky University.

Dr. Box discussed the KCTCS Learn On Demand program that started in 2009, which allows students to enroll at anytime and begin classes on the following day. Learn On Demand is competency-based and modularly-delivered and enables students to complete a piece of curriculum in a three to five week period. Online programs being offered by KCTCS include business, information technology, and an associate degree in nursing. Learn On Demand has wrap around services available at any time and registration, application, and financial aid resources. Kentucky is one of ten states to be awarded a Complete College America Grant that will be used to provide tutoring, advisor, and counseling services for online students. Skill-specific developmental education courses will also be available to help students needing remedial education.

Dr. Lind said the Kentucky Virtual Campus created by 1997 House Bill 1 provided increased access to postsecondary education. Data has shown that students using the virtual campus tend to be from rural, less populated counties; that KCTCS students use online courses more than students in four year institutions; and the number of credit hours earned through the KCTCS system has increased from 200,000 in 2005 to approximately 800,000 hours. The number of students taking online courses or a mix of classes has steadily increased with a corresponding decrease in the number of students taking only face-to-face instruction.

CPE online courses and programs include Kentucky Virtual Campus (KVC), which provides a statewide catalog of online courses; Kentucky Virtual Library; Kentucky Virtual Adult Education; KVC4K12; Kentucky Learning Depot; and Kentucky Regional Optical Network (KyRON). CPE has a course management system license that allows any student in any Kentucky higher education institution to access specific courses. These courses may also be accessed by educators and K-12 students through KDE's Kentucky Virtual Schools. Basic skills and career readiness courses are also available online for adult education program students and training is available for GED examiners. The KVC GED examiner program is being utilized nationwide and in Canada. CPE also provides professional development for state agencies through KVC for Adult Education, Criminal Justice, Workforce Development Cabinet, Transportation Cabinet, and Vocational Rehabilitation; and partners with the Education Professional Standards Board (EPSB) to provide professional development for K-12 teachers.

The KYVC4K12 provides online programs for K-12 students needing supplemental or enhanced education and is also used by parents who home school their children. This component also contains eMentoring as part of the GEAR UP program that allows college students to mentor middle school students and encourage studies that will prepare them for postsecondary education. Kentucky Virtual Schools is also a K-12 program administered through KDE-CPE shared software.

Dr. Birdwhistle provided information on the Kentucky Virtual Library (KYVL). KYVL is administered by the University of Kentucky by contract with CPE and is used to enhance scholarship, research and lifelong learning through shared digital archival collections. Guidance and instruction is provided to Kentucky libraries, archives, historical societies, and museums on the appropriate use of technology to produce digital library resources. KYVL now contains 350,000 book pages, 550,000 newspaper pages, 50,000 pages of journals, 90,000 photographs, and 800 world histories, and continues to expand daily. KYVL has a Kaleidoscope program used to create convenient models for K-12 educators to access Kentucky history.

Dr. Lind said the Kentucky Learning Depot is a P-20 initiative that creates, scans, and inventories digital content that becomes infinitely available to every teacher for classroom instruction. It is also connected to content repositories in other states, including North Carolina, Georgia, and Florida. The Kentucky Regional Optical Network (KyRON) connects all public postsecondary education institutions to each other with high speed Internet2. Internet2 is exclusively used for research and education purposes and will eventually morph into a Community Anchor Institution Network. The Federal Communications Commission (FCC) has asked for input and assistance from KyRON and 30 other regional networks across the nation to develop a robust education network using $100 million in American Recovery and Reinvestment Act (ARRA) funds to provide the backbone for the project. KyRON has approximately 150 locations across the state.

Representative Rollins asked if progress is being made toward developing a virtual degree program. He said some states are coordinating with the Western Governors Association and the Western Governors University (WGU) to offer a limited number of degree programs. The concept is that an annual fee is paid and a student would be able to take any number of courses for that fee to show competency in specific areas. President King said there has been ongoing dialogue with the Western Governors University, representatives from Indiana who have adopted a program similar to WGU, and others states to develop programs better to serve the needs of adults who did not finish college or never attended college but are unable to reside on a campus to earn a bachelor's degree. Dr. Lind said the on-demand classes in KCTCS incorporate many of the WGU characteristics in its delivery model and grants are being sought to move the KCTCS model into the four-year institutions.

In response to a question from Representative Rollins, Mr. Lind said online tuition rates are comparable to traditional class rates but Kentucky does not have a flat fee payment like WGU. President King said challenges facing adult learners include convenience of accessing delivery models that coincide with work and family schedules; availability of faculty dedicated to providing instruction for non-traditional students; the varying educational needs of adult students who may have years between credits and credit hours from multiple sources; and identifying the financial resources to assist them in achieving goals.

In responding to questions from Representative Collins, President King said the number of graduate requirements varies by degree program. There are four complete associate degree programs available online through KCTCS. Dr. Box said three programs are available in the Learn On Demand component and there are complete online degree programs for an Associate of Arts and Associate of Science. Dr. Lind said the US Department of Education did an overall study and concluded that online students have better learning outcomes than face-to-face students but students using blended models are even more successful. Online courses enable an increase in student capacity and are especially helpful in high-end enrollment undergraduate classes. CPE encourages institutions to follow the National Center for Academic Transformation design model to increase capacity while improving learning outcomes and reducing cost.

In response to questions from Representative Waide, Dr. Lind said a number of states have established fully accredited virtual high schools and that Florida's virtual high school may be used by non-residents. President King said that a radio advertisement heard by Representative Waide is possibly for a K-12 curriculum for families who have elected to home school their children. Representative Rollins added that Barren County has a program for K-12 that allows people to finish high school based on individual specific needs and is available to anyone within the state. Dr. Lind said that advanced placement classes are also available online through KYVC so that students in districts that do not offer traditional AP classes can still take the classes. The main premise of technology is to reduce the institution's cost of delivery of programs, although students may not necessarily realize costs savings in tuition and fees. Student cost savings could be realized by not having to physically attend classes on campus, enabling them to maintain jobs and take care of family responsibilities. Dr. Box said all curricula for online courses is vetted to ensure that it is the same or better than on-campus delivery, all courses are SACS-accredited, and all course credits are transferable within the public higher education system.

Representative Farmer related an incident involving a family member enrolled in a comprehensive university whose full-time status was affected when the person enrolled in an online basic education course at Eastern Kentucky University, even though the particular course was not available at the comprehensive university and the only option was online. The online tuition for the one course was $1,000. President King said he was not aware that a student's status would be affected by utilizing online resources available from other institutions and agreed to get back with Representative Farmer regarding the issue.

In response to a question from Representative Riner, Dr. Lind said further study is needed to ensure the continuation of education services in the event of emergencies that may cause long term closure of educational institutions. He said KDE has been successfully piloting programs in the K-12 system that may be used to deliver instruction to students who are unable to arrive at school during inclement weather and other disasters.

Senator Winters said it is not possible to build class sizes consisting of large numbers of students to single professor or teacher ratios because of the need for faculty to interact with their students. President King agreed and said that having expanded interaction with faculty and other students and allowing technology to facilitate instruction are all important components to learning outcomes.

Green Schools Presentation

Chris Tyler, Green Schools Advocacy Chair, Kentucky Chapter, US Green Building Council; and Ryan Daugherty, LEED AP, Board of Directors, Legislative Chair, KY US Green Building Council, gave the presentation.

A green school as defined by the US Green Building Council is a school building or facility which creates a healthy environment that is conducive to learning while saving energy, resources, and money. The US Green Building Council is a non-profit organization comprised of industry professionals, including architects, engineers, design professionals, attorneys, and others interested or involved in the sale of products used in green building technology. Kentucky has one chapter and there are 79 chapters nationwide and over 160,000 accredited Leadership in Energy and Environmental Design (LEED) professionals. The US Green Building Council legislator's guide to "Greening Our Schools" was provided to the legislators at the meeting.

Mr. Tyler said Kentucky is building more green schools, including those in Warren, Scott, and Kenton counties; and Ms. Daugherty discussed initiatives, such as green cleaning techniques that use environmentally sound and healthy chemicals in schools or technology that works without any chemicals. She said several states have already enacted legislation to implement such green cleaning policies.

Mr. Tyler said in 2010 the Kentucky legislature passed Senate Bill 132 creating an Efficient School Design Trust Fund in KDE but did not provide funding. The trust fund would have established a reporting mechanism on how school projects are being built or renovated, such as Energy Star or LEED certified; and would have provided funding to offset incremental costs for K-12 public school building design. He suggested that a percentage of fines levied by the Environmental Protection Agency, which is estimated to between $880,000 and $3 million annually, could be used to offset any costs relating to design and construction of green schools. The Green Bank was established in 2009 with $14 million in ARRA funds and provided a low interest rate revolving loan fund to upgrade state-owned buildings. The Kentucky Finance and Administration Cabinet and the Department of Energy Development and Independence coordinate the use of these funds in Kentucky. Green Bank funds may be used to make energy efficiency capital improvements to public state-owned buildings; lower the demand for energy and water; promote economic development; lower peak demand for energy on Kentucky's grid; create construction and energy management jobs in Kentucky; and lower facility operating costs. Green Bank funding has been used to provide energy upgrades in various state-owned buildings including $1.3 million for the Kentucky School for the Blind, Kentucky School for the Deaf, and FFA facilities; $2.2 million for Kentucky Department of Veterans Affairs facilities; $1.8 million for Kentucky Educational Television; and $2.9 million by the Finance and Administration Cabinet for state-owned buildings. Mr. Tyler recommended that the funds remaining in the Green Bank, estimated to be around $5 million, be made available to school districts for energy efficient improvements. He said other state agencies including Morehead State University and the Department of Parks have already submitted applications for funding.

Mr. Tyler said that LEED for Existing Buildings Rating System helps building owners and managers maximize operational efficiency while minimizing environmental impact. A legislative initiative is being explored that would create a task force to investigate how K-12 public schools could achieve LEED EB certification in partnership with Ky USGBC to provide for more efficient, sustainable energy savings and a mechanism to share knowledge and information.

Representative Richards suggested that the Kentucky chapter of the US Green Building Council should use video footage of Kentucky's schools and in particular the Richardsville Elementary School in Bowling Green when promoting energy efficient design. He said Richardsville Elementary School was the first certified zero energy school in the United States. Warren County currently has four green schools and another one under construction. Mr. Tyler agreed that a new video would help showcase Kentucky's schools but funding is not currently available for that purpose.

Changes in Teacher Preparation Programs That Support Teacher Effectiveness

Phillip Rogers, Executive Director, Education Professional Standards Board (EPSB), provided an update on changes made in various teacher and educator preparation programs.

EPSB is one of 13 independent professional standards boards across the nation and is not part of the Kentucky Department of Education (KDE). The board is comprised of 17 members, with 15 members appointed by the Governor. The majority of the members are practicing teachers and membership also includes a school administrator, superintendent, school board member, two deans of public colleges of education, and a chief academic officer from an independent agency. The Commissioner of Education and CPE president are ex officio voting members. Responsibilities include accreditation of teacher preparation programs; certification of educators; prosecution of educator misconduct cases; and oversight and management of programs mandated by the legislature, such as the Kentucky Teacher Internship Program (KTIP), National Board Certification Incentive Fund, and others.

There are currently 30 teacher preparation programs in Kentucky. The General Assembly has established eight alternative routes for teacher certification since 1995. Data from the 2010-2011 school year shows there are 42,708 practicing teachers, which is a decline from 44,790 in the 2005-2006 school year; and 2,181 persons holding principal or assistant principal positions. The EPSB mission is to work in full collaboration and cooperation with education partners to promote high level of student achievement by establishing and enforcing rigorous professional standards for preparation, certification, and responsible, ethical behavior of all professional educators in Kentucky. The EPSB model is a collaborative effort between districts, universities, and state agencies to ensure high levels of student learning at all education levels.

Dr. Rogers said EPSB has already redesigned the KTIP program to include performance assessments; revised goals to show direct commitment to student learning and not just teaching; redesigned the master's degree program for rank changes; and redesigned the principal preparation program. The board is currently restructuring requirements for admission to teacher certification; clinical experiences; student teaching; raising scores on practice assessments used to measure content knowledge; and redesigning the state accreditation and program review process.

Redesign of the master program for teachers is focused on student achievement through teacher leadership with an emphasis on teachers instead of principals serving as instructional leaders. The board's focus was to create a program to improve the teacher core by helping teachers gain additional advanced skills specifically geared toward closing the student achievement gaps. Teacher survey results helped identify the gaps and included assessment of student learning, use of technology, and differentiated instruction. When a university submits its program to EPSB for review, the board expects signed memoranda of agreement between the university and actual districts identifying strategies to improve student learning. The curriculum includes evaluation of research on student learning; differentiated learning and classroom management; opportunities to increase content knowledge; leadership development; and clinical experiences that enhance student achievement. Mixed delivery methods, such as face-to-face, workshops, on-line or distance learning, may be used; continuous monitoring occurs, and then a culminating performance-based assessment is completed that is viewed and scored by the institution and K-12 superintendents, principals, and other teachers before recommendation for rank change is made to EPSB. All of the master programs for teachers were closed effective December 31, 2010, and, to date, 16 universities have received EPSB approval for new master's programs.

The principal preparation program was redesigned to encompass student-centered preparation models as directed by 2006 House Joint Resolution 14. All existing principal preparation programs will be closed in December 2011. The new program will be a two-tiered post-master certificate model and will no longer be available to teachers to accomplish rank change. It will focus on instructional leadership, student achievement, and student gap closure; and effective superintendents and principals from various districts will assist in instruction and ongoing mentoring services. EPSB has approved programs from Asbury College, Spalding University, Western Kentucky University, Murray State University, University of Louisville, and Northern Kentucky University.

The superintendent preparation program is being redesigned although none of the existing programs will be closed. The programs will be consistent throughout the state and there will be a notable difference in the curriculum and program requirements. Program changes will be established by regulation.

Dr. Rogers said that EPSB is also very involved in admission standards for teacher candidates. New guidelines include skills tests in math, reading, and writing prior to admission to a preparation program; raising the grade point average for admission from 2.5 to 2.75; and documentation of essential classroom skills, including critical thinking, collaboration, creativity, and communication. All teacher candidates will be required to have at least 200 hours of field experience prior to student teaching. The new regulation detailing the changes will be presented to the education committees in early 2012.

Dr. Rogers also explained EPSB's redesign of the seven-year cycle of accreditation and program review of teacher preparation programs to a new model that will provide continuous electronic program review to ensure quality. The EPSB Data Dashboard, which will be available to the public, will provide information on teacher preparation programs, including quality indicators, certification data, educator ethics, and teacher placement in the workforce. A quality performance index will be published for all Kentucky teacher preparation programs and will include K-12 student assessment data.

Dr. Rogers said the changes being made are deep and significant and are focused on student achievement. The changes are being accomplished in multiple stages with collaboration between and with all education partners.

Responding to comments from Senator Givens, Dr. Rogers said multiple indicators will be used to measure student learning and the revisions to the preparation programs build on KDE efforts to measure student achievement, including the new teacher evaluation systems, growth models, and assessment systems. He said data is already available about where teachers are employed who have graduated from specific universities over the last ten years.

In response to questions from Senator Wilson, Dr. Rogers said EPSB will be using the Quality Performance Index as a method of determining which universities are best preparing teachers to be effective in various disciplines. He said that the decrease in the number of teachers can be attributed to a decrease in the number of students and possibly more restrictive funding. There has been little change in principal-teacher ratio.

Representative Rollins related, that in a meeting he and Senator Winters recently attended with Dr. Rogers, KDE staff and university deans, there appeared to be some in the meeting that were quite surprised that student data will be used to measure effectiveness of teacher preparation programs.

Responding to a question from Representative Miller, Dr. Rogers said there is insufficient data to show that universities who require a five-year teacher preparation program have been more effective at producing good teachers than other four-year programs. He said Option 6 established by the General Assembly allows a person holding a bachelor's degree in various disciplines, such as mathematics or sciences, to enroll in a master's program or fifth year program to receive a certification to teach.

Review of Executive Order 2011-534

The executive order abolishes the Early Childhood Development Authority in KDE and creates the Early Childhood Advisory Council, which will be attached to the Governor's Office for administrative purposes but will report to the secretary of the Education and Workforce Development Cabinet. Ryan Green with the Education and Workforce Development Cabinet said the order was issued to permit the cabinet to coordinate services and provides an opportunity for Governor Beshear to highlight a priority of his administration which is early childhood education. Terry Tolan, Executive Director, Early Childhood Advisory Council, said she will focus council efforts on ensuring that all of Kentucky's children enter kindergarten ready to thrive, learn, and succeed in school. The committee took no action on the executive order.

Adjournment

There being no further business to discuss, the meeting adjourned at 3:15 PM.

Interim Joint Committee on Education

Subcommittee on Elementary and Secondary Education
Minutes of the 2nd Meeting
of the 2011 Interim
August 1, 2011

Call to Order and Roll Call

The second meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, August 1, 2011, at 10:00 AM, in Room 129 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; Senators Walter Blevins Jr., Denise Harper Angel, Jimmy Higdon, and Jack Westwood; Representatives Linda Belcher, Hubert Collins, Ruth Ann Palumbo, Marie Rader, Carl Rollins II, and Ben Waide.

Guests: Wayne Young, Kentucky Association of School Administrators; Dr. Kraig Humbaugh, Director, Division of Epidemiology and Health Planning, Kentucky Department of Health; Dr. Margaret A. Riggs, CDR US Public Health Service, CDC Career Epidemiology Field Officer; Liz Hoo, Kentucky Department of Health; and Alex Freiman, Kentucky Department of Health.

LRC Staff: Janet Stevens, Ben Boggs, CJ Ryan, and Janet Oliver.

Approval of July 11, 2011, Minutes

Upon motion by Senator Westwood, seconded by Representative Palumbo, the minutes were approved by voice vote.

Prevention and Control of Infectious Diseases

Senator McGaha said that even though illness is the major cause of absenteeism, especially in elementary schools, Kentucky has no requirement for reporting of infectious diseases. He said both he and Senator Harper Angel introduced legislation in prior sessions that would have required reporting and data compilation and education programs regarding infectious diseases.

The first presentation was given by Kevin T. Kavanagh, MD, MS, FACS, Board Chairman, Health Watch USA, who is a strong advocate for requiring health care providers to report infectious disease data to the state. Members were provided a copy of the PowerPoint slides and other materials related to his presentation.

Dr. Kavanagh said non-reporting of infectious diseases has a negative impact on the state Medicaid budget and other health insurance premiums and increases the risk of widespread outbreaks. He provided the following information citing various references which were identified in the handouts. Methicillin-resistant *Staphylococcus aureus* (MRSA) is a healthcare associated infection but can also be community acquired. Data from the Center for Disease Control (CDC) estimates that approximately 1 in 20 hospitalized patients acquire a healthcare associated infection resulting in 100,000 deaths each year at an annual cost of almost $30 billion. Based on that data, Kentucky rates would equate to 23,000 infections, resulting in almost 1,400 deaths at a cost of $400 million. He said healthcare acquired infections are one of the top ten causes of death in the United States (US) even though many are preventable. Central line infections have been greatly reduced since CDC reporting requirements have been instituted, and checklists have helped to reduce the number of ventilator associated pneumonia and Staph infections during cardiac surgery.

Dr. Kavanagh said the CDC and some major medical organizations produced a 2010 White Paper relating to infection control and epidemiology, in which pillars of control were identified. They included collection of data so effective interventions can be established, such as development of new antibiotics to target specific bacteria; evidence-based prevention practices; research; and changes in community behavior, both in hand washing and increased cleaning of public facilities. Kentucky hospitals are required to report outbreaks, but only four outbreaks were reported in a one year period with no MRSA or Clostridium Difficile (C. Diff) having been reported. Currently, only central line infections in intensive care units are reported to the National Healthcare Safety Network (NHSN), and the reporting of surgical site infections will begin in 2012.

Dr. Kavanagh said the two most common infections are MRSA and C. Diff. MRSA causes skin infections and severe cases may lead to blood and lung infections. C. Diff is a spore forming bacteria which can cause life threatening gastrointestinal infections. He said it is normal for approximately 25-30 percent of the population to be colonized with Staph bacteria and some studies have shown that up to five percent of patients are MRSA carriers. In Kentucky approximately 60 percent of outpatient Staph cultures test positive for MRSA, which is one of the highest rates in the nation. Staph infections result in an annual 18,000 deaths which approximates or exceeds AIDS death rates each year. There was at least one outbreak of MRSA in Kentucky schools last year and most outbreaks involve student athletes. C. Diff is also very common with Kentucky ranked sixth highest in the nation for C. Diff infections.

Community prevention practices should include thorough cleansing of high contact surfaces, covering sores and wounds, proper hand washing, and not sharing personal items such as towels, razors, soap, and clothing. MRSA bacteria can be killed by alcohol, ammonia, and hand sanitizers, but C. Difficile can only be eliminated by using Clorox bleach. The Illinois Department of Public Health has a publication with protocols for effective cleaning of school systems. Incident reporting would encourage more thorough cleaning with appropriate agents in schools and other community facilities.

Dr. Kavanagh said that communities and health departments need to become more involved. The percentage of Staph infections in many European counties is only between 5-10 percent. Health care agencies in those countries stress hand hygiene, the use of fewer antibiotics, and heightened surveillance through public reporting. US federal agencies, including the CDC and the US Department of Health and Human Services, stress the importance of accurate and transparent reporting to prevent the spread of infectious diseases. Dr. Kavanagh said it is his opinion that the health care industry has been less than stellar in addressing the epidemic and many institutions have not implemented checklists and protocols to prevent outbreaks. The Comprehensive Unit-based Safety Program (CUSP) is a federal effort to reduce central line-associated bloodstream infections and catheter-associated urinary tract infections. The Kentucky Hospital Association administers CUSP in the state and reported in August 2010 that 39 Kentucky hospitals were participating although that number had dropped to 33 in April 2011. The University of Kentucky hospital had the highest rate of central line infections in the state, based on Medicare billing data, but they do not participate in CUSP. Kentucky was awarded a CDC grant for reporting of outbreaks. Outbreaks are defined as cases which exceed a health care facility's normal baseline, although lack of reporting makes it difficult to compare data. Dr. Kavanagh said that even though the health care system is a profitable industry, many hospitals complain that in-depth reporting is financially burdensome. He said Norton Healthcare has been very transparent in reporting while remaining very profitable. Information on hospital finances are made available by the American Hospital Directory, which is a Louisville corporation, and information can be accessed through their Website, www.ahd.com.

Dr. Kavanagh said reporting through the NHSN is standardized and not duplicative. NHSN provides information to state health departments and the CDC and the data is also used to generate aggregate data and state comparisons. Standardized reporting would also help in the development of treatment techniques and more accurate billing procedures. He said Medicare has not paid for care related to healthcare-acquired infections for several years although billing procedures makes it difficult to recover payments.

Dr. Kavanagh said, in a February 2010 poll, 90 percent of Senator Harper Angel's constituents wanted healthcare-acquired infections reported to the health departments.

In response to questions from Representative Collins, Dr. Kavanagh explained that ventilator-associated pneumonia is a lung infection that may occur when a breathing tube is inserted in a sterile environment such as the windpipe, although studies have shown that most infections related to this procedure would be eliminated if proper protocols are used. He said a leading cause of fatalities during the H1N1 outbreak were concomitant Staph infection in the lungs. Even though the use of alcohol wipes and rubs in hospitals may have decreased the number of healthcare-associated Staph infections, the occurrences of C. Diff and community Staph infections appear to be increasing, although lack of data makes it difficult to ascertain the actual number of cases. He said he does not believe that the CDC has established good prioritizations of standards of care to prevent and treat infectious diseases and that the healthcare industry lobbies against reporting because it would necessitate an increase in staff, reprioritization of monetary resources to control infections, and negative publicity if many incidents were reported. He reiterated that the spread of infection can be controlled by hand hygiene, decreased utilization of antibiotics, surveillance and identification, decolonization or isolation of patients, and public reporting. Dr. Kavanagh said very little has been done to change intervention since Senator McGaha first introduced legislation to report infectious diseases.

In response to a question from Senator Westwood, Dr. Kavanagh said that standardization of definitions of infections is one point used to lobby against public reporting. He said there are standardized definitions of when a patient needs to be treated for infection.

Senator Harper Angel said the hospital lobby insists that reporting is already required and additional efforts would be duplicative and the General Assembly does not support duplicative requirements. She asked Dr. Kavanagh to be very specific about the difference between duplication and standardization. Dr. Kavanagh said one incident report per patient would be submitted to the NHSN, although the aggregate data would be disseminated to multiple sources. He said only health care institutions with high incidents of infections would be negatively impacted and additional personnel and man-hours may be required to meet reporting requirements. Currently only central line infections that occur in ICU settings are required to be reported to the NHSN, even though a majority of central lines are installed in other hospital areas where there is less sterility which increases the risk of infection. Surgical site infections will soon be required to be reported to the NHSN. Dr. Kavanagh said schools could report outbreaks through local health departments although reports would be generated by health care facilities where students are treated. He said infectious disease is a community problem with many outbreaks occurring in nursing homes, dialysis centers, outpatient surgery centers, and other health care facilities; and that a definition for what constitutes an outbreak is needed, such as a specific number of cases over a specified time period.

Representative Waide expressed concern about protection of patient personal data, duplicative reporting, and increased costs associated with additional tests that may be required to identify various strains of bacteria and infection. Dr. Kavanagh said the previously proposed legislation did not require surveillance cultures, although such cultures should be done in specific settings, especially in preoperative patients. The proposed legislation would have required surveillance culture data when done be reported to the state to develop aggregate data. He said reports would be submitted to NHSN which uses federal patient law safeguards. There were no requirements in the legislation for schools to do reporting since students are not treated for infections at schools. Dr. Kavanagh said he would obtain more information on procedures that NHSN uses to ensure protection of patient data and report back to the committee.

Senator Higdon related that he was recently at one of the schools in his district at which only one sink in three worked in the boys' restroom. He recommended that all schools, even those categorized to be replaced, be held to high standards in cleanliness to prevent infectious diseases.

Senator Blevins said that since data from the American Hospital Directory shows hospital gross receipts have been reported in the $2 trillion range and prevention could save many additional health care dollars and alleviate the toll on people's lives, there is no reason why health care industries should resist reporting the occurrences of infectious diseases.

In response to a question from Representative Palumbo, Dr. Kavanagh said the only statistics available for Kentucky are two research studies. One was a 2009 study using 2008 data published in the Journal of American Medical Association about C. Diff incidents and the other was published by the Center for Disease Dynamics, Economics, and Policy based on data from outpatient laboratories regarding the percentage of Staph outpatient cultures which also contained MRSA.

Representative Rader asked if Kentucky urgent care centers and physician offices are doing enough by state regulation to ensure those facilities are the safest for Kentucky's children. Dr. Kavanagh said that many of those facilities are now associated with various hospital systems and it is important to ensure that safe practice protocols and checklists are used and data reported. He said that as integration progresses and systems become larger, the medical community will become even larger and speak with a single voice.

In response to a question from Representative Belcher about who is responsible for paying for treatment of infections that could have been contracted in a medical setting, Dr. Kavanagh said Medicare and Medicaid billing data is very complicated, but ultimately the costs are paid for by society through federal health programs and higher insurance rates. He explained that Medicaid uses a diagnostic-related code system resulting in a flat payment for major diagnoses and that a new billing system is being implemented, which will generate data but at a much later date. Reporting infectious diseases to the state would be much simpler than the complex federal system and many grants are available to assist hospitals in meeting reporting requirements. Legislation to require reporting is not designed to be punitive to the healthcare industry but used only as a mechanism to identify and prevent the spread of infectious diseases.

Senator Harper Angel related that Medicaid in Kentucky will no longer pay for hospital-acquired infections, which will help balance the Medicaid budget. She said the infections are referred to as never occurrences meaning they should never have happened.

In response to a question from Senator McGaha, Dr. Kavanagh said it is difficult to define baseline because reporting is not required. The CDC does not have a good definition for baseline because it is left to each institution to establish its own baseline. Senator McGaha said Norton Healthcare needs to be commended on their groundbreaking move to publicly report data. He thanked Dr. Kavanagh for his informative presentation.

Kraig E. Humbaugh, M.D., M.P.H., Director, Division of Epidemiology and Health Planning, Kentucky Department for Public Health; and Margaret A. Riggs, PhD, MPH, MS, CDR US Public Health Service, CDC Career Epidemiology Field Officer, Kentucky Department for Public Health, provided information on the prevention and control of MRSA in school settings. Members were provided copies of the PowerPoint slides and various handouts related to the presentation.

Dr. Humbaugh said that MRSA is a Staph bacterium that is resistant to traditionally used antibiotics to treat Staph infections. The CDC estimates about two percent of the population is colonized with MRSA which means that the bacteria is living on their skin. The bacteria may be present under the armpits and in the groin or nose areas and may be a part of certain individuals' flora, although some of those individuals may not be infected. MRSA is treatable with the use of newly produced antibiotics and treatment protocols. The most common infection caused by MRSA is skin or soft tissue infections and early treatment is necessary to avoid serious complications. The most common way for transmission of MRSA is for a person who is colonized or infected to touch someone who is susceptible and who may have microabrasions or breaks in the skin which allows the bacteria to enter the body and cause infection. Another less common way for MRSA transmission is for a colonized or infected person to leave germs on inanimate objects, although transmission without contact is much less likely because MRSA bacterium is susceptible to drying out and to light. Certain conditions will enable the bacteria to live longer, such as dark, moist environments.

Dr. Humbaugh said CDC has identified certain factors which increase the risk of widespread infection. The risk factors were crowding in institutional settings, including schools; frequent contact among individuals, such as athletic or sports teams; persons with compromised skin, especially in settings where skin to skin contact would occur, such as sporting competitions; coming in contact with contaminated surfaces; using shared items, such as towels, razors, and jerseys in sports or school settings; and the lack of cleanliness and personal hygiene which makes one more susceptible or increases the likelihood of MRSA. Higher risk populations include sports participants, inmates in correctional facilities, military recruits, day care attendees, tattoo recipients, and methamphetamine users. The best preventive practice is to avoid spread through skin to skin contact and one of the best preventive protocols in school settings is frequent thorough hand washing by washing 20 seconds with soap and water and drying with clean paper or cloth towels. Students should keep cuts and scrapes clean and covered; wash hands thoroughly and frequently; avoid contact with persons having infected skin; and should not share personal items, such as razors, bars of soap, deodorant, and sports equipment and jerseys. Dr. Humbaugh said that antimicrobial products, such as soaps, have not been found to be more effective than regular soap and water because it is the action of rubbing or friction that cleanses the hands and removes bacteria. Studies have shown that antibacterial soaps may actually promote bacterial resistance and it is not recommended that schools buy the more expensive antibacterial soap for their students. Alcohol-based hand sanitizers are good for school settings when soap and water is not available, such as on athletic fields, but does not replace the most effective means of soap and water hand washing to prevent the spread of diseases.

Dr. Riggs said the most important prevention method is to wash germs away, which lessens the need for harsh chemicals to kill them; and cleaning and disinfecting surfaces in a school setting is the main objective. Cleaning should be concentrated in areas that are commonly touched by many students, such as doorknobs, light switches, table tops, restrooms, floors, lockers, and athletic equipment, to control infectious diseases and influenza. It is recommended that an EPA registered disinfectant be used to remove germs from the school environment if the initial cleaning phase did not eliminate the germs and that the disinfectant be allowed to air dry to destroy the germs. Green cleaning agents are recommended since many children are allergic to various ingredients in disinfectants or have health conditions, such as asthma, that may cause adverse reactions. A handout related to green cleaning was provided to the members. Dr. Riggs said proper cleaning protocols should be used and green cleaning is recommended to protect students, custodial staff, and the environment. The green cleaning handout related to hospital settings but would also be applicable in school settings.

Dr. Riggs said guidelines were developed in 2007 for Kentucky schools, with specific detailed guidance for athletic departments. This information was provided in a handout to the committee. The guidelines were disseminated with assistance from the Kentucky Department of Education and are currently available on KDE's Website. She said it is the recommendation of CDC and the Kentucky Department of Health that exclusion of students from school or sports activities should only be reserved for those who are unable to keep infected skin covered with a clean dry bandage and maintain good personal hygiene. The only exception would be student athletes who participate in a sport with regular skin to skin contact where the bandages are difficult to keep in place, such as wrestling. School staff and students should be educated about how to prevent and treat infection and how to recognize signs and symptoms of potential MRSA infection.

In response to a question from Senator Higdon, Dr. Humbaugh said local health departments are encouraged to have their environmentalist check restroom facilities at schools before the school year begins and that additional inspections should be conducted when outbreaks of shigella, salmonella, or other diseases occur. He said inspections could be mandated through regulation.

Senator McGaha asked Roger Wagner, Superintendent, Pike County Schools, to inform the committee about a MRSA epidemic in the school system. Representative Collins said that Pike County is the largest county in area in the state and currently has five high schools. He said that two of the district's schools were classified as Category 5 and that the Pike County Board of Education elected to use the non-recallable nickel to generate funding to build new schools. Mr. Wagner said two new schools will open this year and two more new schools will open next year. Representative Collins said new facilities will be an important factor in changing the health environment for students in Pike County.

Mr. Wagner described the 2007 outbreak in the school system, which was brought to his attention by a parent of a student athlete who tested positive for MRSA. At the time, he was not aware of other incidents occurring throughout the state and the outbreak became a public relations nightmare for the school system. School administrators and nurses, local health department employees, board members, the media, and various other agencies and citizens all worked together to alleviate the problem. Schools were closed and all of the buildings, furnishings, buses, athletic facilities, and common areas were thoroughly cleaned and sanitized. Education programs were provided on the identification, prevention, and treatment of MRSA, with special emphasis on ensuring that students were not stigmatized if they had contracted the infection. Mr. Wagner said that the local health department played a vital role in the epidemic and continues to provide needed inspections and education programs for the school system. Schools are required to provide hand wash in all classrooms and additional custodial staff has been employed to ensure cleanliness. Posters have been placed throughout the school showing proper hand washing techniques and the family resource center director and practical living classes provide instruction regarding infectious diseases. Mr. Wagner said reporting would help schools prevent and mitigate widespread outbreaks.

In response to a question from Senator Higdon about public reaction to the use of the non-recallable nickel, Mr. Wagner said the situation in Pike County was unique in that revenue from natural gas taxes was split in half from $1 billion to $500 million, which drastically impacted school funding. To offset the loss of revenue, the board had requested and the taxpayers approved a property tax increase that included the non-recallable nickel.

Senator Higdon said he agrees that local health departments provide a valuable service and that the new food service regulations recently implemented have made Kentucky a safer place to buy food.

In response to questions from

Representative Rollins, Mr. Wagner said that custodial staff is trained annually and an increased emphasis has been placed on cleaning of frequently used surfaces and items, such as headphones and keyboards. Also additional custodians were hired to provide a cleaner environment. He was not aware of guidance relating to cleaning that has been issued by the Kentucky Department of Education but utilizes local health department personnel to provide staff training and educational resources.

Senator McGaha commended Superintendent Wagner on the steps the district has taken to prevent the spread of infectious diseases. He said he will continue to pursue public reporting and will work with Senator Harper Angel on the legislation. He said it is also important to provide readily available resources for educators, parents, and the public on how to identify, prevent, and treat infectious diseases.

Next Meeting and Adjournment

Senator McGaha announced that the Interim Joint Committee on Education will hold its next meeting at the Elkhorn Crossing School in Scott County on Monday, September 12, and the subcommittees will not meet. There being no further business to discuss, the meeting adjourned at Noon.

Special Subcommittee on Energy

Minutes of the 2nd Meeting of the 2011 Interim

July 15, 2011

Call to Order and Roll Call

The 2nd meeting of the Special Subcommittee on Energy was held on Friday, July 15, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Senators Ernie Harris, Ray S. Jones II, Bob Leeper, Katie Kratz Stine, Robert Stivers II, Johnny Ray Turner, and Robin L. Webb; Representatives Rocky Adkins, Dwight D. Butler, Leslie Combs, Tim Couch, Will Coursey, Jim Gooch Jr., Wade Hurt, Lonnie Napier, Fred Nesler, Sannie Overly, Tanya Pullin, Tom Riner, Kevin Sinnette, John Will Stacy, Fitz Steele, and Brent Yonts.

Guests: Jeff Derouen, Executive Director, Public Service Commission; Stephanie Bell, Deputy Executive Director, Public Service Commission; John Davies, Deputy Commissioner, Department for Energy Development and Independence; Karen Wilson, Chief of Staff, Office of the Secretary, Energy and Environment Cabinet, and Greg Guess, Director, Division of Energy Efficiency and Conservation, Energy and Environment Cabinet.

LRC Staff: Stefan Kasacavage; Kelly Blevins, Committee Assistant; and Thomas Cothran, Graduate Fellow.

A quorum was present. After a motion and a second, the minutes for the June 22, 2011 meeting were approved.

Report from the Public Service Commission on Natural Gas Retail Competition

Jeff Derouen, Executive Director of the Public Service Commission (PSC), discussed the findings of the PSC's report on retail competition in natural gas distribution, which had been submitted to the Legislative Research Commission in December 2010 pursuant to House Joint Resolution 141 of the 2010 Regular Session. Mr. Derouen explained the reasons for the PSC's finding that natural gas markets should only be opened to broader retail competition if expanded safeguards for residential customers and natural gas distribution companies are also adopted.

Under federal deregulation efforts that occurred in the 1980s and 1990s, the transportation cost of natural gas was separated from the commodity cost, so interstate pipelines were no longer allowed to sell gas; they could only charge for its transportation. Natural gas distribution companies in Kentucky regulated by the PSC must separate the cost of delivery from the commodity cost of the gas, and they may only earn a profit on its delivery. The commodity cost is to be passed on to consumers dollar-for-dollar based on what the distribution company paid for the gas. The separation of the transportation cost from the commodity cost creates an opportunity for the gas itself to be provided by a third-party marketer, other than the distribution company. Industrial and large-volume commercial customers are entitled to purchase their gas through such third-party arrangements, paying the distribution companies only their transportation rates that are set in tariffs that have been approved by the PSC.

Kentucky statutes neither require nor prohibit retail competition in natural gas service. The PSC reviews applications for customer choice programs on a case-by-case basis to ensure that they meet the "fair, just, and reasonable" requirement of KRS 278.030. Columbia Gas of Kentucky has been the only utility to seek to establish a customer choice program, and the PSC has approved the program and its extensions for the last 11 years. Data provided by Columbia Gas to the PSC shows that customers in its customer choice program collectively saved $11.4 million during the first five years of the program, but due to extreme volatility in the natural gas markets, customers paid $28.7 million dollars more in the last five years than they would have if they had purchased the gas from Columbia instead of a marketer.

On this and other evidence collected during a two-day hearing on the subject that involved all five major local gas distribution companies as well as many other stakeholders, the PSC concluded that the benefits of retail competition for residential customers could not be established with certainty. If the General Assembly were to move Kentucky toward expanded retail competition, the PSC recommended placing third-party marketers under the same requirements as local natural gas distribution companies by allowing the PSC to: review a marketer's ability to provide gas service before it may provide gas in Kentucky; revoke a marketer's permission to operate in Kentucky or otherwise penalize a marketer for failure to comply with PSC standards; adjudicate complaints against marketers; and require marketers to file tariffs setting forth their rates, terms, and conditions of service.

Update from the Energy and Environment Cabinet on State Strategies to Foster Alternative Transportation Fuels and Renewable Energy Industries in Kentucky

John Davies, Deputy Director of the Department for Energy Development and Independence (DEDI) discussed the strategies that the Commonwealth was undertaking to promote transportation fuel and synthetic natural gas production from fossil energy and biomass resources, as required by House Bill 299 of the 2006 Regular Session. Mr. Davies also discussed state strategies for promoting renewable energy industries in Kentucky.

Under Governor Beshear's energy plan, the cabinet has adopted a multi-faceted approach to develop clean, reliable, and affordable energy sources that will help improve our energy security. As part of this strategy, Kentucky has adopted the goal of developing a coal-to-liquids industry that will use 50 million tons of coal to produce four billion gallons of liquid fuel per year by 2025. Another goal under the strategy is to produce the equivalent of 100 percent of the state's annual natural gas demand by augmenting in-state natural gas production with synthetic natural gas from coal-to-gas processing by 2025. With regard to biofuels and renewable sources of energy, the strategy strives to derive 12 percent of Kentucky's motor fuel demands from biofuels and seeks to triple Kentucky's renewable energy generation to 1,000 megawatts by 2025.

Kentucky has many programs to achieve these goals with regard to coal-to-liquid, coal-to-gas, biofuel, and renewable energy development. Since 2006, the Commonwealth and the US Department of Energy has invested $5.7 million in coal-to-liquid and coal-to-gas feasibility research throughout the state. Construction has started on three coal-to-liquid projects within Kentucky: two in Pike County and one in West Paducah. In 2009, the Governor's Executive Task Force on Biomass and Biofuels found that Kentucky's current production capabilities for biomass are estimated at 12 to 15 million tons per year with minimal land use changes. It is estimated that this burgeoning biomass and biofuels industry could generate over $3.4 billion of net output annually and create almost 14,000 jobs. In 2010, the University of Kentucky Center for Applied Energy Research broke ground on a $19.8 million LEED Gold certified renewable energy laboratory, which will put Kentucky at the forefront of clean energy research. Federal funding accounted for $11.8 million of the project cost, with UK contributing $1 million, the Commonwealth contributing $3.5 million, and an additional $3.5 million coming from stimulus funds.

Representative Pullin commented that the Kentucky Department of Veterans Affairs would be taking part in the Kentucky green bank to retrofit the Thomson-Hood Veteran's Center with energy-saving technologies. She complimented Representative Adkins for his foresight in sponsoring House Bill 2 and understanding the role that energy efficiency would play in the future.

In response to a question from Senator Stivers, Karen Wilson, Chief of Staff for the Energy and Environment Cabinet, said that the Beshear Administration was responding in several different ways to US EPA's attempts at more aggressive environmental regulation of coal mining and coal-fired power plants. The cabinet has sued EPA twice over proposed environmental regulations regarding coal mining, and Secretary Peters has testified before Congress and has written numerous letters stating his displeasure with proposed regulations. The cabinet has also submitted letters opposing proposed greenhouse gas and coal ash regulation and the timeline for which the proposed regulations are to take effect.

In response to a question from Chair Smith, Ms. Wilson said that the Beshear Administration's position on hollow filling had changed after further consideration of the issue.

Representative Gooch commented that public officials need to do a better job of conveying to the public the impacts of increased coal regulation on the economy of Kentucky, especially the industrial sector.

Representative Adkins commented that US EPA was overreaching with regard to the regulation of coal mining and that Congress has not granted it the authority to hold coal mining permits indefinitely.

In response to a question from Senator Stine, Greg Guess, Director of the Division of Efficiency and Conservation, stated that he was working with the Department of Education and the US Green Schools Caucus to help promote green building practices for schools in Kentucky. Mr. Davies stated that a new LEED Gold certified agribusiness school in Fayette County, Locust Trace, was built after passage of Senate Bill 132 in 2010 without any help from grant money. A list is currently being compiled of which schools have been built or refurbished with and without energy efficient technologies.

In response to a question from Representative Couch, Mr. Davies responded that the cabinet would investigate the negative economic impact of coal-fired power plant closures in Georgia on the export demand for eastern Kentucky coal.

In response to a question from Representative Riner, Ms. Wilson responded that she would provide the members with a list of US EPA regulations that the Beshear Administration opposes.

Representative Combs commented that people from around the country share Kentuckians' view that Kentucky has already been implementing clean coal technologies, and that the US EPA's overregulation is unwarranted.

There being no further business, the meeting was adjourned.

Interim Joint Committee on Judiciary

Minutes of the 3rd Meeting
of the 2011 Interim
August 5, 2011

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Friday, August 5, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Tom Jensen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Ray S. Jones II, John Schickel, Dan "Malano" Seum, Robert Stivers II, Robin L. Webb, and Jack Westwood; Representatives Sara Beth Gregory, Joni L. Jenkins, Thomas Kerr, Stan Lee, Mary Lou Marzian, Mike Nemes, Tom Riner, and Brent Yonts.

Guests: Melissa Platt, M.D., Ryan Stanton, M.D., Kentucky Chapter, American College of Emergency Physicians; Cynthia Cheek and Dave Rednour, Norton Healthcare; Tom Szurlinski, Florence Police Department and Kentucky Association of Chiefs of Police; Mike Daly, Fort Thomas Police Department; Tony Kramer, Edgewood Police Department and Northern Kentucky Police Chiefs Association; Alan George and Bill Patrick, Kentucky County Attorney's Association; Linda Robinson, St. Elizabeth Health Care; John Cooper, Kentucky Medical Association; Sarah Nicholson, Kentucky Hospital Association; Jackie Steele, Commonwealth Attorney's Association; Marylee Underwood, Kentucky Association of Sexual Assault Programs; Marilyn Swinford, St. Joseph Healthcare; Deb Bryant, Saint Joseph East; and Mary Rose Bauer, Kentucky Emergency Nurses Association.

LRC Staff: Norman Lawson Jr., Jon Grate, Ray Debolt, Jr., and Rebecca Crawley.

The minutes of the July 1, 2011 meeting were approved by voice vote.

Discussion of 2011 Senate Bill 22 relating to crimes and punishments

The first speaker was Senator John Schickel who discussed Senate Bill 22, introduced during the 2011 Regular Session. This measure would amend KRS 508.025 to include physicians, nurses, and other emergency health care workers, and make it a Class D felony to assault one of the named persons in the emergency room of a hospital. Senator Schickel said twelve other states have included emergency health care workers in their workplace violence statutes, and they were unintentionally excluded in the Kentucky legislation. He noted emergency room personnel are frequently the victims of assault while performing their duties and still have a duty to continue to render care to the person who assaulted them. He said emergency medical technicians, bus drivers and teachers are protected under workplace violence legislation and emergency health care workers deserve the same protection. He felt the bill would provide a loud and clear message that such conduct will not be tolerated.

Ms. Linda Robinson, RN, St. Elizabeth Health Care, indicated the number of emergency room assaults is increasing, many patients are on drugs or are seeking drugs and are aggressive and combative, and eight percent of emergency room personnel are assaulted with 15 percent receiving physical injury. Some frequent emergency room patients have psychiatric problems and many drug and alcohol programs have been the victims of budget cuts, so these patients have no other place to seek assistance and necessary medications to address their problems. She complained that police cannot arrest the perpetrators because fourth degree assault is a misdemeanor and the police must view the offense before an arrest can be made. Elevating this to a felony would get violent people off the streets and noted many violent patients come to the emergency room repeatedly for care or to get medications. In response to a question from Senator Jensen, Ms. Robinson said security in hospitals is based on square footage, so smaller facilities may not have any on-site security.

Melissa Platt, M.D., President, Kentucky Chapter, American College of Emergency Physicians, agreed that emergency room violence is increasing, drugs and alcohol are frequently involved, and many are prisoners who are being brought to the emergency room by police officers for treatment. Many emergency room patients are mentally fragile, victims of domestic violence, or under the influence of drugs or alcohol. It is not uncommon for a victim of domestic violence to be followed to the emergency room by their abuser, creating a very dangerous work environment for emergency room personnel. The University of Kentucky Hospital has a full security department but it does not prevent violence from taking place in the emergency room. Representative Jenkins felt hospital social workers, nurse assistants, and others should be granted the same protection as doctors and nurses. Senator Gibson said protection should be extended to admissions personnel as well.

Mary Rose Bauer, a University of Kentucky Hospital emergency room nurse speaking on behalf of the Emergency Nurses Association, said this legislation was one of the top three priorities for the association, along with improved incident reporting. Emergency room violence endangers everyone, not only physicians and nurses, but other patients and visitors as well. Senator Jensen asked the speakers if they thought making this offense a felony would be a deterrent to violence in the emergency room. Senator Schickel said this legislation would have a practical application by giving police the authority to arrest on probable cause without actually witnessing the violence. He welcomed suggestions to improve the legislation which he intends to introduce in the 2012 Regular Session. Senator Jones said his wife is a physician, and he did not believe elevating the offense to a felony would fix the problem and could promote a false sense of security. Senator Seum commented on the lack of security at hospitals and noted most hospitals do not have metal detectors to screen for weapons. He suggested mandating that hospitals provide security to protect its employees and Senator Schickel agreed.

Representative Tilley was said not all emergency room violence cases are reported. Ms. Robinson agreed because the assaulted person must go to the county attorney's office to file a report and many times nothing is done, which discourages reporting. Representative Tilley suggested hospitals should increase emergency room security where violence is most likely to happen to protect their employees.

Tom Szurlinski, Florence Police Department, indicated he was a part-time security officer at two hospitals which are not located in his home county. He did not have misdemeanor arrest power outside the county in which he was a peace officer and wanted the committee to extend his peace officer powers to other counties. He had witnessed the fear in emergency room personnel who must still provide care to the person who assaulted them. Many times the perpetrator follows the victim to the place they are seeking treatment, resulting in danger to other patients and family members in the emergency room area. In response to a question from Senator Jensen, Mr. Szurlinski said he did not think serving a year in jail would be a deterrent because most times they do not actually stay in jail for that amount of time. Senator Jensen was concerned that making assault on emergency health care workers a felony would have unintended consequences because felons are prohibited from holding many jobs and felony records are never expunged in Kentucky. He was also concerned about the impact on counties who must house these persons awaiting conviction.

Dave Rednouer, Norton Health Care, indicated there were 225 assaults in 2009, 285 assaults in 2010, and it is anticipated there will be over 300 this year if the trend continues. Cynthia Cheek, Training Officer for Norton Hospitals, described several situations where her experience as a nonviolent negotiation instructor did not work with violent and assaultive patients. Ms. Cheek cited the instance of a woman who pled guilty to felony assault of a hospital worker and was sentenced to two years probation and told not to go back to that hospital, and another incident where a patient she was attempting to calm turned and hit her in the mouth.

Senator Webb said employers have an obligation to protect their employees as a cost of doing business but she was concerned about mandating private entities to provide security personnel. Senator Schickel said the legislation is intended to protect emergency room personnel and private entities need to protect their employees the same as public and quasi-public entities. In response to a request from Senator Webb, Sarah Nicholson, Kentucky Hospital Association, agreed to provide any KHA hospital security suggestions to Senator Schickel. Ms. Nicholson suggested a possible solution would be to make hospital security law enforcement officers with arrest powers. Representative Riner asked if there was a way to track repeat violent patients and was told this might be a HIPAA confidentiality violation.

Cost-Efficient Adjustments of Kentucky's Persistent Felony Offender and Violent Offender Laws

Ed Monahan, Public Advocate, was accompanied by Damon Preston, Deputy Public Advocate. Mr. Monahan reported Kentucky has 7,792 persistent felony offenders and violent offenders in prison at a cost of $169,193,925 per year. Mr. Monahan said he recognized that Kentucky law should protect citizens from violent offenders and those who persistently commit felonies, but felt the present law is too broad, provides disproportionally long sentences for relatively minor felony offenses, and said there are 1,441 inmates serving an average sentence of 11 years for an underlying offense which was a Class D felony with a maximum sentence of five years.

Mr. Monahan's suggestions for amending the persistent felony offender statute included eliminating PFO enhancements for nonviolent felonies, eliminating first and second degree PFO, leaving PFO status only for those with two prior felonies without any substantial break in criminal activity, repealing the 10-year parole eligibility requirement for PFO in the first degree, and prohibiting all double enhancements by eliminating PFO for all offenses already enhanced by a prior conviction.

Suggestions for amending the violent offender statute included limiting it to murder, first-degree rape, first-degree sodomy, first-degree robbery with a firearm, first-degree burglary with a firearm, and first-degree assault, and restricting the 85 percent service of sentence requirement prior to parole eligibility to intentional conduct resulting in death, serious physical injury, or substantial sexual contact, while returning to the 50 percent parole eligibility for violent Class B felonies. Mr. Monahan said federal funding for the 85 percent service of sentence requirement expired years ago, yet we have retained the requirement at great cost to the state.

Mr. Monahan said recidivism drops significantly with age, citing statistics which show 54 percent recidivism for age 21-25 years, 40 percent for age 26-30 years, 35 percent for age 31-35 years, 31 percent for age 36-40 years, 27 percent for age 41-45 years, 24 percent for age 46-50 years, 18 percent age 51-60 years, and 9 percent for age over 60 years. Some prosecutors threaten to use the PFO statute, even for minor felonies, to get defendants to plead guilty for higher sentences when they might have been found not guilty if they had chosen to go to trial. Many times defendants are afraid to gamble on a trial and thus plead guilty. Mr. Monahan also recommended that nonsupport and flagrant nonsupport be decriminalized because while the defendant is in jail or prison they cannot work and pay child support, and when they get out as convicted felons, they cannot get a job, cannot pay, and then go back to prison as persistent felony offenders. Senator Gibson was concerned about a person who owes $5,000 in back child support, is sent to prison at a cost of nearly $22,000 per year, and when they get out they are even further behind in their child support obligation. Mr. Monahan also urged the General Assembly to increase funding for the Department of Public Advocacy social worker program so nonviolent offenders and those in violation of child support orders can keep working, get necessary counseling and training, and pay child support.

Senator Jensen called the attention of the members to a letter received from Mr. James Ritchey of Lawrenceburg, Kentucky on the subject of juvenile status offenders and other juvenile offenders and urged the committee members to read the letter.

The meeting adjourned at 12:10 p.m.

Interim Joint Committee on Labor and Industry

Minutes of the 2nd Meeting
of the 2011 Interim
July 21, 2011

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, July 21, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Jared Carpenter, Julian M. Carroll, Ernie Harris, Tim Shaughnessy, and Jack Westwood; Representatives Will Coursey, C. B. Embry Jr., Bill Farmer, Richard Henderson, Wade Hurt, Joni L. Jenkins, Thomas Kerr, Mary Lou Marzian, Charles Miller, Terry Mills, Mike Nemes, Tanya Pullin, Tom Riner, Jim Stewart III, and Brent Yonts

Guests: Joe Meyer, Secretary, Education and Workforce Development Cabinet; Beth Brinly, Commissioner, Department of Workforce Investment; and Allen Larson, Director, Division of Unemployment Insurance

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

Representative Nelson welcomed Representative Pullin as a new member of the committee. Representative Mills moved to approve the minutes of the first meeting of the interim and Representative Pullin seconded. Representative Nelson introduced Secretary Joe Meyer, Education and Workforce Development Cabinet, to present an update from the Cabinet.

Employment and Unemployment in Kentucky

Secretary Meyer introduced Director Allen Larson, Division of Unemployment Insurance, and Commissioner Beth Brinly, Department of Workforce Investment. The unemployment rate in Kentucky is 9.8 percent (May 2011). Secretary Meyer noted decreases in the number receiving unemployment benefits and the number of monthly initial claims. Kentucky leads in job growth when compared to the surrounding states. April 2010 – April 2011, the job growth rate was 1.5 percent with 26,200 new positions hired.

As of June 30, 2011, the trust fund balance was $145,493,972. Kentucky has borrowed and owes to the federal government $948,700,000 for funding the unemployment insurance trust fund.

HB 5 (2010 SS) Unemployment Insurance Reform: Implementation Update

Secretary Meyer presented a list of changes completed within the program, noting efforts made in fraud detection and increasing public awareness. The Education and Workforce Development Cabinet has issued press releases, produced television broadcasts, placed electronic billboards within offices, and created an email hotline for fraud reports. A training program for employers has been established to help employers understand the appeals process. Changes made to the taxable wage base, waiting week, and wage replacement rate, pursuant to 2010 SS HB 5, will take effect January 1, 2012. Regulations have been filed for several procedure and policy updates, including updates in forms and publications.

Secretary Meyer noted several strategies used in enhancing re-employment efforts. Job matching software that is intended to build a resume database and match positions to workers will be unveiled in two parts. The first part was initiated in June for employees; the second part will be available to employers in the fall of 2011. A new unemployment insurance portal is in development that will require applicants for unemployment insurance to apply for employment services at the same time. Applicants will be able to receive automated email notices when positions become available.

Commissioner Brinly explained the re-employment eligibility assessment grant, instituted by the United States Department of Labor. Using job profiling data, individuals most likely to exhaust their unemployment insurance benefits will be identified and notified to come to a one-stop location within two days. If the individual fails to attend orientation with employment services, he or she is flagged for failure to comply with the rules and regulations under which they received their unemployment insurance benefits.

Unemployment Insurance Program Integrity: Federal Requirements and State Implementation

Director Larson discussed the Benefit Audit Reporting Tracking System. The Division of Unemployment Insurance conducts 400 to 500 audits per quarter. The division has entered into information sharing agreements with the Social Security Administration, Internal Revenue Service, Secretary of State, and the Labor Cabinet to determine if claimants are receiving other benefit payments. The division is reviewing the possibility of doing simultaneous audits with the Labor Cabinet. The division is also utilizing the alien verification program to determine if a claimant may be in the United States illegally. Director Larson addressed working closely with the Inspector General evaluating possible overpayments.

The United States Department of Labor awarded approximately $500,000 for the State and Information Data Exchange system for claims process. The goal is to save time and cost, provide more accurate information, and improve program integrity.

Interest on Unemployment Insurance Debt

Secretary Meyer testified to the fact that the state has borrowed $948,700,000 to pay unemployment insurance benefits, and an interest payment is due on September 30, 2011. The stimulus act waived interest through December 31, 2010. The interest that is due is for the period of January 1, 2011 to September 30, 2011. The state cannot use money from the trust fund and has no authority to use other state resources to make the interest payment. There has been no general fund appropriation for any payment of interest. The task force considered this issue, but did not make any recommendations. The cabinet has been working with state business associations to achieve a federal solution to the problem such as a continuation of the waiver of interest, deferral of interest due date, authority to use benefit monies to make a one time payment, or simply a waiver of the penalty provisions. The business associations have been working with their national counterparts to bring attention to this matter. Governor Breshear and other governors through the National Governor's Association have signed a joint letter asking Congress to consider options on the interest. The cabinet has also been in contact with the state congressional delegation requesting assistance. Several states are in similar situations, some with a much larger debt and interest payment due.

The long term solution is for the cabinet to be granted assessment authority through statute so employers can be assessed for the appropriate share of interest. The cabinet has been working with the business associations on an assessment methodology.

In 1982, when unemployment insurance was last reformed, assessment authority was granted to the cabinet in 1984 by the General Assembly. However, that authority was repealed around 1998.

Workforce Investment Act (WIA) Funding Cuts: Impact on Services to Unemployed

Since 2000, nationally, WIA has withstood a 19 percent cut to adult program funding, a 16 percent cut to dislocated worker programs, and a 34 percent cut to youth programs. The Commonwealth of Kentucky has achieved performance goals with the United States Department of Labor during eight of the eleven years since the program's inception, which has resulted in incentive grants. In 2011, Kentucky experienced a 12 percent cut to youth programs, a 12 percent cut to adult programs, and a 17 percent cut to dislocated worker programs. The department estimated a $900,000 shortfall in its ability to keep every dislocated worker in their current training program. Through a partnership with the Department of Workforce Investment, the Kentucky Community and Technical College System (KCTCS) will offer a tuition adjustment during the fall semester in order to keep every dislocated worker enrolled. Commissioner Brinly said there are many people on waiting lists for enrollment in various training programs.

Representative Nelson allowed committee members to ask questions. In response to questions from Representative Yonts, Commissioner Brinly informed the committee of the online eligibility review process, which is being tested and will be available in October 2011. The online process will electronically notify applicants of career specific employment opportunities based on the information provided by the applicant. Secretary Meyer said recipients are required to obtain eligibility for employment services within six weeks of unemployment and the department will monitor the applicant's progress in training and seeking employment through the online system. Secretary Meyer said 61,390 protest claims from employers were filed in 2010. In 70 percent of the cases, the employers' argument won.

In response to questions from Senator Kerr, Commissioner Brinly explained that state and regional industry partnerships with the Workforce Development Cabinet help to identify critical career pathways which help develop programs within the school systems. A partnership between adult education, KCTCS, and the Workforce Development Cabinet has implemented a program, ABE to Credentials, where a person can attain their GED and a technical certificate at the same time. Eight community colleges will be participating in ABE to Credentials.

In response to Senator Kerr's question, Secretary Meyer said that repayment of interest was not the focus of the unemployment insurance task force; it was not their intention to get into the details of an assessment system. Secretary Meyer said that during the deliberations of the task force, it was unknown how the federal government would deal with repayment.

Commissioner Brinly said that the Workforce Development Cabinet works with school counselors, one-stop employment locations and adult education programs to inform the public that manufacturing jobs are steadily changing and readily available to those with advanced technical training, in response to questions from Representative Embry. The Office of Career and Technical Education presents "Close the Deal" programs where students can receive technical certifications while receiving their high school diplomas. Commissioner Brinly noted "Operation Preparation," which will be implemented in August, where the employer community will be utilized as mentors and counselors to eight and tenth graders. Secretary Meyer said 30 percent of high school graduates will receive a college degree.

In response to Representative Farmer, Secretary Meyer said a combination of people who are uncovered, ineligible, whose eligibility has expired, or for other factors are not enrolled in unemployment insurance make up for the discrepancy between the number of people unemployed and those who are receiving unemployment insurance benefits. Secretary Meyer said the total unemployment rate (9.8 percent) is different from the insured unemployment rate (less than 3 percent).

There being no further business the meeting adjourned.

Interim Joint Committee on Natural Resources and Environment

Minutes of the 3rd Meeting
of the 2011 Interim
August 4, 2011

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, August 4, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Joe Bowen, Ernie Harris, Ray S. Jones II, Bob Leeper, Dorsey Ridley, Johnny Ray Turner, and Robin L. Webb; Representatives Hubert Collins, Tim Couch, Keith Hall, Stan Lee, Reginald Meeks, Marie Rader, John Short, Kevin Sinnette, Fitz Steele, Jim Stewart III, and Jill York.

Guests: Jeff Derouen, Executive Directive Director, Kentucky Public Service Commission; Stephanie Bell, Deputy Executive Director, Kentucky Public Service Commission; Andrew Melnykovych, Public Information Officer, Kentucky Public Service Commission; Richard Raff, Assistant General Counsel, Kentucky Public Service Commission; and John Lyons, Director, Kentucky Division for Air Quality.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Susan Spoonamore, Committee Assistant.

A quorum being present, upon motion by Rep. Steele and second by Rep. Collins, the July 7, 2011 minutes were approved without objection by voice vote.

Update on Air Quality Issues

John Lyons, Director of the Division of Air Quality, discussed three air quality rules that affect the energy supply and price: the National Ambient Air Quality Standards (NAAQS), cross-state air pollution rule, and the proposed utility MACT. All three rules will cause fuel switching, retirements of older units, higher electric prices, additional costs to environmental permitting, and will impact citizens and businesses through higher energy costs.

Mr. Lyons stated that pollutants have decreased, but NAAQS will reset those levels and impose new requirements on states. The federal Clean Air Act authorizes the United States Environmental Protection Agency (USEPA) to revise the NAAQS standards. The Kentucky Division of Air Quality (KYDAQ) has gone on record stating that the new rules will make monitoring difficult, affect the permitting process, and that the desired levels of protection will not be reached. He also said that the time frames for implementation and realizing attainment are too short. Once the new NAAQS rules become effective, Kentucky will have new areas of nonattainment.

The cross-state air pollution rule replaced the clean air transport rule which imposed caps on sulfur dioxide (SO_2) and nitrogen dioxide (NO_2). The rule allows limited trading among the emitting companies across the states. The only limiting factor is a SO_2 budget of 272 thousand tons and utilities will not be able to emit over 236 thousand tons in the 2012-2013 period. Mr. Lyons said that existing sources will get 94 percent of the allocations and the remainder will go to new sources. In response to a question about whether the 272 thousand tons is an inexceedable cap or exceedable with credits, Mr. Lyons stated it cannot be exceeded and that existing sources are already in compliance. They will be able to reduce further and sell credits to other companies. The KYDAQ anticipates some fuel switching and some shutdowns in order to comply.

Mr. Lyons stated that the third major new rule change is the proposed utility Maximum Achievable Control Technology (MACT). The utility MACT proposal has received the most comments because the existing coal and oil fired power plants will have to add additional controls in order to comply. The rules become effective November 2011 and the utilities will have three years to comply. Once again, the compressed time frames are what cause the most concern.

In response to a question about whether the rule is limited to electric utilities, Mr. Lyons stated that the rule is designed to address mercury, acid gases, and sulfur dioxide which are principally emitted by electric utilities.

In response to questions regarding the origins of the three various rules and how they work in practice, Mr. Lyons replied that the new rules are a function of action by an executive branch agency rather than Congress. He said that the money received from the purchase of credits is used to fund new technologies, which helps to curb emissions. Over time the caps are tightened and the number of credits are reduced causing the level of pollutants to fall.

In response to a query about the use of federal rules to privilege one fuel type over another, Mr. Lyons replied that it will affect coal-fired power plants and it will drive up the cost of electricity.

In response to a question about whether other countries emit the same pollutants, Mr. Lyons stated yes, and that the transport of pollutants is factored into air modeling. The cross-state rule is a transport rule meaning it takes into account the ultimate fate and transport of the pollutant. In terms of emissions control, Mr. Lyons did not know if Canada's restrictions were more or less than the United States.

In response to a question about the medical impacts from air pollution that prompted the changes in federal standards, Mr. Lyons stated that respiratory problems, cardiac disease, learning disabilities, and potential harm to the unborn are the main medical issues. He said that the Division of Air has not reviewed Kentucky specific clinical data and does not know where Kentucky ranks among other states.

In response to a question about the comment period for USEPA's new rules, Mr. Lyons replied that the Division's comments are on the state website and the Secretary's office is in contact with the Kentucky Congressional delegation. In Kentucky's comments the Division supports the continuation of issuing permits and enforcing federal rules.

In response to a question about who the new rules will affect, Mr. Lyons commented that the rules will harm the coal industry. As a result of the new rules, Kentucky will have areas of violations.

Electric Utilities in Kentucky: The Coming Challenges

Jeff Derouen, Director of the Kentucky Public Service Commission, discussed future challenges to the electric utility industry. He said that electricity rates have not kept pace with the rate of inflation so customers are paying less for electricity than for other goods and services. Mr. Derouen stated that the emissions control technologies to reduce pollution is principally falling on fossil fired plants, and since Kentucky's utility industry is primarily coal-fired, there is a disproportionate burden occurring. However, coal is one reason that electricity rates in Kentucky are some of the lowest in the nation. He said that another reason for the low rates is that Kentucky resisted electric deregulation.

Mr. Derouen stated that two new rules, mercury and cross-state; will put pressure on the coal industry. He also noted that there may be new rules dealing with water withdrawals and discharges along with new solid waste rules dealing with the proper disposal of coal combustion residuals. He said that there has also been discussion about possible carbon control rules which would increase Kentucky's rates. Mr. Derouen added that Kentucky could expect additional cuts to the Low Income Home Energy Assistance Program (LIHEAP) since those funds were being redirected to promote more efficiency and conservation.

In response to a question about utility franchise and fees passed to customers, Mr. Richard Raff, counsel to the PSC stated that utilities can recover costs of operation and a reasonable return on investment. The fee is a cost of doing business. The PSC allows either the customers in the area with a franchise fee or all of the customers of the utility to recover the franchise fee.

In response to a question about what utilities are doing to reduce costs, Mr. Derouen stated during a rate case, the PSC reviews all the utility's needs for revenue. Fuel adjustment clauses and environmental surcharges are reviewed for efficiency in costs.

In response to a question about redirecting LIHEAP money to promote more efficiency and conservation, Mr. Derouen commented that the PSC supports that idea. He said that there are more demand side management rules coming from utilities, and low income households can avail themselves of those energy conservation opportunities.

In response to another question about PSC's role in siting wind farms, Mr. Derouen stated that there was no clear definition about what constitutes a wind farm. Clarification in statute would be helpful.

In response to a question about "test years" for rate cases, Mr. Derouen replied that a twelve month period sets the standard for costs. It does not include exceptional or unusual expenses. The rate of return to the utility is based on comparable utilities in the nation. The regulatory agencies do not specifically take affordability into account but the PSC is sympathetic to the issue. Customarily the PSC will approve rate increases but there have been instances when the utility was required to cut or reimburse customers.

There being no further business the meeting was adjourned at 3:10 p.m.

Interim Joint Committee on State Government

Minutes of the 2nd Meeting of the 2011 Interim

July 21, 2011

Call to Order and Roll Call

The second meeting of the Interim Joint Committee on State Government was held on Thursday, July 21, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Damon Thayer, Co-Chair, called the meeting 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., Jimmy Higdon, Gerald Neal, R.J. Palmer II, John Schickel, Dan "Malano" Seum, and Johnny Ray Turner; Representatives Linda Belcher, Dwight Butler, Tim Couch, Will Coursey, Joseph Fischer, Danny Ford, Derrick Graham, Mike Harmon, Melvin Henley, Martha Jane King, Brad Montell, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, John Will Stacy, John Tilley, Tommy Turner, and Brent Yonts.

Guests: Representative Tom Kerr; Tim Storey, National Conference of State Legislatures (NCSL); Mark Sipek, Kentucky Personnel Board; Dinah Bevington and Mary Elizabeth Harrod, Personnel Cabinet.

LRC Staff: Judy Fritz, Bill VanArsdall, Alisha Miller, Karen Powell, Brad Gross, Kevin Devlin, and Peggy Sciantarelli.

Approval of Minutes

The minutes of the June 29, 2011, meeting were approved without objection, upon motion by Representative Rudy.

Legislative and Congressional Redistricting

Guest speaker was Tim Storey, Senior Fellow in the Legislative Management Program, National Conference of State Legislatures, Denver, Colorado. Using a slide presentation entitled "Redistricting Overview," Mr. Storey discussed the basic elements of redistricting. His presentation is summarized as follows.

Mr. Storey began by showing illustrations of congressional districts in Illinois (Cook County) and Arizona, and a state senate district in Massachusetts, all of which were oddly drawn for specific reasons. He went on to explain that the U. S. Constitution requires redistricting to be done every 10 years, following the decennial census. Technically speaking, redistricting is the process of drawing district lines, whereas reapportionment—which is only done by the Clerk of the U. S. House of Representatives—is the process of assigning congressional seats to the states, based on the Census. In the 1960s there was a series of Supreme Court decisions triggered by a 1962 Tennessee case, *Baker v. Carr*, which said that redistricting was justiciable, thus enabling federal courts to intervene. Tennessee and a number of states had gone decades without redrawing districts, and their districts were wildly malapportioned. Prior to 1962, federal courts had essentially stayed out of redistricting.

Apportionment data was delivered to the President by December 31, 2010. In March and April 2011, P. L. 94-171 data was delivered to the states. In all 50 states redistricting must be finalized prior to 2012 elections. Maine and Montana prefer to redistrict after the year 2012, but a judge has ruled that Maine must draw its congressional districts before 2012 elections. For the first time, California is not gaining any seats in the U. S. House. Seventeen states have completed either legislative and/or congressional redistricting. Kentucky is not one of the 16 states covered by Section 5 of the Voting Rights Act; those states are required to submit their redistricting plans to either the Department of Justice or the district court in Washington, D.C. for approval before they can become law. In 37 states the legislature draws legislative lines, and 13 states use a board or commission for redistricting. U. S. House districts are drawn by the legislature in 38 states and by a board or commission in seven states. Arkansas is the only state in which a three-person board (governor, attorney general, and secretary of state) redistrict for the legislative branch. California, through a voter initiative, adopted a new commission system this decade. Iowa has a unique model in which the nonpartisan staff of the legislature draw the plans. After the 2000 Census, redistricting brought litigation in more than 40 states, and the courts drew or revised plans in about a dozen states.

There are different population equality standards for congressional and legislative districts. Congressional districts must be as nearly equal in population as "is practicable," or capable of being done. To play it safe, most states draw districts that are almost exactly the same in population. In the 2000 round of redistricting only about 13 state congressional plans had a zero population variance; in the current redistricting cycle, 10 states already have drawn congressional plans with a zero variance. The courts generally allow a 10 percent deviation from ideal district size for legislative plans. However, in a Georgia case (*Larios v. Cox)* from the previous round of redistricting the courts struck down plans because they were drawn for partisan purposes, even though the districts fell within the 10 percent population variance. The 2010 census revealed that Kentucky congressional districts 2, 4, and 6 are overpopulated and that districts 1, 3, and 5 are underpopulated, based on the ideal district size of 723,228.

The federal Voting Rights Act and the 14th Amendment to the U. S. Constitution make it clear that no plan can have the intent or effect of discriminating against minority voters. General guidelines for compliance with the Voting Rights Act are: (1) Do minorities represent most of the voters in a concentrated area? (2) Do other voters tend to vote for different candidates than minorities? (3) Is the minority population otherwise protected, given the totality of the circumstances? and (4) Race cannot be the predominant factor and should be balanced with traditional principles. (Mr. Storey referenced a 1980 North Carolina case, *Thornburg v. Gingles*.) Traditional redistricting principles include contiguity—all parts of the district are adjacent to each other; consideration of political boundaries; compactness—appearance of the district, or how close people live to each other; preservation of communities of interest—social, cultural, racial/ethnic, economic/trade, geographic, media, urban, rural, occupation, lifestyle, partisanship, and competition. Oregon adopted statutory guidelines that no district could intentionally favor or disfavor a candidate or party. Florida voters adopted a similar constitutional amendment, which is being litigated. Arizona had a provision requiring districts to be "competitive" that was litigated for more than five years.

Practical tips to consider in the redistricting process include: (1) expect the unexpected; (2) talk to legislators because they know their districts; (3) consider future development; (4) consult legal counsel often and think about what is discoverable; and (5) simplify shapes if at all possible.

In 2010, five states are adjusting census data prior to redistricting. Hawaii adjusts military people out of the count; Kansas adjusts students and military out of the count; and Delaware, Maryland, and New York have passed statutes to adjust prisoners out of their incarcerated location into their home of record. The New York law is in litigation, Delaware is reconsidering, and Maryland has made the adjustment in its database.

Mr. Storey concluded his presentation by stating that there is skepticism whether the new California commission system—a completely new way to accomplish redistricting—will be successful, with the state's redistricting deadline approaching in a few weeks. He said that there has been a dramatic shift toward public participation in the redistricting process. He also discussed the American Community Survey [an ongoing survey that provides data every year to help determine how more than $400 billion in federal and state funds are distributed each year].

Responding to inquiries from Representative Stacy, Mr. Storey said that the use of political boundaries in redistricting is permissible. If a state can show that it has consistently and historically followed certain rules about drawing plans, the courts will be differential up to a point, as long as the population variance is not too extreme. Litigation in redistricting cases primarily involves the Voting Rights Act but also the issues of population equality and partisan gerrymandering. Mr. Storey spoke briefly about a Texas case and a notable Pennsylvania gerrymandering case, *Vieth v. Jubelirer*, that went to the U. S. Supreme Court.

When Representative Owens asked about the counting of prisoners in the three states referred to earlier, Mr. Storey explained that the Census counted the prisoners in Delaware, New York, and Maryland in their place of incarceration. Those states' decision to adjust the data to count prisoners at their home of record instead involves an administrative element that is not easy to accomplish, and all three states have found it to be an administrative challenge because records are incomplete. New York and Delaware have not done the adjustment yet. In fact, Maryland was only able to adjust data for state prisoners because the federal bureau of prisons would not share data with the state. The Census is a platinum standard for data. If a state wants to adjust the data, it must be willing to defend the adjustment in court to show that it is as accurate or better than the Census count. So far no decision has been rendered on litigation relative to prisoner adjustment in this redistricting cycle.

When Representative Graham asked about the status of redistricting plans drawn in Wisconsin, where recall elections are being held, Mr. Storey said he does not know the circumstances regarding the challenges to those plans.

In response to an inquiry from Senator Thayer, there was brief discussion of congressional seats in Illinois's Cook County.

Senator Thayer pointed out that the meeting folders include copies of Peter Wattson's publication, "How to Draw Redistricting Plans That Will Stand Up in Court." He said also that copies of Mr. Storey's PowerPoint presentation will be provided to the Committee, and a PDF link to the fourth edition of NCSL's publication, "Redistricting Law," will also be available. He thanked Mr. Storey for an excellent presentation and noted that his appearance before the Committee was at no expense to LRC because of the agency's membership in NCSL.

Administrative Regulation Review

The Committee reviewed Personnel Board administrative regulation 101 KAR 1:325 (Probationary Periods), which was referred to the Committee July 6, 2011. Mark Sipek, Executive Director of the Personnel Board, explained the regulation. Mr. Sipek said that the normal probationary period for merit system classifications is six months. Per state agency requests, the amended regulation specifies a 12-month probationary period for the classifications Audiologist I, Fire Protection Systems Inspector, Probation and Parole Officer I, and Criminal Intelligence Analyst I and II. The regulation also eliminates classifications that are no longer used, changes the names of certain other classifications, deletes language in Section 1(4) that is no longer applicable, and adds clarifying language in Section 2(4). When asked by Representative Cherry, Mr. Sipek confirmed that the regulation does not affect HB 149, enacted in 2010, with respect to the probationary period for employees who move from unclassified into classified positions. Senator Thayer noted that the Committee has completed its review of the regulation and thanked Mr. Sipek for his testimony.

Information Transmittals from Personnel Cabinet

For the information of committee members, two transmittals were included in the meeting folders: House Bill 387/Personnel Cabinet Quarterly Report, dated April 2, 2011; and KRS 18A.030(6) Report, dated May 15, 2011. Present from the Cabinet were Dinah Bevington, General Counsel, and Mary Elizabeth Harrod, Director, Division of Employment Management.

Senator Thayer noted that the reports contain data only through March 23 and March 15, respectively, and he asked why data through the end of June has not yet been reported. Ms. Harrod said that second quarter data should be available within the next week, after cabinet employees complete posting to close out the fiscal year. Senator Thayer asked that the updated information be provided to the Committee in time for its August 24 meeting.

When Representative Henley asked why the Department for Natural Resources has 116 nonmerit employees, as reflected in the House Bill 387 report, Ms. Bevington said that those numbers came from the Department and that she would be happy to relay that question to the agency. Senator Thayer asked Ms. Bevington to also provide that information for the Committee's August meeting.

Senator Thayer thanked the speakers. Business concluded, and the meeting was adjourned at 2:20 p.m.

Interim Joint Committee on State Government

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs
Minutes of the 2nd Meeting of the 2011 Interim
July 26, 2011

Call to Order and Roll Call

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, July 26, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Jimmy Higdon, John Schickel, and Johnny Ray Turner; Representatives Larry Clark, James R. Comer Jr., Joseph M. Fischer, Derrick Graham, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, and John Will Stacy.

Guests: Elaine Walker, Secretary of State; Sarah Ball Johnson, Executive Director, and Mary Ellen Allen, General Council, State Board of Elections; Kenny Brown, Boone County Clerk; Senator Jimmy Higdon; Michael Lewis, Chairman, and William Bowe, Communications Director, Independent Kentucky.

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

Approval of Minutes

The minutes of the June 28, 2011 meeting were approved without objection, upon motion by Senator Schickel and second by Representative Clark.

Primary Voting for Registered Independents (11RS SB 41)

Senator Higdon began the meeting agenda with a discussion on primary voting for registered independents. Senator Higdon stated that the issue was considered in the 2011 Regular Session as SB 41, and he noted that SB 41 passed the Senate but failed in the House Elections, Constitutional Amendments, and Intergovernmental Affairs Committee by one vote. Senator Higdon said that he continued to pursue the issue because there are a large number of independent voters in Kentucky and that these voters have a desire to participate in the primary process. He noted that thirty-two (32) states have some version of an open primary and three (3) states have primary systems similar to the version proposed in SB 41, which would have allowed an independent to choose one party primary to participate in on the primary date. He further stated that he welcomed the opportunity to present the issue again and that he wanted ideas from the Task Force members to improve SB 41 in hopes that it could pass both chambers in the coming session. Copies of SB 41 were passed out in the meeting to the Task Force members.

Senator Higdon then introduced Michael Lewis, Chairman, and William Bowe, Communications Director, of Independent Kentucky. Mr. Lewis began by noting that primaries in Kentucky are a taxpayer funded system, but that a large segment of the taxpaying population – registered independents – do not get to participate in that system. He also pointed to the low 10.34 percent turnout in the May 2011 primary as evidence that Kentucky could stand to be more inclusive in its primaries. Mr. Bowe then testified that Independent Kentucky is not out to harm the major parties or the election process. Rather, Mr. Bowe said that the goal is a more representative government, and he noted that studies show that inclusiveness staves off extremism and makes both parties more representative of the public.

Several members of the Task Force posed questions on SB 41 and voiced their opinions and concerns. Some of the members' concerns about SB 41 centered on the fact that primaries are nominating processes for a political party, and that opening the primary to those voters that have chosen to not adhere to a party's ideology could lead to the selection of a candidate that does not represent the party positions.

Voter Registration of "Homeless" Citizens

Secretary of State Elaine Walker and staff of the State Board of Elections discussed the voter registration procedure for a Kentucky citizen that does not have a permanent, traditional dwelling. Secretary Walker testified that the current "homeless" registration procedure has remained consistent since at least 1995, and possibly the mid 1980s, and has applied through the terms of past Secretaries of State Bob Babbage, John Y. Brown, III, Trey Grayson, and now her office. She stated that the term "residence" is at the center of the issue, but that the term is not defined and the procedure for determining a voter's residence in KRS 116.035 does not require a traditional dwelling. Secretary Walker also noted that several courts have held that the Equal Protection Clause of the United States Constitution requires states to offer the same right to vote to a homeless citizen as to a citizen with a traditional dwelling, and that the National Voter Registration Act allows a registrant to draw a map of the location of their non-traditional official "residence" if it does not have a street address.

Secretary Walker also addressed the concerns of an increased likelihood of voter fraud by stating that it is not borne out by evidence and that existing law addresses fraud and erroneous registration or identification. She also noted anecdotally that she has travelled the state and has not found any problems with homeless registration – with one example being that there were no problems with the ninety-three (93) homeless residents who were registered to vote in Louisville last year, and only two actually went to the polls. She told the committee that registering voters in Kentucky is a priority for her office and all election officials, and that there has been a slight increase in homeless registrations recently due to social service agencies informing these citizens of their right to vote.

Secretary Walker said she is committed to protecting the rights of every citizen, including the homeless, to register and to vote in local and state elections. She noted that on Kentucky's registration forms, the homeless can claim park benches, bridges, or some other non-traditional habitation to which they intend to return as their residence for the purposes of voting. In response to a question from Representative Harmon, Secretary Walker said that the goal is to place every registered voter in the correct precinct, and a homeless or transient voter is no different than a voter with a traditional dwelling in that county clerks should attempt to place them in the precinct in which they indicate their "residence" is located. If no specific location is given but the registrant indicates they are homeless, Secretary Walker said the procedure calls for the clerk to attempt to get more information from the registrant, and if more information is not available, to assign the voter to the precinct in which the county clerk's office is located.

Kenny Brown, Boone County Clerk, then testified as to his concerns about the policy stated in a June 30, 2011, memo from the State Board of Elections that outlined the homeless voter registration policy. Mr. Brown stated that he was concerned that the policy could lead to voter fraud and that the policy could cause a county clerk to inadvertently break the law. Mr. Brown noted that he does not have a problem with homeless voters in his county or generally, but that he specifically took issue with the last line of the memo that states: "If the application has Homeless, Place to Place, In My Car, or has no residential address listed; place the voter in the precinct containing the county clerk's office." Mr. Brown testified that this line of the policy potentially puts a burden on county clerks to break the law by placing voters in the precinct of the county clerk's office when the voter does not actually reside in that precinct. He also stated that he was concerned that elections could be influenced by outside groups or persons who might not be truly homeless, but who would know how to work the process by writing "homeless" on the registration card and then avoiding a good faith effort by his office to determine in what precinct to place the voter – all in an effort to pack a particular precinct and influence an election.

Several members of the Task Force posed questions and voiced their opinions and concerns about the homeless voter registration policy. Some of the members' concerns were focused on the potential for fraud if a person or group sought to exploit the state's policy for registering homeless voters. Other members noted that Kentucky should be encouraging more voter participation rather than raising bars to registration, especially considering recent low turnouts, and they questioned whether the issue was even a problem, given the absence of evidence indicating mass homeless registration or fraud.

The memo from the State Board of Elections to the County Clerks dated June 30, 2011, a letter from Kenny Brown to the State Board of Elections dated July 5, 2011, and Kentucky and federal registration forms were distributed to the members, copies of which may be found in the Legislative Research Commission library.

Business concluded, and the meeting adjourned at 3:00 p.m.

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

Minutes of the 2nd Meeting
of the 2011 Interim

July 14, 2011

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, July 14, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Carroll Gibson, Vernie McGaha, Dennis Parrett, Joey Pendleton, Kathy W. Stein, Katie Kratz Stine, and Mike Wilson; Representatives Tom Burch, Dwight D. Butler, Mike Cherry, Larry Clark, Tim Couch, Myron Dossett, Bill Farmer, David Floyd, Martha Jane King, Jimmie Lee, Terry Mills, Tim Moore, Rick G. Nelson, Fred Nesler, Tom Riner, Carl Rollins II, John Tilley, and Ben Waide.

Guests: Ken Lucas, Commissioner, Allen Workman, Internal Policy Analyst, Jeff Acob, Cemeteries Manager, Kentucky Department of Veterans' Affairs; Larry Bond, Deputy Chief of Staff, Governor's Office; Dave Jarrett, Chairman, Carlos Pugh, Legislative Liaison, Don Dixon, Marine Corp League, Doug Farley, American Legion Representative, and Frank Konerman, AMVETS, Joint Executive Council of Veteran Organizations (JECVO).

LRC Staff: Erica Warren, Clint Newman II, Tiffany Opii, Robert Proudfoot, and Rhonda Schierer.

Minutes

Senator Westwood moved to approve the July minutes. Representative Mills seconded the motion. The minutes were approved.

Resolution

Representative Nelson read a resolution in memory and honor of Representative Eddie Ballard. Representative Nelson moved to adopt the resolution, Representative Floyd seconded the motion, and the motion was adopted.

Kentucky Department of Veterans' Affairs: Update on the Veterans' Nursing Homes and Cemeteries

Ken Lucas, Commissioner, Jeff Acob, Cemeteries Manager, and Allen Workman, Internal Policy Analyst, Kentucky Department of Veterans' Affairs, gave a PowerPoint presentation update on the veterans' nursing homes and cemeteries. The presentation is a part of this record located in the Legislative Research Commission Library. Because of increasing costs, Commissioner Lucas indicated that KDVA will request additional funding for the Veteran Burial Stipend program, which is currently funded at $100,000.

In response to a question from Representative Cherry, Commissioner Lucas stated that there is about $500,000 in the veterans' trust fund, and there are still a few things earmarked for distribution. There is a new license plate that anyone can buy to support veterans that will help with the fund.

In response to a question from Representative Lee, Mr. Workman stated that the new nursing home to be located in Hardin County has had an increase in cost due to VA building requirements. The cost is estimated at $38-40 million.

Representative Moore announced that the new Garrison Commander at Fort Knox is Col. Bruce Jenkins as of today.

11/11/11 Initiative to Honor Veterans

Ken Lucas, Commissioner, Kentucky Department of Veterans' Affairs, and Larry Bond, Deputy Chief of Staff, Governor's Office, briefed the committee on the details of the 11/11/11 Initiative to Honor Veterans. Mr. Bond introduced Ashley Parrott of the Governor's Office, who is assisting in coordinating the 11/11/11 initiative.

Commissioner Lucas pointed out that a job fair with the Louisville and Lexington Chambers of Commerce will be held this fall, that General Tonini has put together a United Service Organizations (USO) show to be held at the Louisville KFC Yum! Center with Montgomery Gentry for active duty families, and that the Military History Museum is reopening.

In response to a question from Representative Clark, Mr. Bond stated that Ford Motor Company will be hiring 1,100 new employees for job openings in the Louisville plant and that veterans will be given priority for the positions.

Joint Executive Council of Veteran Organizations: Update and Legislative Priorities

Dave Jarrett, Chairman, gave an update on JECVO's list of priorities for the 2012 session. The priorities are: full funding for KDVA; charitable gaming to include the use of pull tab dispensing machines and electronic video gaming devices at VSO halls; state identification cards for veterans because many vendors are now asking for photo identification; strengthening safe haven laws to the greatest extent possible for military and veteran funerals to prevent protestors from disrupting funerals and funeral processions; and a reduction in state property tax paid by veteran service organizations through a partial property tax exemption.

Other JECVO representatives attending for comment or questions were: Carlos Pugh, Legislative Officer, Don Dixon, Marine Corps League, Dough Farley, American Legion Department Commander 2011-2012, and Frank Konerman, AMVETS.

Co-Chair Pullin accepted an award on behalf of the committee for the committee's service to veterans presented by Frank Konerman.

Other Business

The committee learned that Jimmie Grizzle, former AMVETS state commander, had surgery and the members expressed concern and their desire to send him their wishes for a full and speedy recovery.

There being no further business, the meeting adjourned.

Capital Planning Advisory Board

Minutes of the 3rd Meeting
of the 2011 Calendar
July 29, 2011

Call to Order and Roll Call

The 3rd meeting of the Capital Planning Advisory Board was held on Friday, July 29, 2011, at 9:00 AM, in Room 169 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Melvin B. Henley, Co-Chair; Representative Ron Crimm; David Buchta, Charles Byers, Carole Henderson, John Hicks, Bill Hintze, F. Ryan Keith, Mary Lassiter, Mark Overstreet, and Katie Shepherd.

Guests testifying before the board: Robert L. King, Allen Lind, and Sherron Jackson, Council on Postsecondary Education; Steve Rucker, Janet Lile, and Glenn Thomas, Commonwealth Office of Technology; Jamie Link, Mack Gillim, and Robin Kinney, Finance and Administration Cabinet; Michael A. Jones, Colonel (Retired), Charles R. Flynn, Major (Retired), Department of Military Affairs; Steven T. King, Kentucky Air National Guard; Ken Lucas and Judy Solomon, Kentucky Department of Veterans Affairs.

LRC Staff: Shawn Bowen and Jennifer Luttrell.

Approval of Minutes June 17, 2011

There was a motion made by Mr. Buchta, seconded by Mr. Hintze and adopted by voice vote to approve the minutes of the June 17, 2011 meeting.

Postsecondary Project Recommendations

Mr. King, Mr. Lind, and Mr. Jackson gave an overview of the Council on Postsecondary Education's (CPE) project recommendations. CPE evaluated postsecondary construction and information technology projects for the board, and recommended funding for 104 projects in three categories: asset preservation and renovation; construction of new/expanded education and general research facilities; and information technology initiatives.

Mr. King said CPE has developed a new approach and model to address the capital needs of postsecondary institutions and requested the board's support in this endeavor. To fund this initiative, in its 2012-14 budget request due November 2011, CPE intends to request multi-biennial funding that would cover a six-year period.

The new model would recommend that a pool of funds be established and administered by CPE, and funding be done in terms of an allocation of dollars to each university, rather than on a per-project basis. Postsecondary institutions will select and rank their projects based on three priority areas: asset preservation; construction of new/expanded education and general research facilities; and information technology initiatives. Each institution must submit a project list to CPE in order to be eligible to receive an allocation of funds, and the institutions must agree to meet a certain balance of the expenditures on asset preservation.

This new multi-biennial funding approach would provide a balanced investment as recommended by the VFA Study; allow more flexibility for institutions to implement capital projects; allow campuses to better plan for construction; and provide for stronger protection of state-owned assets.

A workgroup, comprised of CPE and university representatives, will meet over the coming months to address the proper size of the pool and the duration of the program; the mechanism to determine the allocation for each institution; and the appropriate balance between asset preservation and renovation versus new/expanded space. (The VFA Study will serve as a basis for determining these factors. The study recommends 55% for capital renewal/replacement and renovation, and about 45% for new and expanded space.)

In response to a question from Representative Henley, Mr. King replied that the smaller institutions have extramural research projects, but not nearly at the volume as the University of Kentucky or the University of Louisville. There are projects that call for lab space, new science buildings, and various campuses. Mr. Jackson added that the extramural research at the University of Kentucky and the University of Louisville applies directly to one of the goals of House Bill 1 which calls for the institutions to be nationally competitive as a Top 20 Research Institution. The list highlights the progress that has been made on that goal.

In response to a question from Representative Henley, Mr. King replied that a working group of university representatives will be meeting with CPE staff over the next two months to reach agreement on the best approach/model to use. Mr. King further explained that it was CPE's hope that the campuses have a reasonably predictable flow of dollars so as to undertake projects as needed and recommended by the VFA Study. One of the issues the working group will address is making sure there are some minimum dollar requests when an actual proposal is made.

Mr. Overstreet noted that CPE planned to request multi-biennial funding whereas agency budget requests are for two years. Mr. King said CPE realizes that one General Assembly session cannot bind another, however, two years ago the Legislature adopted pension reform legislation that sets out quite specifically financial obligations that the state must commit to fulfill through 2024. If there was an agreement to adopt CPE's proposal, it would at least create a framework against which the Governor and the Legislature would have an ongoing obligation to protect the university facilities and meet the needs of higher education.

Mr. King said historically there have been relatively modest pools of money for deferred maintenance set aside from year to year subject to a matching requirement, but the data shows that approach is not sufficient to meet growing needs. Mr. Hicks commented that the data driven side is another element of this plan that is very worthy and the VFA Study has done a good job of bringing the board's attention to the significance of deferred maintenance issues on the campuses. The idea of a balanced approach between new construction and asset preservation is a good one.

Mr. Hintze stated that the board, since its inception, has made maintenance its highest priority in policy recommendations, and has tried to devise a means to provide a regular higher stream of funding. The multiyear aspect CPE's plan is in keeping with the six-year process that this board has been supportive of. There are other examples within the existing capital investment statutes and other examples as they apply to certain other entities of state government where multiyear assets can remain available to be pooled and applied over more than one biennium.

Information Technology Project Recommendations

Commissioner Steve Rucker, Janet Lile, and Glenn Thomas gave a brief overview of the Commonwealth Office of Technology's (COT) review and report on information technology (IT) projects for the board. COT recommended 59 IT projects for funding, of that amount, 51 projects were designated as "High Value" and eight projects were noted as "critical" because of their direct contribution to meeting the strategic goals of the Commonwealth.

Mr. Hintze noted that the Executive Summary in COT's report recommends that KRS 45.750(1) be amended to include the word "infrastructure" in the definition of an information technology system. He said there needs to be some precision to the definition to such a term if the capital planning and budgeting definition were to be broadened. He recommended that COT submit a revised definition to the board for review.

Commissioner Rucker replied that agencies turn in a request for a software application, but they do not include the underlying infrastructure, such as servers or bandwidth requirements, to support that application.

In response to a question from Mr. Overstreet regarding project risks, Mr. Thomas said one of the major considerations for any project is the risk associated with it. Projects that are costly or have long timelines have more risk associated. These projects are more likely to not be completed on time and will cost more in the long run.

Review of Agency Capital Plans

Representatives from the Finance and Administration Cabinet (FAC) included Deputy Secretary

Jamie Link, Robin Kinney, and Mack Gillim. Mr. Link gave a brief overview of the Cabinet's capital plan, which included projects for the statutory project pools (Capital Construction and Equipment Purchase Contingency Fund; Emergency Repair, Maintenance and Replacement Fund; and Statewide Deferred Maintenance Pool); construction and renovation/restoration projects on the Capitol campus, at the Capital Plaza Complex, and various other state locations; additional infrastructure projects for the Data Readiness Center; and various projects to replace portions of facilities that show signs of wear and tear due to use and aging.

In response to questions from Senator Westwood, Mr. Gillim replied that the Modernized E-File project, an electronic filing platform developed by the Internal Revenue Service, will save the Commonwealth money because it will cut the cost to process a tax return from $2 to a few cents per return. He stated that it would also increase the accuracy of the tax returns. When this program is fully implemented, there will be even more savings.

In response to questions from Mr. Hintze, Mr. Link stated that the conceptual design of the new Capital Plaza Tower Complex is underway, and funding is in place for Phase II of the design. Currently, the Cabinet is discussing efficient space planning. The Cabinet has not initiated the Sower Office Complex at this time.

In response to a question from Ms. Lassiter, Mr. Rucker said COT replicates disaster scenarios twice a year to ensure state government data is safe in the Data Readiness Center.

Retired Colonel Michael A. Jones, Lieutenant Colonel Steven T. King, and Retired Major Charles R. Flynn, representing the Department of Military Affairs (DMA), gave a brief overview of the Department's capital plan. The Department reported that there has been no major change in needs, issues, or focus from DMA's last capital plan. The Department would like to focus on the Armory Installation Maintenance Pools requested in each biennium in an amount designed to help alleviate the maintenance backlog and to address the infrastructure issues of the statutory and quazi-commercial activities of Bluegrass Station, the Old Arsenal, and the DMA Statewide Emergency Radio Network.

In response to a question from Mr. Hintze, Colonel Jones said that the current Medical Command Unit building at Bluegrass Station is in poor condition and DMA would like to construct a new unit located at the Boone National Guard Center in Frankfort. Lieutenant Colonel King added that Frankfort would be the best location for this new building because of other readiness processing efforts that are conducted at the Boone National Guard Center.

In response to a question from Mr. Hicks, Colonel Jones replied that if DMA is authorized a maintenance pool in the next budget, armory projects in Harrodsburg, Prestonsburg, and Walton would be the primary projects to be addressed. Also, the Department would like to move the Emergency Operations Center from the Administrative Office of the Courts building to the Boone National Guard Center.

In response to questions from Senator Westwood, Lieutenant Colonel King stated that the 40-year old armories are structurally unstable and the settlement issues are due to site drainage erosion. The new armories will be designed to have adequate bearing capacity.

The next plan to be reviewed was for the Kentucky Department of Veterans Affairs (KDVA). Representing KDVA were Commissioner Ken Lucas and Judy Solomon. Mr. Lucas gave a brief overview of the capital plan, which included two projects for the 2012-14 biennium, and one project for the 2014-2016 biennium.

KDVA's 2010-12 maintenance pool appropriation ($200,000) will be used to repair a hill slide at Kentucky Veterans Cemetery North and to address mold and moisture problem at the Eastern Kentucky Veterans Center. Each project is estimated to cost $100,000.

Mr. Lucas discussed two currently authorized projects that have not been initiated. The Kentucky Veterans Cemetery Southeast project was authorized in the 2006-2008 budget ($200,000 General Funds and $6,000,000 federal funds). To date, there has been no activity on the project due to site selection issues. Leslie County officials have now hired Nesbitt Engineering, from Lexington, and there is a potential site for the project. The site will still need to be evaluated by the federal government before construction can start.

In response to a question from Senator Westwood, Mr. Lucas stated that he thinks the federal government will be agreeable to the site for the cemetery project in Leslie County.

The Construct Fourth State Veterans Nursing Home project in Radcliff was authorized in the 2008-2010 budget ($19,500,000 federal funds and $10,500,000 bond funds). The project will be sited on a 197-acre site that is part of Fort Knox. The federal government plans to deed the land to the Commonwealth. Mr. Lucas said the timeline for receipt of federal funds for this project is not certain. This project is ranked No. 44 on a federal priority list, however, if an emergency occurs, the project could be downgraded and funded at a later date.

Board Discussion of Planning Issues

Senator Westwood stated that if there is nothing right now, he would encourage the members to be thinking about what has been heard in the presentations and reports thus far. The Board will begin working on recommendations at the next meeting.

Schedule of Future Meetings

Senator Westwood stated that the next meeting is scheduled for Friday, August 26 starting at 10:00 AM.

Adjourn

With there being no further business to discuss, the meeting was adjourned at 10:58 AM.

Capital Projects and Bond Oversight Committee

Minutes

April 19, 2011

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, April 19, 2011, at 1:00 p.m., in Room 171 of the Capitol Annex. The meeting was called to order, and the secretary called the roll.

Present were:

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

Guests: John Hicks, Governor's Office of Policy Management; Sam Ruth, Department for Facilities and Support Services; Charlie Harmon, Department of Education; Charles Bush, Division of Real Property; Sandy Williams and Kasi White, Kentucky Infrastructure Authority; Katie Smith, Cabinet for Economic Development; Tom Howard and Brett Antle, Office of Financial Management; Mike Walters, Morehead State University; and Lisa Collins, School Facilities Construction Commission.

LRC Staff: Kristi Culpepper and Samantha Gange.

Approval of Minutes

Representative Wayne made a motion to approve the minutes of the March 15, 2011, meeting. The motion was seconded and approved by voice vote.

Election of Senate Co-Chair

Kristi Culpepper, Committee Staff Administrator, indicated that pursuant to KRS 45.790, a Co-Chair election was needed for the positions of Senate and House Co-Chairs. Senator Carpenter nominated Senator Leeper for the position of Senate Co-Chair. The motion was seconded by Senator Buford. Senator Buford then made a motion that nominations cease and that Senator Leeper be elected as Senate Co-Chair by acclamation. The motion was seconded by Senator Carroll and approved by voice vote.

Election of House Co-Chair

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

Correspondence Items

Representative Glenn asked Ms. Culpepper to discuss correspondence items. Ms. Culpepper said members' folder contained three items of correspondence. The first item of correspondence was a letter from the Kentucky Housing Corporation (KHC) notifying the committee that KHC is structuring a transaction with $30 million in funding from the US Treasury's New Issue Bond Program, which is expected to close in May.

The next two items of correspondence were from the University of Kentucky (UK) to notify the committee that UK plans to use the Construction Management-at-Risk project delivery method for the Upgrade Student Center Infrastructure and Construct Second New Housing North Campus projects.

Information Items

Ms. Culpepper said members' folders also contained six information items. The first three information items were the quarterly status reports on capital projects for the Finance and Administration Cabinet and the universities that manage their own capital construction programs; the Administrative Office of the Courts; and the Commonwealth Office of Technology. The fourth item of correspondence was a report from Moody's Investors Service explaining its decision to downgrade the state's issuer credit rating to Aa2; the fifth item of correspondence was the Semi-Annual Report of the Kentucky Asset/Liability Commission; and the last items of correspondence were the staff and bond market updates.

University of Louisville (UL) Scientific Research Equipment

Ms. Culpepper said UL was reporting that it has used $601,000 of federal funds to purchase two unbudgeted items of scientific research equipment for the school's Rapid Prototyping Center and the Speed School of Engineering.

Project Scope Increase from the Finance and Administration Cabinet

Representative Glenn asked John Hicks, Deputy Director, Governor's Office of Policy Management; and Sam Ruth, Commissioner, Department for Facility and Support Services; to present several items. Mr. Hicks said the Finance and Administration

Cabinet is requesting approval of a scope increase for the Department of Education (DOE), Enhance Kentucky Statewide Longitudinal Data System project. The scope increase is $291,000 with a revised project scope of $3,169,400. The additional funds will be provided by a US Health and Human Services Head Start grant. The project will provide pre-Kindergarten population data to enhance the longitudinal system architecture from the pre-Kindergarten level through the postsecondary level.

Representative Glenn asked when the system would be fully implemented. Charlie Harmon, Budget Director, DOE; said the primary education system has been fully implemented and the postsecondary education system is currently in progress. He said the scope increase requested is for the pre-Kindergarten system, which will be implemented in the coming months.

Representative Wayne made a motion to approve the scope increase. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Reports of Pool Projects in Excess of $600,000 for the Department for Facilities and Support Services.

Mr. Ruth said the first pool project was for the Cooling Tower Replacement, Capital Plaza Tower. The appropriation is $1,200,000 and is provided from the 2010 Extraordinary Session HB1 (2010-12 Budget) Bond-Funded Maintenance Pool. The existing cooling tower is approximately 40 years-old and continued repairs are no longer economically feasible.

The second pool project was for the Renovation of the Old Surplus Property Building on Barrett Avenue in Frankfort, KY. The appropriation is $1,500,000 and is provided from the 2008 HB 406 (2008-10 Budget) Bond-Funded Maintenance Pool. Once renovations are made, the Department of Revenue will relocate state employees from leased space into state-owned space.

The third pool project was for the Education Center project (Capitol Grounds Tourism Enhancement). The appropriation is $988,000 and is provided from the 2006 HB 380 (2006-08 Budget) Bond-Funded Maintenance Pool and the 2008 HB 406 (2008-10 Budget) Bond-Funded Maintenance Pool. As a result of this project, an Education Center will be available for visitors of the capitol campus and will serve as a showcase for green technology.

The fourth pool project was for the Capitol Annex Roof Replacement project. The original project was for $1,500,000 and was reported to the committee at its July 2010 meeting, as a project pool in excess of $600,000. The scope of the project has increased to $1,650,000 due to some unforeseen conditions such as masonry problems and a deteriorated gypsum deck. The scope increase will be provided from the 2006 HB 380 (2006-08 Budget) Bond-Funded Maintenance Pool and the 2008 HB 406 (2008-10 Budget) Bond-Funded Maintenance Pool. No action is required on pool projects in excess of $600,000.

Representative Glenn asked what the remaining balances were for the 2006-08 and the 2008-10 Bond-Funded Maintenance Pools. Mr. Hicks said the Finance Cabinet is in the process of finishing out the 2006-08 pools, and near finishing out the 2008-10 pools.

Senator Buford asked if the Bond-Funded Maintenance Pools from all budget cycles, including the most recent one are satisfactory. Mr. Hicks said the pools have allowed the department to do various maintenance and renovation projects that were not included in the budget. However, he indicated that in the areas of Corrections, Mental Health, and Department of Parks the maintenance pools have been insufficient.

Representative Wayne said he is aware that the Capital Plaza Tower is old and has been deteriorating. He asked what the status was on replacing the building. Mr. Ruth said the department has completed a Phase A Design. The replacement of the facility is included as a top priority in the department's capital plan. He indicated funding is needed for the project to move forward.

Report of Lease Renewals with an Annual Cost Exceeding $100,000

Representative Glenn asked Charles Bush, Director, Division of Real Property, Finance and Administration Cabinet, to report eight lease renewals. Mr. Bush said the first lease renewal was for the Cabinet for Health and Family Services (CHFS) in Montgomery County (PR-2829) for office space with an annual rental cost of $130,356. The lease is through June 30, 2012 and includes utilities.

The second lease renewal was for the Department for Libraries and Archives in Franklin County (PR-3388) for warehouse space with an annual rental cost of $192,948. The lease term is through June 30, 2014 and includes utilities.

The third lease renewal was for the Department of Agriculture in Franklin County (PR-3482) for office space with an annual rental cost of $246,489. The lease term is through June 30, 2014.

The fourth lease renewal was for the CHFS in Franklin County (PR-3734) for office space with an annual rental cost of $419,103. The lease term is through June 30, 2014.

The fifth lease renewal was for the Department of Revenue in Franklin County (PR-3747) for office and warehouse space with an annual rental cost of $181,339. The lease term is through June 30, 2014.

The sixth lease renewal was for the Department of Public Advocacy in Franklin County (PR-3764) for office space with an annual rental cost of $285,762. The lease term is through June 30, 2014.

The seventh lease renewal was for the Department of Agriculture in Franklin County (PR-4505) for office and laboratory space with an annual rental cost of $182,793. The lease term is through June 30, 2014.

The eighth lease renewal was for the Department of Agriculture in Franklin County (PR-4804) for office and laboratory space with an annual rental cost of $199,800. The lease term is through June 30, 2014.

In response to a question from Representative Glenn, Mr. Bush said the variance in the cost of square footage pertains to the type of space needed such as office or warehouse space.

Senator Leeper asked why only two of the lease renewals include utilities. Mr. Bush said that some of the older buildings include utilities and the newer ones do not. He said that newer leases do not typically include utilities.

Senator Carroll made a motion to approve the eight lease renewals. The motion was seconded by Representative Damron and approved unanimously by roll call vote.

Kentucky Infrastructure Authority (KIA) Fund B Loans

Representative Glenn asked Sandy Williams, Financial Analyst, KIA, to present several loans. Ms. Williams said the first request was a Fund B loan assumption for the MuniNet Fiber Agency (MFA) in McCracken County. The committee approved the original Fund B loan request at its July 16, 2009, meeting. The MFA is seeking to assume $2,446,557 in outstanding Infrastructure Revolving Fund B loan debt of the City of Murray as a result of the creation of the MFA. The loan terms will remain the same as with the original loan, 1.57 percent interest rate with a 20 year term.

Discussion of KIA Fund B Loan Assumption for MFA

Representative Damron said he thought that KIA only made loans for water and sewer projects not for broadband projects. Ms. Williams said statutorily KIA has the ability to loan money to governmental agencies such as MFA, which includes electric and broadband. She said several years ago KIA added a section to the Fund B program that specifically identified broadband and internet usage as an area they would target. KIA has set aside a small amount of funds for that purpose.

Representative Damron asked if KIA currently had Fund B loan applications for water and sewer that KIA is not able to award. Ms. Williams said that the Fund B loan program works on a first come first serve basis. She said KIA is currently able to cover all Fund B loan applications for water and sewer.

Representative Damron said he was concerned about making loans to governmental agencies for internet when there is such a need for water and sewer projects across Kentucky, especially rural areas.

Senator Carroll asked why KIA would fund broadband projects when there is a funding need for water and sewer projects. Ms. Williams said projects such as the one with MFA provide for economic development in certain areas.

In response to a question from Senator Leeper, Ms. Williams said the committee has approved approximately six Fund B loans for broadband or internet projects.

Representative Wayne asked if KIA notifies local governments that funds are available for water and sewer projects. Ms. Williams said KIA provides training sessions for local water and sewer entities across the state throughout the year. Additionally, KIA meets with Area Water Development Councils. For the federally-funded programs an Intended Usage Plan is published and available to the public.

Senator Buford asked if the debt would be guaranteed by the Cities of Murray and Paducah. Kasi White, Financial Analyst, KIA, said that MFA was formed with an interlocal agreement between the two cities. The agreement states that any obligation of the agency is also an obligation of the governmental entity.

In response to a question from Senator Buford, Ms. White said the usage rates are for businesses. She noted that the project would service local governments, libraries, and hospitals. She indicated there is a great need for broadband service for businesses in this area.

Representative Damron asked how much is available in Fund B for broadband projects. Ms. Williams said approximately $500,000.

KIA Fund B Loans Continued

Ms. Williams said the second request was a $141,700 Fund B loan for the City of Elkton in Todd County for the West Main, Commerce, and 68/80 Sewer Extension project. The loan term is 20 years with an interest rate of one percent. The required rate increase associated with the project was approved by the City Council.

Ms. Williams said the third loan request was a $2,033,947 Fund B loan for the MFA for the Fiber Optic Cable Build Project #1. The loan term is 20 years with an interest rate of two percent.

In response to a question from Representative Glenn, Ms. Williams said local officials have been working hard to provide broadband service to businesses in Western Kentucky.

Senator Carroll made a motion to approve the Fund B loan assumption and the two Fund B loans. The motion was seconded by Representative Wayne. Seven members voted "yes" and one member passed. The motion carried.

KIA Fund F Loans

Ms. Williams said the fourth loan request was a $2,080,000 Fund F loan for the City of Brandenburg in Meade County for the Water Treatment Plant Upgrade and Expansion project. The loan term is 20 years with an interest rate of two percent.

The fifth loan request was a $1,633,000 Fund F loan for the Bullock Pen Water District in Grant County for the construction of a 500,000 gallon water storage tank, pump station, new water lines, and replacement water lines. The loan term is 20 years with an interest rate of two percent.

Representative Wayne made a motion to approve the two Fund F loans. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

KIA Grants

Ms. Williams indicated three non-coal development grants authorized by the General Assembly were included in members' folders. No further committee action was needed.

Economic Development (EDB) Pool Grant

Representative Glenn asked Katie Smith, Deputy Commissioner, Department for Financial Incentives, Cabinet for Economic Development, to present two items. Ms. Smith said the first item was a $500,000 EDB grant to the City of Morgantown for the benefit of Sequa Automotive Group to offset the cost of improving and equipping approximately 60,000 square feet of unused space at its current manufacturing facility. The space will be used to produce automobile airbag inflators. Pursuant to the EDB grant agreement, the company must create 280 new, full-time jobs for Kentucky residents with an average hourly wage of $12.98, excluding benefits.

Representative Glenn asked who the company will be supplying airbags to and if it was in close proximity to Kentucky. Ms. Smith said she thought Sequa was supplying the airbags to a manufacturing company in Tennessee.

Senator Carroll made a motion to approve the EDB grant project. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

EDB Pool Project – Base Realignment and Closure (BRAC)

Ms. Smith said the second item was a $1,800,000 EDB BRAC grant to the City of Vine Grove for the Highway 313 Sewer Expansion project. The 2010 General Assembly (Extraordinary Session) authorized $38,495,000 in HB 1 (2010-2012 Budget) of General-Fund supported bond funds for BRAC projects. With this project, the balance of funding provided in the total appropriation for BRAC-related projects will have been allocated. No committee action is needed for BRAC projects.

New Bond Issue – Morehead State University

Representative Glenn asked Tom Howard, Executive Director, and Brett Antle, Deputy Director, Office of Financial Management, to present several items. Mr. Howard said the first item was a new bond issue for Morehead State University General Receipts Bonds, 2011, Series A. The par amount of the bonds is $5,060,000. Bond proceeds will finance the renovation of East Mignon Residence Hall as authorized in 2010 Extraordinary Session HB 1 (2010-12 Budget).

Representative Glenn asked if this bond issue will affect the tuition rate for students. Mike Walters, Vice President for Administration and Fiscal Services, Morehead State University, said that tuition rates would not be affected by this bond issue.

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

Follow-up Report for Previously Approved Bond Issue

Mr. Antle said the second item was a follow-up report for Kentucky Asset/Liability Commission Funding Notes, 2011 General Fund First Series (Taxable). Proceeds from this transaction will finance the state's share of obligations owed to the Kentucky Teachers Retirement System (KTRS) Medical Insurance Trust Fund for fiscal years 2011 and 2012 ($145.9 million and $122.5 million, respectively). The bond issue was not approved by the committee prior to issuance because the February 2011 meeting was cancelled. No committee action was needed.

In response to a question from Senator Carroll, Mr. Antle indicated no redirections from the pension have yet been made this fiscal year. This transaction funded the amount the state was obligated to pay for fiscal year 2011 and the full-amount obligated for fiscal year 2012.

Senator Carroll asked what the total amount of the transaction was. Mr. Antle said the total amount from this transaction is $268.4 million. He said there was a $468 million transaction done last fall that refunded all of the prior loans that had been made from fiscal years 2005 to 2010.

In response to a question from Senator Leeper, Mr. Hicks said this transaction concludes the budgeted plan for fiscal years 2011 and 2012. He said the new statute that creates additional funding streams for KTRS Medical Fund will obviate the need for some of the borrowing that would otherwise be taking place. The medical fund will still require General Fund support over the next few fiscal years, but beyond that the plan will be self-funded.

School Bond Issues

Mr. Antle reported five new bond issues with School Facilities Construction Commission (SFCC) debt service participation for Augusta Independent in Bracken County, Bellevue Independent in Campbell County, Boyle County, Franklin County, and Kenton County.

In response to a question from Representative Wayne, Lisa Collins, School Facilities Construction Commission, said Augusta Independent is a very small school, but she is not sure on the numbers. She said she would provide the information to committee staff.

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

Representative Glenn asked Ms. Culpepper to report new local school district bond issues. Ms. Culpepper said there were seven local school district bond issues with 100 percent locally-funded debt service for Grayson County, Hardin County, Jefferson County, Jessamine County, Kenton County, Paducah Independent in McCracken County, and Pulaski County.

With there being no further business, Representative Rudy made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 2:20 p.m.

Capital Projects and Bond Oversight Committee

Minutes

July 19, 2011

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, July 19, 2011, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Jim Glenn, Co-Chair; Senators Tom Buford, Jared Carpenter, and Julian M. Carroll; Representatives Steven Rudy, and Jim Wayne.

Guests: Representatives John Will Stacey and Jim Gooch; Bob Wiseman, University of Kentucky; John Hicks, Governor's Office of Policy Management; Mike Jones, Department of Military Affairs; Charles Bush, Division of Real Property; Todd Shipp, Kentucky Transportation Cabinet; Kasi White, Kentucky Infrastructure Authority; Donna Duncan; Cabinet for Economic Development; and Jason Tomlinson, University of Louisville.

LRC Staff: Kristi Culpepper and Samantha Gange.

Amendment to the April 2011 Minutes

Senator Leeper indicated that there was an error in the April 2011 minutes. The minutes show that no action was taken on the City of Vine Grove Base Realignment and Closure Economic Development Bond grant project. The committee did approve this project at that meeting.

Representative Wayne made a motion to amend the April minutes to reflect the committee's approval of the project. The motion was seconded by Representative Glenn and approved by voice vote.

Approval of Minutes

Representative Rudy made a motion to approve the minutes of the June 21, 2011, meeting. The motion was seconded by Senator Carroll and approved by voice vote.

Correspondence Items

Senator Leeper asked Kristi Culpepper, Committee Staff Administrator, to discuss correspondence items. Ms. Culpepper said members' folders contained two items of correspondence. The first item of correspondence was a letter from the Cabinet for Economic Development informing the committee that the amended jobs requirements for the $500,000 Economic Development Bond grant to the City of Harrodsburg for the benefit of Wausau Paper Towel and Tissue LLC was approved by the Kentucky Economic Development Finance Authority. [At the June meeting, the committee approved the grant contingent upon the Kentucky Economic Development Finance Authority approval.]

The second item of correspondence was a letter from Murray State University updating the committee on the university's Complete Business and Research Center Tenant Space project. The General Assembly appropriated $1.948 million in restricted funds in the current budget for this project. Murray is reporting that the project will have a scope of $1.178 million, which is lower than anticipated. While the project will initially be funded with restricted funds as authorized, the university will be reimbursed by a donor over a period of ten years.

Information Items

Ms. Culpepper said members' folders also contained six information items. The first three information items were the quarterly status reports on capital projects for the Finance and Administration Cabinet and the universities that manage their own capital construction programs; the Administrative Office of the Courts; and the Commonwealth Office of Technology.

The next information item was a report from the Department of Commercialization and Innovation of a $6 million grant from the High-Tech Construction / Investment Pool to Commonwealth Seed Capital to support high-tech companies locating or expanding their operations within the state.

The fifth information item was from the Kentucky Infrastructure Authority regarding interest rates for fiscal year 2011-2012 for Fund A, B, and F loans. The last items of information were the staff and bond market updates.

Report of Scope Increase from the University of Kentucky (UK)

Senator Leeper asked Bob Wiseman, Vice President for Facilitates Management, UK to present one item related to a scope increase. Mr. Wiseman said UK is requesting approval of a $1,206,392 (6.1 percent) scope increase for the Construct Center for Applied Energy Building #2 project. At the March 2010 meeting, the committee approved the project as an unbudgeted project with a scope of $19,776,913. The scope increase is necessary to cover bids that exceeded the project designer's and construction manager's estimates. The increased cost will be paid from UK Research Foundation funds.

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

Lease-Purchase Agreement from the Division of Real Property

Senator Leeper asked Charles Bush, Director, Division of Real Property, Finance and Administration Cabinet, to report several items related to leases. Mr. Bush said the first item was a Lease-Purchase Agreement for the Department of Workforce Investment in Mason County (PR-4612). The rent paid by the state toward the purchase price of the property includes eight years of annual payments of $43,000 and the final payment of $1.00 due July 1, 2011, for a total of $344,001. No committee action was necessary.

Amortization of Leasehold Improvements from the Division of Real Property

Mr. Bush said the second item was a lease modification for the Cabinet for Health and Family Services (CHFS) in Leslie County (PR-3499). The cabinet has submitted a request to obtain security improvements, six additional staff offices to alleviate overcrowding, and an additional storage area. The lessor was requested to submit two estimates for work. The agency has recommended the lower bid from Lewis Construction Company, Inc. Building modification costs of $39,648 will be amortized over the remaining lease term (through June 30, 2013). Assuming an effective date of July 1, 2011, the cabinet's monthly rental cost will increase by $1,652.

The third item was a lease modification for CHFS in Trigg County (PR-4425). The cabinet has submitted a request for improvements to the HVAC system supporting the existing telephone / network room. The lessor was requested to submit two estimates for the work. The agency has recommended the lower bid from McNichols Electric / HVAC. Building modification costs of $2,425 will be amortized over the remaining lease term (through June 30, 2015). Assuming an effective date of July 1, 2011, the cabinet's monthly rental cost will increase by $50.52. No committee action is required on lease modifications less than $50,000.

Emergency Lease from the Division of Real Property

Mr. Bush said the last item was an emergency lease for the Kentucky Transportation Cabinet (KYTC) in Marshall County (PR-5231). The Finance and Administration Cabinet declared an emergency to allow for procurement of temporary storm debris storage site licenses to be used for temporary storage of debris resulting from the January 2009 ice storm. The cabinet originally secured an agreement for use of 19.128 acres of land at a cost of $500 per acre a month; however the original agreement was terminated effective June 30, 2010. The cabinet expects to complete reduction and remediation actions at this location before August 31, 2011, and this is expected to be the final agreement for storm debris storage sites. No committee action was necessary.

In response to a question from Senator Leeper, Mr. Bush said there were 91 emergency lease agreements as a result of the January 2009 ice storm and this agreement would be the last one.

Senator Leeper asked if the state have received FEMA reimbursement to-date. Todd Shipp, Office of General Counsel, KYTC, said the state has received some FEMA reimbursement; however he was not sure of the exact amount. He said he would provide the information to committee staff.

Unbudgeted Capital Projects from the Finance and Administration Cabinet

Senator Leeper asked John Hicks, Deputy Director, Governor's Office of Policy Management, to present three items. Mr. Hicks said the first item was an unbudgeted capital project for the Department of Military Affairs (DMA) to Install Additional Solar Array at the Wendell H. Ford Regional Training Center (WHFRTC) in Greenville, Kentucky. The project scope is $720,000 and funding for the project has been made possible due to additional federal fiscal year 2011 funding being received from the US Department of Defense. The project consists of additions to the roof and ground mount arrays, which will complete the goal of the Kentucky Army National Guard to take the training center to zero net for energy.

Representative Wayne noted that the US spends more on defense than all other countries combined. He commented that he is opposed to these types of projects.

Representative Rudy said he wanted to commend the Kentucky Army National Guard for their service during the January 2009 ice storm.

Senator Buford made a motion to approve the unbudgeted project. The motion was seconded by Senator Carroll. Five members voted "yes" and one member voted "no." The motion passed.

Mr. Hicks said the second item was an unbudgeted capital project for the DMA to Construct Asphalt Team Facility at the WHFRTC in Greenville, Kentucky. The project scope is $749,000 and funding for the project has been made possible due to additional federal fiscal year 2011 funding being received from the US Department of Defense. The project will construct an approximately 8,000 square-foot facility to house and provide administrative and storage space for the National Guard Asphalt Unit assigned to the training center.

Senator Leeper asked what the duties of the National Guard Asphalt Unit were. Mike Jones, Executive Director, Office of Management and Administration, Kentucky Army National Guard, said the unit paves roads, assists with disaster relief, and other things. He indicated he would provide additional information to committee staff.

In response to a question from Senator Carroll, Mr. Jones said the unit currently does not produce the asphalt but does provide the final product.

Representative Glenn made a motion to approve the unbudgeted project for the DMA. The motion was seconded by Representative Rudy. Five members voted "yes" and one member voted "no." The motion passed.

Mr. Hicks said the third item was another unbudgeted capital project for the DMA to Install 100 Kilowatt Solar Array at the Harold L. Disney Training Site in Knox County. The project scope is $720,000 and funding for the project has been made possible due to additional federal fiscal year 2011 funding being received from the US Department of Defense. The project will install a 100 Kilowatt solar energy array at the training site, which will complete the goal of the Kentucky Army National Guard to take the training site to zero net for energy.

Representative Rudy made a motion to approve the unbudgeted project for the DMA. The motion was seconded by Senator Carroll. Five members votes "yes" and one member voted "no." The motion passed.

Kentucky Infrastructure Authority (KIA) Fund A Loan Assumptions

Senator Leeper asked Kasi White, Financial Analyst, KIA, to present several items. Ms. White said the first request was a Fund A loan assumption for the City of Hopkinsville in Christian County f/b/o Hopkinsville Water Environment Authority (HWEA) in Christian County. The committee approved the original Fund A loan request at its June 2002, meeting. HWEA is seeking to assume $298,190 in outstanding Clean Water SRF debt of the City of Crofton Water and Sewer System as a result of HWEA acquiring the system. The loan terms will remain the same as with the original loan, 20 year term with a .40 percent interest rate.

The second request was a Fund A loan assumption for the City of Hopkinsville in Christian County f/b/o HWEA. The committee approved the original Fund A loan request at its January 1994, meeting. HWEA is seeking to assume $84,473 in outstanding Clean Water SRF debt of the City of Pembroke Water and Sewer System as a result of HWEA acquiring the system. The loan terms will remain the same as with the original loan, 20 year term with a 1.20 percent interest rate.

KIA Fund A Loan Increases

Ms. White said the third loan request was a $447,300 (10 percent) Fund A loan increase for Sanitation District No. 1 (Boone, Kenton, and Campbell Counties) for replacement of the main drives, feed assemblies, and sludge collector mechanisms for six final clarifiers at the Dry Creek Wastewater Treatment Plant. The committee approved the original Fund A loan request at its June 2009, meeting. The new loan amount is $4,920,300. The increase is necessitated due to favorable bids being received, which will allow the district to expand the scope of the project to modify all six clarifiers. The loan term is 20 years with an interest rate of two percent.

The fourth request was an $180,000 (10 percent) Fund A loan increase for the City of Bardstown in Nelson County for the Bardstown-Bloomfield Sewer Connection project. The committee approved the original Fund A loan at its January 2011, meeting. The new loan amount is $1,980,000. The increase is necessitated because bids received were higher than originally estimated. The loan term is 20 years with an interest rate of two percent.

KIA Fund A Loans

Ms. White said the fifth request was an $8,906,000 Fund A Loan for the City of Flemingsburg in Fleming County to construct a new Wastewater Treatment Plant. The loan term is 20 years with an interest rate of one percent. The project qualifies for Green Project Reserve Funding of $1,910,000 for energy efficiency and being environmentally innovative. The project also qualifies for additional subsidization in the amount of $2,671,800 in principal forgiveness.

In response to a question from Representative Glenn, Ms. White said the city passed an ordinance that will increase sewer rates from $22.83 to $35.17 for 4,000 gallons.

Senator Leeper asked if KIA receives public comment on the rate increases. Ms. White said the increase requests are submitted to KIA and are not presented to the public from KIA. She said all the projects are competitively bid and the bid openings are held at public meetings before being accepted.

The sixth request was a $1,035,517 Fund A loan for the City of Williamsburg in Whitley County for construction of the Ball Park Pump Station / Force Main Replacement project. The loan term is 20 years with an interest rate of one percent. The project qualifies for additional subsidization in the amount of $310,655 in principal forgiveness.

Senator Leeper asked if it was unusual to use occupational tax revenue to support a Fund A loan. Ms. White said it is unusual; however there have been a few cases when borrowers have had to commit occupational tax revenue because they were unable to implement rate increases in time to make the debt service payment. She said in this case the city passed the ordinance committing the occupation tax revenue for the first year of the debt service payment because they are waiting on a rate study to take before the Public Service Commission.

Senator Leeper asked Ms. White to explain the Green Project Reserve requirements. Ms. White said for fiscal years 2010 and 2011 Congress implemented additional requirements that KIA must meet for Fund A and Fund F loan programs. For the Green Project Reserve requirements, KIA must commit 20 percent of the capitalization grant amount towards projects which meet criteria for energy efficiency, water efficiency, being environmentally innovative, and involving green infrastructure. The US Environmental Protection Agency has set guidelines that identify which projects qualify for the Green Project Reserve component.

Ms. White said the seventh loan request was a $500,000 Fund A loan for the City of Hopkinsville in Christian County f/b/o HWEA for the Greenville Road Sewer Extension project. The loan term is 20 years with an interest rate of two percent.

The eighth loan request was a $26,641,000 Fund A loan for the City of Hopkinsville in Christian County f/b/o HWEA for the Phase VII sewer project. The loan term is 20 years with an interest rate .of two percent.

The ninth loan request was a $7,100,000 Fund A loan for the City of Hopkinsville in Christian County f/b/o HWEA for the Oak Grove system acquisition. The loan term is 20 years with an interest rate of two percent.

Representative Wayne made a motion to approve the Fund A loan assumptions, Fund A loan increases, and Fund A loans. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

KIA Fund B Loan Increase and Fund B Loan

Ms. White said the tenth request was a $36,645 Fund B loan increase for the City of Princeton in Caldwell County for the Jeff Watson Road Sewer System Rehabilitation project. The committee approved the original Fund B loan at its November 2010, meeting. The new loan amount is $430,645. The increase is necessary due to bids received being higher than estimated. The loan term is 20 years with an interest rate of one percent.

The eleventh request was a $657,000 Fund B loan for the City of White Plains in Hopkins County for construction of a 50,000 gallon above-ground clearwell, drilling of an additional well, and generators for emergency backup purposes. The loan term is 20 years with an interest rate of two percent.

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

KIA Fund C Loan Assumption

Ms. White said the twelfth loan request was a $406,250 Fund C loan assumption for the City of Hopkinsville in Christian County f/b/o HWEA for the acquisition of the Oak Grove Sewer System. The original loan agreement for $912,970 was executed in June 1998 and was used to extend sewer service and construct a pump station. The loan terms will remain the same as with the original loan, with a 20-year term with the interest rate tied to bonds.

KIA Fund F Loans

Ms. White said the thirteenth loan request was a $2,500,000 Fund F loan for the Breathitt County Water District in Breathitt County. The project has two components: 1) constructing a water storage tank and extending water lines along Hwy 1098 to the Swift Branch area, and 2) extending water lines to service KY 315 north of 1933 and the remaining side roads off of Canoe Road. The loan term is 20 years with an interest rate of one percent. The project qualifies for additional subsidization of $875,000 in principal forgiveness.

The fourteenth loan request was a $4,000,000 Fund F loan for the City of Barbourville in Knox County f/b/o Barbourville Utility Commission for the Raw Waterline Replacement and Upgrades project. The loan term is 20 years with an interest rate of one percent. The project qualifies for additional subsidization of $1,400,000 in principal forgiveness.

The fifteenth loan request was a $230,000 Fund F loan for the City of Barlow in Ballard County to construct a new clearwell and repair an existing 100,000 gallon water storage tank. The loan term is 20 years with an interest rate of one percent. The project qualifies for additional subsidization of $80,500 in principal forgiveness.

Representative Rudy made a motion to approve the Fund F loans. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

KIA Grants

Ms. White indicated various coal and tobacco development grants authorized by the General Assembly were included in members' folders. No further committee action was necessary.

Economic Development (EDB) Pool Grant

Senator Leeper asked Donna Duncan, Commissioner, Department of Financial Incentives, Cabinet for Economic Development, to present an item. Ms. Duncan said the cabinet is requesting approval of a new $550,000 EDB grant for the Louisville / Jefferson Metro Government f/b/o AAF-McQuay Inc. d/b/a AAF International to offset the cost of expanding the company's Louisville headquarters. AAF manufactures and distributes commercial air conditioning equipment and air filtration systems. Pursuant to the EDB grant agreement, the company must create 50 new, full-time jobs for Kentucky residents with an average hourly wage of $25, including benefits. Additionally, the company agrees to maintain its existing workforce of 167 full-time positions.

In response to a question from Representative Wayne, Ms. Duncan said that it is standard procedure for local governments to receive the EDB grant money and disburse it to the approved company. She said with this type of bond fund the money cannot be returned to state government coffers. If a company fails to meet the job requirements, the local government will be repaid.

Representative Wayne asked what the average hourly wage was without the benefits included. Ms. Duncan said she was unsure of the exact amount and would provide the information to committee staff.

Senator Leeper asked if it was common for the company's rent to be included in the project components. Ms. Duncan said that it is unusual for rent to be included because most recipients of EDB grants own their facilities. She said this project is unique because the company is leasing its headquarters.

Senator Buford asked if the state is borrowing money through the issuance of long-term bonds to pay the company's rent. Ms. Duncan said the company will be using the grant money for fixed assets and the rent component was used in the total project amount to reflect all the project costs. She said the project would have still qualified for the grant if the rent had not been included in the total project component.

Senator Leeper asked why the rent is included in the total project components if it was not needed to qualify for the grant. Ms. Duncan said that EDB grants have to be for fixed asset financing. She said that the cabinet should have laid out the total project components differently so that it does not appear that rent is being paid with the issuance of long-term bonds.

Senator Leeper asked Ms. Duncan to provide the committee with further information regarding the rental component. Ms. Duncan said she would provide the information to committee staff.

Representative Wayne made a motion to approve the EDB grant. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

New Bond Issue – University of Louisville

Senator Leeper asked Brett Antle, Deputy Director, Office of Financial Management, to present two items. Mr. Antle said the first item was a new bond issue for the University of Louisville (UL) General Receipts Bonds, 2011 Series A. The par amount of the bonds is $38,430,000. Proceeds from this bond issue will be used to construct a 100,000 square-foot facility to host recreational sports programs along with 27,700 square feet of space for the lifestyle educational services center.

Jason Tomlinson, Vice President for Finance, University of Louisville, said the bonds will support a student recreational center, which was advocated by the Student Government Association. Due to unprecedented growth in recreational sports at the university, the current facilities are inadequate to meet the growth.

In response to a question from Representative Wayne, Mr. Tomlinson said the new recreation center will have a workout facility, offices, meeting rooms, courts, recreational, among others.

In response to another question from Representative Wayne, Mr. Tomlinson said the current center is no longer adequate and the university has to find extra space off campus for intramural sports. He said with the new center students will not have to go off campus.

Representative Wayne commented that he was concerned with the extra fees students will have to pay as a result of the new facility. He said he was also concerned with how the university sponsors sports. Mr. Tomlinson said there will be no more entry fees for intramural leagues, elimination of entry fees and registration fees, and expansion of courses as a result of the new center.

Representative Wayne asked if prevailing wage will be used for this project. Mr. Tomlinson responded affirmatively.

Representative Wayne asked who owns and governs University Hospital. Mr. Tomlinson said he is not qualified to answer the question. He said the University Hospital is a separate entity from the university.

Senator Buford asked if any preference with regard to the new recreational center would be given to student athletes. Mr. Tomlinson responded no.

Senator Buford asked if any square feet in the new facility would contain administrative offices. Mr. Tomlinson said there would be some administrative offices for staff who oversee the intramural sports programs.

In response to a question from Representative Stacey, Mr. Tomlinson said University Medical Center Inc. is the governing entity of the UL Hospital, but he was unsure of the exact legal structure of the operations.

Representative Stacey asked what type of entity University Healthcare was. Mr. Tomlinson said he was not sure.

Representative Glenn made a motion to approve the new bond issue for UL. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

School Bond Issues

Mr. Antle reported one school district bond issue with School Facilities Construction Commission (SFCC) debt service participation for Fleming County.

Senator Leeper asked Ms. Culpepper to report new local school district bond issue. Ms. Culpepper said there were two local school district bond issues with 100 percent locally-funded debt service for Johnson County and Henderson County.

With there being no further business, Representative Rudy mad a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 2:10 p.m.

Administrative Regulation Review Subcommittee

Minutes of the July Meeting

July 12, 2011

Call to Order and Roll Call

The July meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, July 12, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Nathan Goldman, Board of Nursing; Mark Mangeot, Karen Waldrop, Department of Fish and Wildlife; Sean Alter, Laura Lund, Andrea Smith, Division of Air Quality; Steve Lynn, Justice and Public Safety Cabinet; Melissa Beasley, Kate Houghlin, Department of Unemployment Insurance; Clay Lamb, Education and Workforce Development Cabinet; David Hurt, DJ Wasson, Malinda Shepherd; Cecelia Webber, Department of Insurance; Dawn M. Bellis, William Swope, Jerry Lunsford, George Mann, Department for Housing, Buildings and Construction; Rosie Miklavcic, Mike Tuggle; Department for Public Health.

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

The Administrative Regulation Review Subcommittee met on Tuesday, July 12, 2011, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Nursing: Board

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

A motion was made and seconded to approve the following amendment: to amend Section 1 to include a reference to Section 2, which was omitted. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing.

201 KAR 20:070. Licensure by examination.

201 KAR 20:110. Licensure by endorsement.

201 KAR 20:215. Continuing competency requirements.

201 KAR 20:225. Reinstatement of license.

201 KAR 20:240. Fees for applications and for services.

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

201 KAR 20:411. Sexual assault nurse examiner program standards and credential requirements.

201 KAR 20:470. Dialysis technician credentialing requirements and training program standards.

A motion was made and seconded to approve the following amendments: to correct a formatting error and to change appropriate cross-references. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:095. Importation of cervid carcasses and parts. Mark Mangeot, legislative liaison, and Karen Waldrop, Wildlife Division Director, represented the department.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Air Quality: Attainment and Maintenance of the National Ambient Air Quality Standards

401 KAR 51:052 & E. Review of new sources in or impacting upon nonattainment areas. Sean Alteri, assistant director, and Andrea Smith, branch manager, represented the division.

In response to questions by Representative Damron, Mr. Alteri stated that a stationary air pollution source included, for example, an industrial facility that emits pollution. It did not include a city burning debris after storm damage.

In response to a question by Co-Chair Bowen, Mr. Alteri stated that this administrative regulation pertained to an area that is already a nonattainment zone, meaning not in compliance with U.S. EPA air quality standards. A shutdown or curtailment of one stationary air pollution source may allow a new facility to operate in a nonattainment zone.

In response to questions by Senator Givens, Ms. Smith stated that Jefferson County included an area that would probably soon be classified as nonattainment for sulfur dioxide. Additionally, there were three (3) areas in Kentucky currently classified as nonattainment that were being considered by U.S. EPA for reclassification. If approved, the areas would no longer be classified as nonattainment areas. Mr. Alteri stated that U.S. EPA determined what constituted an area based on metropolitan zones, rather than counties.

JUSTICE AND PUBLIC SAFETY CABINET: Office of the Secretary: Breath Analysis Operators

500 KAR 8:010. Certification of breath alcohol analysis instrument operators. Steve Lynn, assistant general counsel, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to add citations; and (2) to amend Sections 2 and 5 for clarity. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim. Melissa Beasley, assistant director; Katie Houghlin, assistant director; and Clay Lamb, staff attorney, represented the office.

In response to questions by Senator Givens, Ms. Lamb stated that these administrative regulations were the result of the Workforce Investment Task Force. The current debt level was $948,000,000, and the office had not borrowed any more this year. Ms. Beasley stated that the office was discussing repayment options. The federal government had not charged interest yet, but the charges were expected and interest was being accrued. The fund could not currently pay the interest. Ms. Houghlin stated that the office was working to reduce abuse of the fund and to increase the number of job placements.

787 KAR 1:210. Employer contribution rates.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend the form incorporated by reference to align the definitions provided on the form with the provisions of this administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Financial Standards and Examination Division: Authorization of Insurers and General Requirements

806 KAR 3:170. Annual audited financial reports. David Hurt, chief financial examiner; D. J. Wasson, staff assistant; and Malinda Shepherd, program manager, represented the division.

Health and Life Division: Trade Practices and Fraud

806 KAR 12:120. Suitability in annuity transactions.

In response to questions by Representative Damron, Ms. Shepherd stated that this administrative regulation applied to both fixed and variable annuities. The division established standards in this administrative regulation that were stronger than those proposed by the National Association of Insurance Commissioners to include both types of annuities. Ms. Wasson stated that a stronger level of regulation was established in this administrative regulation. She also stated that the administrative regulation was reviewed by the Department of Financial Institutions, and that agency did not have any reservations about this administrative regulation.

Department of Housing, Buildings and Construction: Division of Fire Prevention: Standards of Safety

815 KAR 10:070 & E. Consumer fireworks retailer registration and fees. Dawn M. Bellis, general counsel; George Mann, deputy commissioner; and William Swope, state fire marshal, represented the division.

In response to a question by Senator Pendleton, Mr. Swope stated that preliminary reports showed that there were not significant problems with accidents during the July 4 firework season now that requirements pertaining to fireworks had changed. There had been twelve (12) or thirteen (13) minor injuries reported, but nothing serious.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add and correct citations; (2) to amend Section 3 to state that if a fee is returned for nonpayment or insufficient funds, the fire marshal may revoke registration of the site in accordance with KRS 227.715(10), unless proof of financial institution error is provided; and (3) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Electrical Inspectors

815 KAR 35:060. Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 8 and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 35:100. Electrical continuing education procedure.

In response to a question by Senator Givens, Ms. Bellis stated that, prior to this proposed amendment, once a continuing education provider was approved, there was not a process for revoking that approval if necessary. This amendment provided for revocation.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Administration and Financial Management: Local Health Departments

902 KAR 8:160. Local health department operations requirements. Rosie Miklavcic, division director, and Mike Tuggle, assistant division director, represented the division.

Senator Pendleton thanked the local health departments for a good job, but stated that enforcement needed to be more practical. For example, a small food vendor that periodically provided food for special events was being required to get a permanent food vendor license.

In response to a question by Representative Damron, Mr. Tuggle stated that certain administrative authorities were better served at the local health department level with oversight by the division. For example, travel decisions did not need to go through the department for initial approval.

Representative Damron stated that consistency throughout the state was important.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, 4, 5, 8, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 8:165. Local health department accounting/auditing requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to incorporate material by reference; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 8:170. Local health department financial management requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 4 to 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Senator Pendleton asked that staff draft and send a memo to the Transportation Cabinet to request expedited amendment of 601 KAR 1:018, Special overweight or overdimensional motor vehicle load permits. The concern was that requirements in this administrative regulation were confusing and burdensome, especially to the agricultural community. If an amended version of this administrative regulation was not effective by the 2012 legislative session, a bill may be proposed to revise applicable statutes to clarify requirements for overweight or overdimensional motor vehicle load permits.

The following administrative regulations were deferred to the August 15, 2011, meeting of the Subcommittee:

PERSONNEL CABINET: Classified

101 KAR 2:095 & E. Classified service administrative regulations.

101 KAR 2:102 & E. Classified leave administrative regulations.

Unclassified

101 KAR 3:015 & E. Leave administrative regulations for the unclassified service.

GENERAL GOVERNMENT CABINET: Board of Auctioneers: Board

201 KAR 3:045. Recordkeeping and accounting.

201 KAR 3:081. Repeal of 201 KAR 3:015 and 3:080.

201 KAR 3:090. Administrative fees for applications and services.

Board of Dentistry: Board

201 KAR 8:008E. Repeal of 201 KAR 8:390.

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

201 KAR 39:010. Definitions.

201 KAR 39:030. Application; qualifications for licensure; and certification levels.

201 KAR 39:040. Fees.

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

201 KAR 39:060. Reinstatement of license subject to disciplinary action.

201 KAR 39:070. Application and qualifications for temporary licensure.

201 KAR 39:080. Reciprocity.

201 KAR 39:090. Continuing education requirements.

201 KAR 39:100. Complaint procedure.

201 KAR 39:120. Code of ethics.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Class D and Class C Felons

501 KAR 2:020. Definitions for 501 KAR Chapter 2.

501 KAR 2:040. Waivers.

501 KAR 2:050. Transfer requests.

501 KAR 2:060. Procedures for housing of Class D and Class C felons.

501 KAR 2:070. Work release.

Jail Standards for Full-Service Facilities

501 KAR 3:010. Definitions for 501 KAR Chapter 3.

501 KAR 3:020. Administration; management.

501 KAR 3:030. Fiscal management.

501 KAR 3:060. Security; control.

501 KAR 3:070. Safety; emergency procedures.

501 KAR 3:080. Sanitation; hygiene.

501 KAR 3:090. Medical services.

501 KAR 3:100. Food Services.

501 KAR 3:110. Classification.

501 KAR 3:120. Admission; searches and release.

501 KAR 3:130. Prison programs; services.

501 KAR 3:150. Hearings, procedures, disposition.

501 KAR 3:160. Training.

501 KAR 3:170. Classifications.

Jail Standards for Restricted Custody Center Facilities

501 KAR 7:010. Definitions for 501 KAR Chapter 7.

501 KAR 7:020. Administration; management.

501 KAR 7:030. Fiscal management.

501 KAR 7:040. Personnel.
501 KAR 7:060. Security; control.
501 KAR 7:070. Safety; emergency procedures.
501 KAR 7:080. Sanitation; hygiene
501 KAR 7:090. Medical services.
501 KAR 7:100. Food services.
501 KAR 7:110. Classification.
501 KAR 7:120. Admission; searches and release.
501 KAR 7:130. Prisoner programs; services.
501 KAR 7:150. Training.
Jail Standards for Life Safety Facilities
501 KAR 13:010. Life safety issues
EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance
787 KAR 1:090. Unemployed worker's reporting requirements.
CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Protection and Permanency: Child Welfare
922 KAR 1:420 & E. Child fatality or near fatality investigations.
The Subcommittee adjourned at 1:50 p.m. until August 15, 2011.

Government Contract Review Committee

Committee Minutes
August 5, 2011

Call to Order and Roll Call

The Government Contract Review Committee met on Friday, August 5, 2011, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Carroll Gibson and Paul Hornback; Representative Brent Yonts.

Guests: Betsy Dunnigan, Steve Hall, Kevin Mudd, Beth Jurek, Holly Spade, Erik Dunnigan, Neville Wise, Don Speer, Tammy Bullock, Gary Freeland, Robert Brown, David Holcomb, Wendell Followell, Charlie Harman, David Cook, Jill Hunter, and Fran Hawkins.

LRC Staff: Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the June 2011 meeting of the committee. Senator Hornback seconded the motion, which passed without objection.

DEFERRED ITEMS FROM JANUARY 2011

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENT DISABILITIES & ADDICTION SERVICES:

The following items were withdrawn per the request of the agency. 1100001294, Crown Services Incorporated; 1100001295, Staff Easy, LLC; 1100001296, Medstaff Healthcare Solutions; 1100001396, Staff Easy, LLC; 1100001397, Crown Services Incorporated; 1100001398, Crown Services Incorporated.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:
Kem Duguid & Associates, PSC, 1200000188; Mountjoy Chilton Medley, LLP, 1200000189; Peercy & Gray, PSC, 1200000190; Ross & Company, PLLC, 1200000191; Tichenor & Associates, 1200000192.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:
Radical Rehab Solutions, LLC, 1100001824.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Pinnacle Actuarial Resources Incorporated, 1100003050.

DEPARTMENT FOR PUBLIC HEALTH:
URS Corporation, 1100002071.

EDUCATION, DEPARTMENT OF:
Michelle Deal, 1200000108.

EDUCATIONAL TELEVISION, KENTUCKY:
William K. Durham, 1200000084.

JUSTICE CABINET:
Bluegrass Bio Incorporated, 1200000049.

MILITARY AFFAIRS, DEPARTMENT OF:
Lanny Walls, 1200000042; Edgar Satchwell, 1200000043; Thomas P. Pendleton, Jr., 1200000044; Timothy D. Law, 1200000202; Family Dynamics Behavioral Health Care, PLLC, 1200000209.

MOREHEAD STATE UNIVERSITY:
Dr. Derek Jones, 12-013; Matthew R. Moehle, 12-015; MML&K Government Solutions, MHSU-12-005.

MURRAY STATE UNIVERSITY:
Mercer Health & Benefits, LLC, 011-12.

STATE POLICE, DEPARTMENT OF:
Bobby E. Sullivan, 1100002422.

TRANSPORTATION CABINET:
Palmer Engineering Company, 1100003162; Strand Associates Incorporated, 1200000019; Strand Associates Incorporated, 1200000036; Burgess and Niple Incorporated, 1200000158; QK4, 1200000162.

UNIVERSITY OF KENTUCKY:
Multi, A121000; Multi, A121010; Multi, A121020; Multi, A121030; Multi, A121040; Multi, A121050; Brand Advertising Group, K12-120; APAX Software Development, LLC, K12-121.

UNIVERSITY OF LOUISVILLE:
403 Labs, LLC, 12-010; Legacy Incorporated "Everybody Has One", 12-011.

WESTERN KENTUCKY UNIVERSITY:
dcsteam Incorporated d/b/a row27 Studios, 111210; Current Marketing Incorporated, 111211; McDonald Transit Associates Incorporated, 111214; Learning Curve Educational Consulting, 111216; Ross Tarrant Architects Incorporated, 111217; Contemporary Services Corporation, 111218; Sodexo Management Incorporated, 111219.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:
Adams Stepner Woltermann & Dusing, 1100001037; Britton Osborne Johnson, PLLC, 1100002304.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:
University Medical Associates, 1000002504.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:
Experience Works, 1000003127.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:
Crown Services Incorporated, 1100001294; Staff Easy, LLC, 1100001295; Medstaff Healthcare Solutions, 1100001296; Staff Easy, LLC, 1100001396; Crown Services Incorporated, 1100001397; Crown Services Incorporated, 1100001398; Crisis Prevention Institute, 1100001911.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Stantec Consulting Services Incorporated, 1000001351; URS Corporation, 1000001352.

DEPARTMENT FOR PUBLIC HEALTH:
Jane Mobley Associates, 1000001669; Kentucky Hospital Research & Education Foundation, 1000001961; Volunteers of America of Kentucky Incorporated, 1000003491.

EDUCATION, DEPARTMENT OF:
Lotts Creek Community School, 1000002730; Multi, 1100001039; Multi, 1100001595; Multi, 1100001598.

EDUCATIONAL TELEVISION, KENTUCKY:
Mary Henson, 1100002752.

FAIR BOARD:
Mountjoy, Chilton & Medley, LLP, 1000002252.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
Evans Murphy Graves Architects, 0600002221; Kersey & Kersey Incorporated, 0600002228; Stantec Consulting Services Incorporated, 0700003463; Stantec Consulting Services Incorporated, 0800007671; CMTA Incorporated, 0900012741; CMW Incorporated, 1000000976; Omni Architects, C-05256615.

JUSTICE CABINET:
AIT Laboratories, 1000004171.

KENTUCKY LOTTERY CORPORATION:
Software Information Systems, LLC, 12-10-053.

TRANSPORTATION CABINET:
Stantec Consulting Services Incorporated, 1000000389; Lochner H. W. Incorporated Consulting, 1000002376; Henry Watz Gardner & Sellars, PLLC, 1000002855; Entran, PLC, 1000003587; GRW Engineers Incorporated, 1100001222; Palmer Engineering Company, C-00049871-7; Gresham Smith and Partners, C-01209233-3; Lochner H. W. Incorporated Consulting, C-04223604-2.

UNIVERSITY OF LOUISVILLE:

Multi, 11-001 A-G.

WESTERN KENTUCKY UNIVERSITY:

Great Big Shows, 101120; Kerrick Stivers Coyle & Van Zant, PLC, 101203.

WORKFORCE INVESTMENT, OFFICE OF:

Maher & Maher, 1100000461.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:

University of Kentucky Research Foundation, 1100002186; University of Kentucky Research Foundation, 1100002383.

CORRECTIONS, DEPARTMENT OF:

Louisville Metro Criminal Justice Commission, 1200000027; Kentuckianaworks, 1200000040.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Purchase Area Development District, 1100002097.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Four Rivers Behavioral Health, 1100002031; Pennyroyal Mental Health, 1100002032; Green River Regional Mental Health Mental Retardation Board d/b/a Rivervalley Behavior, 1100002033; Lifeskills Incorporated, 1100002034; Communicare Incorporated, 1100002035; Seven Counties Services, 1100002036; Northern Kentucky Regional Mental Health Mental Retardation Board, 1100002037; Comprehend Incorporated, 1100002038; Pathways Incorporated, 1100002039; Mountain Comprehensive Care Center, 1100002040; Kentucky River Community Care, 1100002041; Cumberland River Mental Health Mental Retardation Board Incorporated, 1100002042; Lake Cumberland Mental Health Mental Retardation Board d/b/a The Adanta Group, 1100002043; Bluegrass Regional Mental Health Mental Retardation, 1100002044; Seven Counties Services, 1100002886.

DEPARTMENT FOR PUBLIC HEALTH:

Eastern Kentucky University, 1100002160; University of Kentucky Research Foundation, 1100002180; Adanta Group, 1100002211; Comprehend Incorporated, 1100002213; Four Rivers Behavioral Health, 1100002215; Lifeskills, 1100002217; University of Kentucky Research Foundation, 1100002230; University of Kentucky Research Foundation, 1100002287; University of Kentucky Research Foundation, 1100002298; North Key Community Care, 1100002392; University of Kentucky Research Foundation, 1100002514; U of L Research Foundation, 1100002756; Health Kentucky, 1100002847; University of Kentucky Research Foundation, 1100002877.

EDUCATION, DEPARTMENT OF:

Department for Medicaid Services, 1100002513; Jefferson County Board of Education, 1100002619; Eastern Kentucky University, 1100002814; Southern Regional Education Board, 1100003034; Letcher County Board of Education, 1100003141; Beechwood Independent Board of Education, 1200000086; Corbin Independent Board of Education, 1200000088; Franklin County Board of Education, 1200000089; Fulton Independent Board of Education, 1200000092; Henderson County Board of Education, 1200000093; Jefferson County Board of Education, 1200000094; Jessamine County Board of Education, 1200000095; Letcher County Board of Education, 1200000096; Montgomery County Board of Education, 1200000097; Nicholas County Board of Education, 1200000098; Pulaski County Board of Education, 1200000100; Scott County Board of Education, 1200000101; Pulaski County Board of Education, 1200000114.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Kentucky Archaeological Survey, 1100003123.

FISH & WILDLIFE, DEPARTMENT OF:

University of Kentucky Research Foundation, 1100002851.

INFRASTRUCTURE AUTHORITY:

Buffalo Trace Area Development District, 1100003149; Fivco Area Development District, 1100003150; Gateway Area Development District, 1100003151; Lake Cumberland Area District, 1100003152; Cumberland Valley Area Development Incorporated, 1100003153; Kentucky River Area Development, 1100003154; Lincoln Trail Area Development District, 1100003155; Northern Kentucky Area Development District, 1100003156; Purchase Area Development District, 1100003157; Green River Area Development, 1100003158; Kentuckiana Regional Planning, 1100003159; Pennyrile Area Development District, 1100003160; City of Dixon, 1200000160.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1100002780.

NORTHERN KENTUCKY UNIVERSITY:

Central Campbell County Fire District, 2012-417-1.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Carroll County Fiscal Court, 1100002892; Ohio County Fiscal Court, 1100003062; Leslie County Board of Education, 1100003085; Magoffin County Health Department, 1100003091; Union County Fiscal Court, 1100003099; City of West Liberty, 1100003139; City of Calhoun, 1100003163; City of Brooksville, 1100003164; Bluegrass Area Development District, 1100003165; Kentuckiana Regional Planning & Development Agency, 1100003167; Green River Area Development District, 1100003168; Cumberland Valley Area Development District, 1100003169; Lincoln Trail Area Development District, 1100003170; Kentucky River Area Development District, 1100003171; Edmonson County Fiscal Court, 1100003172; Fivco Area Development District, 1100003173; Barren River Area Development District, 1100003174; Lake Cumberland Area Development District, 1100003175; Big Sandy Area Development District, 1100003176; Buffalo Trace Area Development District, 1100003177; Northern Kentucky Area Development District, 1100003178; Pennyrile Area Development District, 1100003179; Purchase Area Development District, 1100003180; Gateway Area Development District, 1100003181; Hopkins County Fiscal Court, 1200000125; Hopkins County Fiscal Court, 1200000126; Hopkins County Fiscal Court, 1200000131; City of Caneyville, 1200000163; Lawrence County Fiscal Court, 1200000165; Daviess County Fiscal Court, 1200000166; City of Benton, 1200000167; Muhlenberg County Fiscal Court, 1200000169; Warren County Fiscal Court, 1200000170.

TRANSPORTATION CABINET:

South Dakota Department of Transportation, 1100003135.

WORKFORCE INVESTMENT, OFFICE OF:

Eastern Kentucky University, 1100003127; Eastern Kentucky University, 1100003129; KCTCS, 1100003131.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011666.

DEPARTMENT FOR MEDICAID SERVICES:

Kentucky Housing Corporation, 1000001214.

DEPARTMENT FOR PUBLIC HEALTH:

Commonwealth of Kentucky Personnel Cabinet, 1000002580.

EDUCATION, DEPARTMENT OF:

Casey County Board of Education, 1000002618; Hardin County Board of Education, 1000002675; Hart County Board of Education, 1000002690; Jefferson County Board of Education, 1000002717; Lawrence County Board of Education, 1000002721; Monroe County Board of Education, 1000002736; Washington County Board of Education, 1000002767; University of Kentucky Research Foundation, 1100001001; Pulaski County Board of Education, 1100002240; Larue County Board of Education, 1100002253; Shelby County Board of Education, 1100002255; Glasgow Independent Board of Education, 1100002259.

FISH & WILDLIFE, DEPARTMENT OF:

Kentucky Educational Television Foundation, 1000002381.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Bourbon County Fiscal Court, 0700003604; City of London, 0700004511; City of Sandy Hook, 0800006941; Elliott County Fiscal Court, 0800011154; Menifee County Board of Education, 0900011495; Pike County Fiscal Court, 0900011591; City of Flemingsburg, 0900011622; Morgan County Board of Education, 0900012482; City of Sandy Hook, 1000000172; Letcher County Fiscal Court, 1000000417; Breathitt County Board of Education, 1000001044; Troublesome Creek Environmental Authority, 1000001492; Lee County Fiscal Court, 1000003017; Lee County Fiscal Court, 1000003039; City of Louisa, 1000003162; Lee County Fiscal Court, 1000004084; Crittenden County Fiscal Court, 1100001263; City of Hartford Kentucky, 1100002613; Leslie County Fiscal Court, M-04196858-2.

TRANSPORTATION CABINET:

National Highway Institute, 1100002049; Little Sandy District Health, 1100002438; Fleming County Health Department, 1100002465.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Dinsmore & Shohl, LLP, 1100002771. Betsy Dunnigan, Steve Hall, Kevin Mudd, and Beth Jurek discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gibson seconded the motion, which passed with Senator McGaha voting NO.

DEPARTMENT FOR BUSINESS DEVELOPMENT:

Finn Weisse, 1100003046. Holly Spade and Erik Dunnigan discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

DEPARTMENT FOR MEDICAID SERVICES:

University Health Care Incorporated, 1100001612. Neville Wise, Beth Jurek, and Don Speer discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

DEPARTMENT FOR MEDICAID SERVICES:

Myers & Stauffer, LC, 1200000020. Beth Jurek, Neville Wise, and Tammy Bullock discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Synthesis Technology Assessment, 1100002609. Gary Freeland and Robert Brown discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF:

The Bridgespan Group, 1200000003. Charlie Harman and David Cook discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

National Diversity Solutions, 496. David Holcomb and Wendell Followell discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senators McGaha and Hornback voting NO.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

The Chyron Group, LLC, 1000001456. Betsy Dunnigan, Steve Hall, and Kevin Mudd discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gibson seconded the motion, which passed unanimously.

DEPARTMENT FOR MEDICAID SERVICES:

Myers & Stauffer, LC, 1000001077. Beth Jurek, Neville Wise, and Jill Hunter discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

DEPARTMENT FOR MEDICAID SERVICES:

Mercer Health & Benefits, LLC, 1100002647. Beth Jurek, Neville Wise, and Tammy Bullock discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

DEPARTMENT FOR PUBLIC HEALTH:

Maximus Incorporated, 1000003093. Fran Hawkins and Beth Jurek discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Bluegrass Regional Mental Health Mental Retardation, 1100002045. Betsy Dunnigan, Steve Hall, Kevin Mudd, and Beth Jurek discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gibson seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 2:30 PM.

Task Force on the Penal Code and Controlled Substances Act

Minutes of the 2nd Meeting
of the 2011 Interim
August 5, 2011

Call to Order and Roll Call

The 2nd meeting of the Task Force on the Penal Code and Controlled Substances Act was held on Friday, August 5, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Tom Jensen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; J. Michael Brown, Tom Handy, John D. Minton, Jr., J. Guthrie True, and Tommy Turner.

Guests: Jackie Steele, Laurel County Commonwealth Attorney; Jamie Mosley, Laurel County Jailer; District Judge Karen Thomas; Corporal James Frasher, Evelyn Mace and Edye Dabney, Lexington-Fayette County Urban County Government, Division of Community Corrections; Terry Carl, Kenton County Jailer; Rodney Ballard, Deputy Commissioner, Department of Corrections; Robert Carpenter, Greenup County Judge-Executive; Richard Berry Alternative Sentencing Coordinator, Greenup County; and Joanie Clark, Anderson County Jailer.

LRC Staff: Norman Lawson Jr., Jon Grate, Ray Debolt, Jr., and Rebecca Crawley.

The minutes of the June 3, 2011 meeting were approved by voice vote.

Chief Justice Minton recognized Campbell County District Judge Karen Thomas who recently received a Special Service Award for her services to the Kentucky Court of Justice and other service to the community at the Kentucky Bar Association's annual meeting.

Global Positioning System Electronic Monitoring

Corporal James Frasher, Assistant Director Edye Dabney, and Adult Probation/Captain Supervisor Evelyn Mace of the Lexington-Fayette Urban County Government Division of Community Corrections, testified about the Urban County Government's electronic monitoring program. Some offenders who are released are placed on home incarceration, while others are subject to drug and alcohol testing, and others are permitted to go to work, education, and other programs but all of whom are subject to electronic monitoring through a global positioning system which tracks their movements in real time. Conditions of the program include remaining in the home except for work and other approved activities, adherence to a specific schedule, and no new charges for violation of federal, state, or local laws. The electronic monitoring program is used for high risk offenders charged with murder, rape/sexual assault, or domestic violence and is also used to restrict and monitor the movement of sex offenders and gang members as well as for the release of persons who may present a flight risk and who are prohibited from going to airports and bus stations.

The system used in Fayette County operates on a dual cellular and GPS signal which allows tracking offenders both outdoors by GPS and indoors by cellular technology. Both active and passive tracking are utilized depending on the offender with the difference being how often the program reports the offender's movements. Passive tracking is $1 per day cheaper than active tracking. Ms. Dabney said the program is 92 percent effective in assuring compliance and not committing new offenses. The tracking program permits jail personnel to track offender movements, check whether they are speeding, and is used to determine where an offender was when a crime was committed. If the offender was not at the scene of the crime, then the system exonerates the offender. The program is paid for by the participants unless they are indigent. The cost of the program to the government is $3.50 per person per day and the government charges $7.00 per person per day to cover administrative costs as well as providing monitoring for the indigent. In response to a question from County Judge-Executive Turner, Ms. Dabney indicated that 60 percent of the persons in the program are on court-ordered pretrial release and that a small percentage is on post-trial probation supervision.

In response to other questions, Ms. Dabney said there are 40 participants, who the Urban County Government decided what they wanted the system to do, and then accepted bids from vendors. The present vendor is located in California. Mr. Handy asked if the company was bonded to which the response was that they did not know. Mr. Handy asked whether the company was prohibited from hiring convicted felons to which the response was that they were not. Mr. Handy asked what privacy protections is part of the program to which Ms. Dabney responded they would deny an Open Records request for the information. Judge-Executive Turner asked if sentence credit is given for time spent on monitoring to which the response was "in some cases." Mr. True commented there is no statute granting mandatory credit for time spent on home incarceration or electronic monitoring but he felt there should be.

The next speaker was Kenton County Jailer Terry W. Carl, who said Kenton County uses the Isecuretrac System 5000, which consists of three parts: a personal transmitter unit (PTU), an ankle unit which is strapped to the offender's leg, and a charging base. The monitoring company is located in Iowa. Mr. Carl said the PTU is the device which is tracked by satellite and the offender must stay within range of the PTU which can also receive text messages from the home incarceration office or the monitoring center. If the offender cuts the ankle cuff off or tampers with it, an alert is sent to the program director's cell phone who then investigates the situation to determine its cause. Thirty-five percent of the Kenton County offenders are misdemeanor and traffic offenders as well as probationers, 60 percent are pretrial detainees, and five percent are juvenile offenders. Mr. Carl said the equipment is leased and extra equipment is provided by the vendor so defective equipment can be replaced or new persons placed on the program. Offenders in the program have been monitored as far away as Florida and Arizona while many offenders are monitored while in Ohio.

Mr. Carl said using the GPS system is cost effective, at $8 to $9 per day as opposed to $65 per day to have the same person in jail, and by tracking offender movements the system has solved several crimes, including murders. The main downside to the system is an occasional monitoring failure caused by telephone signal loss usually due to poor cell coverage such as mountainous regions or rural areas. In response to a question from Representative Tilley, Mr. Carl indicated there are usually about 115 to 140 offenders per day on the program and 5 to 10 juveniles, the program was funded by a Department of Corrections Community Corrections grant for $186,000, with additional funding from the fiscal court for staff. Offenders are charged $8.50 per day unless they fall within the federal poverty guidelines.

Rodney Ballard, Department of Corrections, described electronic monitoring as a tool for eliminating overcrowding and a tool for judges to use in lieu of incarceration with problems including how to respond to alerts, who should respond to alerts, and the response time. When asked if GPS monitoring could be conducted on a regional or area code basis, the response was yes. County Judge-Executive Turner said his county is divided into two area codes.

Greenup County Judge-Executive Robert W. Carpenter was accompanied by Richard Berry, Greenup County Alternative Sentencing Coordinator. Judge-Executive Carpenter described the operation and benefits of two alternative sentencing programs in his county, GPS monitoring and a work farm. Judge-Executive Carpenter explained the GPS monitoring program provides safety for the citizens, is cost effective, and provides for due process for participants. Fees are based on the ability to pay and the program is available in both Greenup and Lewis Counties. The participation of 32 people in the GPS program saved the county 788 jail days. Twenty-two offenders are assigned to the five acre county work farm which produces vegetables, including 6,000 pounds of potatoes. Both programs preserve the offender's ability to pay and the GPS and alcohol bracelet programs are provided under contract with Premier out of Colorado.

The next speakers were Terry Carl, Kenton County Jailer, Laurel County Jailer Jamie Mosley, and Anderson County Jailer Joanie Clark. Mr. Carl indicated there are 37 counties without jails and four counties with "life safety" jails which provide minimal short term incarceration while all other jails are full service jails. Ms. Clark indicated Anderson County does not have a jail and she must transport prisoners to the Shelby County jail. She said judges in Anderson County use a private for-profit monitoring program operated by Kentucky Alternative Programs. She said the program charges offenders a $100 hook up fee plus requires two separate monitors, one of which is a GPS and the other an alcohol sensor at a cost of $15 per day per unit at a cost of $30 per day plus twice weekly drug tests at $25 each. Ms. Clark said many prisoners cannot pay the fees and remain in jail at a cost of $30 per person per day to the county.

Laurel County Jailer Jamie Mosley described his county's home incarceration program as providing outside monitoring at reduced cost because the county does not bear the costs of incarceration or medical care, which permits the county to offer its jail space to state Class D felons and federal prisoners which represent a profit for the county.

Discussion of Survey Results

Senator Jensen asked the members to review the Task Force Survey Results which were contained in the meeting folders.

The meeting adjourned at 3:10 p.m.

Program Review and Investigations Committee

Minutes

July 14, 2011

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, July 14, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Perry B. Clark, Vernie McGaha, Joey Pendleton, John Schickel, Dan "Malano" Seum, and Katie Kratz Stine; Representatives Dwight D. Butler, Terry Mills, David Osborne, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: Tim Burcham, Vice President of Advancement; Terri Giltner, Director of Marketing; Ken Walker, Vice President of Finance and Facilities; Kentucky Community and Technical College System (KCTCS).

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Sarah Harp; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Cindy Upton; Kris Harmon, Graduate Fellow; Stella Mountain, Committee Assistant.

Approve Minutes for June 9, 2011

Upon motion by Senator Pendleton and second by Representative Osborne, the minutes of the June 9, 2011 meeting were approved by voice vote, without objection.

Senator Stine said that she had questions for the Cabinet for Health and Family Services about the Medicaid follow-up report.

Kentucky Community and Technical College System: Marketing, Lobbying, and Administration Expenses

Cindy Upton presented the report. KCTCS is a collection of community and technical colleges with a statewide governing board and president. The only comparable systems with statewide governance are in Colorado, Louisiana, and Indiana. Comparisons among KCTCS and these systems are limited because marketing, lobbying, and administrative expenses are reported in a single "institutional support" line item.

KCTCS has the highest enrollment of undergraduates in Kentucky by far. Enrollment at KCTCS increased 23 percent from academic year 2006 to 2010, more than twice the rate of the fastest growing four-year universities. In comparison to the other states' systems, KCTCS has more students, but the other systems' enrollments have been increasing at higher rates.

KCTCS's broad mandate suggests that it should market itself to increase awareness of the system and the value of its programs. Marketing expense from FY 2006 to FY 2010 was $12.2 million. Total marketing cost was about one half of 1 percent of KCTCS's operating expenses over the 5 years and includes $2.2 million in advertising at University of Kentucky (UK) and University of Louisville (U of L) sporting events, which started in FY 2008.

KCTCS states that it evaluates the effectiveness of its marketing activities by monitoring enrollment, requests for information, the number of applications, the number of positive news stories, the number of persons attending events, and the number of times a marketing segment was seen or heard. KCTCS also conducted long-term analysis through the use of marketing assessments in 2006 and 2011. It is impossible to know if students would enroll without the marketing activities.

KCTCS staff and other stakeholders such as students participate in public advocacy to influence legislative outcomes. The cost is included in KCTCS's marketing budget. KCTCS spent more than $1 million from state funds and some private donations from July 1, 2009 to February 26, 2010, on public advocacy. The $1 million includes $143,000 spent during the 2010 regular session of the General Assembly, including travel, giveaways, displays, T-shirts, receptions, signs, and fans.

KCTCS contracts with a government services firm for lobbying. Lobbying expenses for FY 2006 to FY 2010 were $636,000. This is less than 3/100 of 1 percent of operating expenses. KCTCS first contracted for state lobbying services in 2010. Federal lobbying requires registration and reporting of lobbyists' income. According to the database, KCTCS spent about the same amount on lobbying over the 5-year period as U of L and almost as much as UK. KCTCS's government services firm lobbied on issues related to student financial aid and workforce development. KCTCS credited several funding awards to the assistance of the firm.

Recommendation 1 is that, if it is the intent of the General Assembly that state funds not be used to pay for lobbying activities, the General Assembly may wish to prohibit the practice.

Administrative costs of a college or university are reported in the category "institutional support." Examples of institutional support expenses are: marketing and lobbying; KCTCS president and other systemwide executive, administrative, and managerial staff; college presidents and staff; KCTCS Board of Regents and college governing boards; systemwide information technology services; payroll and personnel services; finance and legal services; purchasing and maintenance of supplies and materials; and internal and external audits.

KCTCS spent more on institutional support in the 5-year period than any other state-supported institution – over $20 million more than UK. KCTCS also spent more than two of the three other states' community college systems. However, KCTCS had the smallest percentage increase in institutional support expense over the 5 years at 3.1 percent. The other states' systems had significantly higher increases with Colorado at almost 69 percent, Louisiana at 27.5 percent, and Indiana at 52.5 percent.

KCTCS has 16 colleges that incur administrative expenses in addition to the system office. The overall increase was only 3.1 percent because most of the increase at the college level was offset by a decrease of more than $11 million, almost 45 percent, at the system office.

Ms. Upton said that institutional support cost per student varied among the colleges, ranging from $342 at Owensboro to more than $800 at Big Sandy, Hazard, and Henderson. One way to measure administrative burden is to calculate institutional support as a percentage of operating expenses. KCTCS had the second-highest proportion of institutional support to operating expenses among Kentucky's public institutions at 14.3 percent. KCTCS's percentage of institutional support was below all three of the other states' systems, which are similar in size to KCTCS.

The governing board of each Kentucky postsecondary institution contracts for the services of a president. From FY 2006 to FY 2010, the president of KCTCS made about the same base salary as the president of UK. Compared to the other Kentucky public institutions, the average base salary of the KCTCS president was more than four university presidents and less than four others.

A president's total compensation package can include a performance bonus, deferred compensation, housing, additional long-term disability and life insurance, and other benefits not available to rank-and-file employees. KCTCS president's total compensation for calendar year 2005 to calendar year 2010 ranged from $568,917 to $655,231 per year.

Public postsecondary institutions are required to report a president's compensation to the Council on Postsecondary Education (CPE), but total compensation cannot be determined consistently using this data.

Recommendation 2 is that if more detailed cost information is needed from the public postsecondary education institutions, the General Assembly may wish to consider requiring CPE to collect and report it.

The information the institutions report to CPE is useful in determining a governing board's plans for compensating the president. The potential compensation of the KCTCS president more than doubled from FY 2006 to FY 2010 and was the highest among Kentucky public institutions in 2010. Over the 5-year period, the average potential compensation of the KCTCS president was more than all presidents except the president of UK.

Excluding the president, total other executive, administrative, and managerial staff compensation at KCTCS was more than $25 million in the FY 2006 to FY 2010 period. This compensation increased almost 16 percent in the 5-year period. Other specific administrative costs requested by Program Review staff were information systems, legal services, finance, and the Board of Regents.

Each college in the system has a president and administrative and managerial staff. The college presidents work under contract; other positions are KCTCS staff. From FY 2006 to FY 2010, $13.2 million in presidential compensation was paid from state general funds and tuition revenue. Overall, the salaries of KCTCS college presidents increased by 11.7 percent. College administrative and managerial staff costs totaled $73.4 million for the 5-year period. All other administration costs totaled $241.5 million.

All faculty and staff are employees of KCTCS. Employees are members of the Kentucky Employees Retirement System, the Kentucky Teachers Retirement System, or a KCTCS-sponsored defined contribution retirement plan. The creation of KCTCS combined employees from the Workforce Development Cabinet (who were participating in one of the state-sponsored retirement plans) and employees from the UK Community College System, who were participating in a defined-contribution plan sponsored by the university. KCTCS maintained these systems for current and future employees.

The KCTCS president, the 16 college presidents, and five members of the KCTCS president's cabinet work under contract. They generally participate in the KCTCS-sponsored plan. One college president participates in the Kentucky Teachers Retirement System.

KCTCS employees who were part of the UK Community College system and have chosen to remain in its personnel system are members of the university's health plan. All other employees and all contracted positions participate in the Kentucky Employees' Health Plan.

Senator Schickel said that KCTCS has been a topic of interest for him since he was elected to the Senate. Lobbying during the past legislative session was questionable.

In response to a question from Senator Schickel, Ms. Upton said that more than $1.6 million was spent on public advocacy by KCTCS from FY 2006 to FY 2010.

In response to a question from Senator Schickel, Ms. Upton said that the public advocacy expenditures were not known for each college. The marketing expenses per college in Table 5 of the report include advocacy expenses.

In response to a question from Representative Simpson, Ms. Upton said that the universities' governing boards set their presidents' salaries. The salary of each KCTCS college president is negotiated between the KCTCS president and the college president.

Representative Simpson asked about salaries of community college presidents in the other three states. Ms. Upton said that staff did not get those numbers in the course of the study.

Senator Pendleton asked if payments for state and federal lobbying could be distinguished. Ms. Upton said that KCTCS only began state-level lobbying in 2010.

Senator Pendleton noted that the president of the community college in his district took a decrease in pay.

In response to a question from Senator Higdon, Ms. Upton said that advertising at UK and U of L sporting events began in 2008.

Representative Mills noted that the report covered the salaries of presidents and administrative and managerial staff. He asked if this information was available for positions such as professors and maintenance staff. Ms. Upton said that staff did not gather information on other categories.

Representative Mills said that such information would be useful for comparison.

Representative Mills asked who checks into the details of spending for institutional support. Ms. Upton said that financial statements are audited annually by independent firms.

Representative Mills asked if staff delved into particular spending of presidents and executives. Ms. Upton said no but that more information could be provided.

Representative Butler asked why the cost of legal services increased by 600 percent. Ms. Upton said that staff were not sure but that it appears to be related to a lawsuit filed by a former college president.

In response to questions from Representative Simpson, Ms. Upton said that the individual college boards have no input into the salary and benefits of their presidents, but each board evaluates its president which might enter into the salary decision on some level. The individual college boards have no input into the salary package for the KCTCS president.

In response to questions from Senator Seum, Ms. Upton said that the annual audits of colleges by private firms are available to the public.

Senator Seum noted that he was concerned about the rise in tuition.

In response to a question from Senator Schickel, Ms. Upton said that information on public advocacy expenses per college could be provided by KCTCS.

Representative Steele said that this information should be provided to the committee.

Mr. Walker addressed three questions asked by committee members earlier in the meeting. In response to a question from Representative Simpson, he said the five factors in determining college presidents' salaries are the number of employees, number of students, number of campuses, the size of the budget, and previous presidential-level experience. In response to the comment from Senator Pendleton, he said the change in salary of the Hopkinsville College president was because the new president did not have as much experience as the predecessor. In response to a question from Representative Butler, he said that he had done further research on the cost of legal services after the report had been printed. The number in the report includes a contract for property acquisition. Legal services actually increased to $351,500, an increase of 179 percent.

Senator Higdon reviewed specific public advocacy expenses from the report. He said that KCTCS went too far in some of the things it did. Even as KCTCS was advertising at UK and U of L ball games, a survey indicated that its name recognition declined by 9 percent among high school students.

Senator Higdon asked who is classified as a student. Mr. Burcham said that headcount enrollment is the number of students who are taking at least one paid course for credit.

Senator Higdon asked if there were any perks involved in the advertising at UK and U of L. Mr. Burcham said that students representing KCTCS at sponsored games got tickets. Ms. Giltner said that this was 20 to 25 students per game.

Representative Simpson voiced concern about using taxpayer dollars to lobby legislators. He asked if there has been any discussion of this decision. Mr. Burcham said that students were very interested when the transfer issue was being considered by the General Assembly and that coming to the capital was an educational experience for them. He said that KCTCS has taken note of the reaction to the promotional activities.

Representative Simpson said that he took exception to this. Public money could be better used to reduce tuition. He said this is poor judgment, and he hopes that it will not be repeated. Referring back to the factors used to set presidents' salaries, he said that success in getting students to finish should be considered.

Representative Palumbo noted that lobbying using public funds is a general issue; it is not just done by KCTCS.

Senator Schickel said that numbers that are small as a percentage of a total still have symbolic value.

Senator Schickel asked about the value of recruiting students to technical schools by advertising at university ball games. Mr. Burcham replied that market research in 2006 indicated that there were hundreds of thousands of Kentuckians who were not accessing higher education. The UK and U of L sports networks were determined to be the best way to reach the adult market. KCTCS could purchase radio and television time through sports marketing contracts with UK and U of L at cheaper rates than it could otherwise. This is part of the overall brand strategy targeted at an adult population.

Senator Schickel said that during the 2010 session, he had spoken with students putting up yard signs who said they were doing so at KCTCS's request. He agreed with the educational value of students coming to Frankfort but thought they should not be coming at others' request. Mr. Burcham said that he understands that legislators are unhappy with the techniques used and that it will be rethought.

Representative Simpson said that KCTCS is not advertising adequately if students are going to proprietary schools that cost more and may be providing less value to students. Mr. Burcham agreed but said that the cost of such advertising is prohibitive. Sports marketing contracts are the most cost effective given their reach.

Representative Mills asked about salary increases for other types of staff. Mr. Walker said that the other categories can be reviewed. He noted that an increase in a category over time is a function of salaries and the number of people in the category.

Representative Mills asked who checks on executives' use of credit cards. Mr. Walker said that the use of a credit card is checked with the immediate supervisor and the second-line supervisor. The KCTCS president does not have a KCTCS credit card. The audit reviews the president's expenses.

Representative Mills commented that boards should take a hard look at administrative expenses, which seem high. Any money saved in higher education should be used to get more people through college and into jobs.

In response to a question from Representative Rand, Mr. Burcham said that marketing is done both in house and by contract.

Representative Rand asked what factors are used in determining the KCTCS president's salary. Mr. Walker said that the salary is set by a contract between the Board of Regents and the president.

Representative Rand asked what the standards are for the president's performance bonus. Mr. Walker said that the Board of Regents determines standards at its June meeting. At the end the year, the board determines whether the predetermined objectives have been met.

In response to a question from Representative Rand, Mr. Walker said that CPE does not have input into presidents' salaries.

Representative Rand commented that he has heard from many students about the expense of college. The culture of an institution is affected by what the CEO makes. Boards of Regents should take the fairness of compensation of leadership into account. Mr. Walker said that he agreed with the recommendation in the report that better information should be collected on compensation so that comparisons can be made.

Senator Pendleton said that he has mostly heard from parents. He would like to hear more about lobbying from all universities. There should not be a knee-jerk reaction that would discourage young people from coming to Frankfort.

In response to questions from Senator McGaha, Mr. Burcham said that KCTCS has a contract with Thorn Run, which is responsible for contract lobbying.

Senator McGaha said it would be more effective for students to make appointments to speak to him directly.

Senator McGaha asked for details on the approximately $80,000 identified in the report as "other benefits" of the KCTCS president. Mr. Walker said that this included long-term disability, workers compensation, retirement, health insurance, life insurance, and long-term care insurance. The board pays the employee and employer share for retirement.

In response to a question from Senator McGaha, Mr. Walker said that he thought headcount was used in determining salary but that he would check to be certain.

Senator McGaha said that using headcounts could be inconsistent. Students might have different course loads. One institution could have a lot of students taking one course. Another could have more students taking full course loads.

Senator McGaha asked for elaboration on a $1.2 million contract dealing with transfers that had recently come before the Government Contract Review Committee. Mr. Burcham said that the contract is not about transferring credits. The contract is with the John Gardner Institute of Excellence, which has standards to follow for getting associate degrees that lead to baccalaureate degrees. The purpose is to help students get four-year degrees.

Senator Pendleton cited the example of a student's course not being accepted at a regional university, which should not occur under current law. Guidance counselors should be doing their jobs so that this does not happen.

Representative Steele cautioned KCTCS officials to remember today's hearing for the next legislative session.

Representative Steele said that the first order of business at the committee's next meeting will be the Cabinet for Health and Family Services addressing Senator Stine's questions.

Senator Stine said that the Medicaid Report is an important and timely report covering a subject dealing with a large part of Kentucky's population and involving a lot of money. She hopes that Acting Commissioner Wise will be at the committee meeting to answer questions and update the committee on the contracts.

Senator McGaha noted that the Government Contract Review Committee will be reviewing the Passport contract. The committee will not be reviewing the other new Medicaid managed care contracts because they were issued as master agreements, not contracts. Staff should ask about this.

Upon motion by Representative Simpson and second by Senator Schickel, the report *Kentucky Community and Technical College System: Marketing, Lobbying, and Administration Expenses* was adopted by roll call vote.

The meeting adjourned at 11:52 AM.

Task Force on Childhood Obesity

Minutes of the 2nd Meeting of the 2011 Interim

August 16, 2011

Call to Order and Roll Call

The 2nd meeting of the Task Force on Childhood Obesity was held on Tuesday, August 16, 2011, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Katie Kratz Stine, Co-Chair, called the meeting to order at 10:38, and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Tom Riner, Co-Chair; Senator Joey Pendleton; Representatives Bob M. DeWeese, Mary Lou Marzian, and Addia Wuchner.

Guests: Janey Thornton, Ph.D., SNS, Deputy Under Secretary, Food, Nutrition and Consumer Services, United States Department of Agriculture, Washington, D.C.; Janet Mullins, Ph.D., R.D., L.D., Associate Professor, Extension Specialist in Food & Nutrition, University of Kentucky; Jamie Sparks, Coordinated School Health Project Director, and Robin Chandler, Policy Advisor, Office of Next Generation Learners, Kentucky Department of Education; Denise Hagan, Director, Colby Wagoner, MS, Child Nutrition Program Consultant, Jennifer Langfels, Registered Dietician, Child Nutrition Program Consultant, and Angela Voyles, Division of School and Community Nutrition, Kentucky Department of Education; Elizabeth Schmitz, Kentucky Environmental Education Council; Timothy Mayer, Community Team Alliance; Scott Douglas, Coca-Cola; Anne Joseph; Jan Clark, Child Advocacy Today; and Wayne Young, Kentucky Association of School Administrators.

LRC Staff: DeeAnn Mansfield, Ben Payne, Kenneth Warlick, Katie French, and Gina Rigsby.

Hungry Kids Act: School Lunch Programs

Janey Thornton, Ph.D., SNS, Deputy Under Secretary, Food, Nutrition and Consumer Services, United States Department of Agriculture, Washington, D.C., stated that all society has a role to play in the obesity epidemic. There is a real hunger problem, not just an obesity problem. Approximately 16.7 million children live in households with food insecurity, and for many, school meals may be the only health food they get all day. Increased consumption of sugar sweetened beverages increased frequency of meals eaten away from home, and continued low consumption of fruits and vegetables are huge factors in the obesity epidemic. There is an increased number of fast food establishments in the United States who advertise less health food and beverage choices. The lack of access to full service grocery stores selling affordable healthful foods and desserts is not limited to just the rural areas. Being physically active is just as important as a healthy diet. Environmental factors beyond the control of individuals contribute to increased obesity rates by reducing the likelihood of healthy eating and active living behaviors. Some environmental factors that influence physical behavior are lack of infrastructure supporting active modes of transportation such as sidewalks and bike facilities, access to safe places to play and be active, access to public transportation, and mixed use and transit oriented developments.

In 2008, the annual healthcare cost of obesity in the United States was estimated to be as high as $147 billion a year, double the amount a decade ago. The annual medical expenses for the obese are estimated to be 42 percent higher than for persons of a health weight. Workplace obesity prevention programs may be an effective way for employers, including local governments, to reduce obesity, lower healthcare costs, lower absenteeism, and increase employee productivity. A healthy learning environment contributes to the success of students. Creating a healthier school and community food and physical activity environment is a challenge that must be met. Policies and environments that affect peoples' health are determined by the local, state, and federal governments. The initiative, Let's Move, helps parents make healthy family choices, serve healthier food in schools, improve access to healthy, affordable food, and increase physical activity in children.

New Dietary Guidelines for Americans (DGAs) were released this year. New meal patterns for breakfast and lunch scheduled for winter 2011, based on the Institute of Medicine and the DGAs, will have healthier choices. The Healthy, Hunger Free Kids Act of 2011 includes the regulatory authority on all foods sold throughout the schools during the school day. The entire family will benefit from the knowledge children will gain being taught healthier lifestyles and behaviors. Farmers will learn what products need to be grown by working with the entire community. Reversing the obesity epidemic is a shared responsibility. Social and environmental changes are influenced by the efforts of many.

Dr. Thornton answered questions by Senator Stine by saying that Kentucky was one of the pilot states for the Farm to School project in the Jefferson County and Montgomery County school systems. Contact Tina Garland, Kentucky Department of Agriculture, for more information. Dr. Thornton answered a question by Representative Riner by saying low-income families on SNAP or WIC purchase healthy items at the beginning of the month, but by the end of the month purchase food with lesser nutritional value because they are less expensive. The goal is to figure out ways to encourage people of all income levels to make better food choices. Dr. Thornton answered a question by Representative Marzian by saying teachers can tell a difference in a child's ability to learn, attention span, and behavior if students are involved in some form of physical activity throughout the day.

Minutes

A motion to approve the minutes of the June 21, 2011 meeting was made by Senator Pendleton, seconded by Representative Marzian, and approved by voice vote.

Access to Healthy Foods in Kentucky

Janet Mullins, Ph.D., R.D., L.D., Associate Professor, Extension Specialist in Food & Nutrition, University of Kentucky, stated that in 2001 the Journal of Nutrition Education reported when individual and interpersonal changes are not enough to overcome negative environmental influences, changes in the system, environment, and policy may be required. Since 2002, there has been a significant reduction of vending machines in elementary and middle schools. High schools need to improve in this area. Data shows that boys are struggling more with childhood obesity than before. Kentucky agriculture is now capable of feeding more of our citizens. Strengthening local food systems is good for our health and the economy. Facilities need to be rebuilt to aggregate, process, and distribute fresh foods. Evidence-based policies to help normalize weight include Body Mass Index (BMI) monitoring from school physical exams, Farm to School programs, strengthen local food systems, support systems for limited resource families, increased physical activity in child care, schools, worksites, and communities, and school wellness. Everyone has a right to affordable food for good health and well-being. Children need to be taught that food does not come from stores, it comes from the earth.

Dr. Mullins responded to a statement by Senator Pendleton by saying that the sedentary lifestyle cycle needs to be broken.

Dr. Mullins responded to a statement by Representative Marzian by saying that a child will eat healthier if they understand how to grow and prepare food.

Dr. Mullins answered a question by Representative Riner by saying that Kentucky already has a significant investment in the Farm to School program through the actions of the Department of Agriculture, Department for Public Health, the University of Kentucky College of Agriculture and Extension Service, and the partnership with Fit Kentucky.

School Wellness Plans/ Coordinated School Health Programs

Jamie Sparks, Coordinated School Health Project Director, and Robin Chandler, Policy Advisor, Office of Next Generation Learners, Kentucky Department of Education; Denise Hagan, Director, Colby Wagoner, MS, Child Nutrition Program Consultant, and Jennifer Langfels, Registered Dietician, Child Nutrition Program Consultant, Division of School and Community Nutrition, Kentucky Department of Education, stated that eight components of a Coordinated School Health Program (CSHP) are comprehensive physical education, comprehensive school health education, nutrition, services, school health services, counseling and social services, healthy school environment, staff wellness, and family and community involvement. The CSHP is an organized set of programs, policies, and activities that consist of assessing the school environment, having a school health and wellness council, and developing an action plan. CSHP is a best practice that is included as a school's evidence in the Program Review process. As part of the Program Review process, schools need to create a coordinated school health and wellness council as a subcommittee of their School Based Decision Making Council that would assess the school environment, identify strengths and areas for growth, develop an action play, and create a comprehensive school physical activity program (CSPAP) as a part of a school's wellness policy.

Alcohol and drug use, injury and violence, tobacco use, unhealthy dietary behaviors, physical inactivity, and sexual risk behaviors are the six priority health-risk behaviors of youth that contribute to the leading causes of illness and death by Kentucky's youth. In Kentucky, these six priority health-risk behaviors are monitored by the Centers for Disease Control and Prevention through the Youth Risk Behavior Survey (YRBS). Lifestyles and behaviors are engrained in us at an early age and it is time to learn new ones. The *Pediatric Exercise Science* reports intense physical activity programs have positive effects on academic achievement, including increased concentration, improved mathematics, reading, and writing test scores, and reduced disruptive behavior. One comprehensive CSPAP that would improve health and academic performance is Let's Move in School. The goal of the program is to ensure that every school provides a comprehensive school physical activity program with quality physical education as the foundation so that youth will develop the knowledge, skills, and confidence to be physically active for a lifetime. Let's Move in School is urging physical educators, parents, school administrators, and policymakers to get involved in bringing quality physical education and physical activity to schools through a CSPAP. The goals of the CSPAP are to provide a variety of school-based physical activity opportunities that enable all students to participate in physical activity each day and provide coordination among the CSPAP components to maximize understanding, application, and practice of the knowledge and skills learned in physical education so that all students will be fully physically educated and well equipped for a lifetime of physical activity.

Kentucky, Alabama, Georgia, North Carolina each received $15,000 to help adopt, strengthen, or implement policies that promote health eating and physical activity in schools to fight childhood obesity. The funding is one aspect of a National Association of State Boards of Education (NASBE)/ Robert Wood Johnson Foundation Obesity Prevention Project. According to the NASBE, health and success in school are interrelated. Schools cannot achieve their primary mission of education if students and staff are not healthy and fit physical, mental, and socially. There is a growing body of research that says children who are obese have greater absentee rates and lower academic achievement, along with all the other health complications. A report to the Kentucky Board of Education (KBE) health subcommittee on guidelines and regulations for nutrition and physical activity is due in October 2011.

KRS 158.852 requires each district to appoint a food service director who is responsible for the management and oversight of the food service program in the district. The school food service director or person responsible for menu planning must hold a School Food Service and Nutrition Specialist (SFNS) credential or a level 2 certificate issued by the School Nutrition Association. All continuing education must be related to applied nutrition and healthy meal planning and preparation. KRS 158.854 requires KBE to promulgate an administrative regulation specifying the minimum nutritional standards for all foods and beverages sold outside the National School Breakfast (NSB) and National School Lunch Programs (NSLP). The administrative regulation will address serving size, sugar, and fat content of the foods and beverages. Competitive food means any food or beverage items old in competition with the NSB and NSLP. No school may sell competitive foods or beverages from the time of the arrival of the first student at the school building until thirty minutes after the last lunch period. Habitual violations of five times or more within a six-month period will result in a six-month ban on competitive foods sales for the violating school. KRS 156.160 requires all revenue to go Food Service. School day approved beverages are water, one hundred percent fruit juice, low-fat milk, and any beverage that contains no more than ten grams of sugar per serving. Only school day approved beverages may be sold in elementary schools during the school day in vending machines, school stores, canteens, or fundraisers.

KRS 158.856 requires each school food service director to annually assess school nutrition including the nutritional value of all foods and beverages available for students. The director must submit a report on the list of foods and beverages that are available to students, including the nutritional value and recommendations for improving the school nutrition environment. KBE must develop an assessment tool for each school district to use to evaluate its physical activity environment. The evaluation must be completed annually and released to the public at the time the nutrition report is released. The local school board will discuss the findings of the nutrition report and physical activity report and seek public comments during a publicly advertised board meeting following the release of the reports. A compilation of the summary of findings and recommendations of the local school boards will be submitted to the KBE.

The goals of the Fresh Fruit and Vegetable Program (FFVP) are to create healthier school environments, expand and increase the variety and amount of fruits and vegetables children experience and consume, and combat childhood obesity by helping children learn more healthful eating habits through the consumption of healthy foods and nutrition education. Schools submit monthly reimbursement reports of allowable costs and develop an implementation plan involving teachers and other school staff to decide when, where, and how to implement the program and what mix of fresh fruits and vegetables offered to the children. The schools have to agree to make free fresh fruits and vegetables available to all enrolled children during the school day, have documented support of the food service manager, principal and district superintendent, and serve a high number of low-income children.

The community eligibility option (CEO) provides an alternative to household applications for free and reduced price meals in high poverty local educational agencies (LEAs) and schools. LEAs or schools electing the option agree to serve all students free lunches and breakfasts for four successive school years. Meal program claims are based on the percentage of identified students multiplied by a factor of 1.6. Identified students are defined as the students certified for free meals not through the submission of individual applications. Students included are directly certified through Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for needy Families (TANF), and Food Distribution Program on Indian Reservations (FDPIR) participation as well as homeless on the liaison list, income-eligible Head Start, pre-K Even Start, migrant youth, runaways, and non-applicants approved by local officials. Foster children certified through means other than an application are also included. The Board of Education counties participating in the CEO are Carter, Christian, Clay, Elliott, Floyd, Harlan, Knox, Lee, Madison, McCreary, Monroe, Owsley, Pike, and Wolfe. The independent Board of Education counties are Jenkins, Mayfield, and Paducah.

Adjournment

There being no further business, the meeting was adjourned at 12:40 p.m.

Tobacco Settlement Agreement Fund Oversight Committee

Minutes

August 3, 2011

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, August 3, 2011, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Vernie McGaha, Dennis Parrett, and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Tom McKee, Fred Nesler, and Tommy Turner.

Guests: Roger Thomas, Executive Director, Kylee Palmer, Director of Compliance, and Bill McCloskey, Governor's Office of Agricultural Policy; Irene Centers, Program Manager, Tobacco Prevention and Cessation Program, along with Jenna Compton, student at Pikeville High School, Landon Rogers and Libby Dismeaux, students at Burgin High School; Van Ingram, Executive Director, Office of Drug Control Policy, Amy Andrews, State Coordinator, Heather Wainscott, Branch Manager, Office of Drug Control Policy, Lola Patterson and Joe Williams, Coordinators, Kentucky Agency for Substance Abuse Policy (KY-ASAP).

LRC Staff: Lowell Atchley, Biff Baker, and Susan Spoonamore, Committee Assistant.

The July 6, 2011, minutes were approved, without objection, by voice vote, upon motion made by Sen. Vernie McGaha and seconded by Sen. Joey Pendleton.

Governor's Office of Agricultural Policy

At the outset of the meeting, committee received the monthly report from Mr. Roger Thomas, Executive Director, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), regarding project funding decisions made by the Agricultural Development Board (ADB) in its previous meeting.

The officials began their report by reviewing funding under the County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, and Shared-use programs from the previous month. They also responded to questions from Co-chair Stone regarding how the CAIP differs from the older model program system in allocating funds at the county level.

The one project approved for state funding at the previous ADB meeting prompted several questions and comments. The project concerned the Bracken County Agriculture Advancement Council's receipt of $37,500 in local and state commitments to consider the feasibility of building a biofuel pellet mill in the county industrial part.

Responding at various times to Representative McKee, Senator Pendleton, Senator McGaha, Representative Stone, and Senator Gibson, the officials talked about Eastern Kentucky Power's potential use of the biofuel pellets to blend with coal in generating electricity, the potential different types of biofuel feedstocks, the expertise of a Missouri company, Show Me Energy, in doing the study, the University of Kentucky's work in helping grow switchgrass in the northeastern region, and status of biomass study versus actual use.

Following Mr. McCloskey's review of a project denied funding, the committee saw a short demonstration by Kylee Palmer, Director of GOAP's Compliance Division, of a new Web-based search tool on the agency's Web site that will enable one to search the database for information on producers who have received cost-share funds through the CAIP since 2009. Responding to questions from Co-chair Hornback and Co-chair Stone, they described the scope of the database and search categories, such as county, program, producer, year, and the like.

Tobacco Prevention and Cessation Program Report

The committee received a report from Ms. Irene Centers, Program Manager, Tobacco Prevention and Cessation Program, regarding that agency's activities during the past year using, in part, tobacco settlement funds. Three high school students, Jenna Compton, Pikeville High School, and Libby Dismeaux and Landon Rogers, Burgin High School, talked about efforts undertaken at their schools to reduce teen smoking and tobacco use. Commenting during the testimony, Senator Pendleton lauded the students for appearing before the committee and discussed legislation enacted in the 1996 session to restrict minors' access to tobacco sold in stores.

Following the teens' remarks, Ms. Centers reviewed the FY 2011 and FY 2012 budget figures, highlighted progress toward reducing tobacco use in Kentucky, and presented statistics on smoking rates in assorted age groups.

Responding to Representative Stone, Ms. Centers indicated that a number of entities review their finances, including the Office of State Auditor. She commented to Senator Gibson about the need to have more smoke-free high school campuses. Responding to Representative Adams, she explained how the Department of Alcoholic Beverage Control inspects retailers for illicit sales to minors. Reviewing the Monroe Health Department's financial report, she explained to Senator McGaha that health departments are not required to itemize their expenses, showing for example, how much they devote to supplies that help people quit smoking. As her report ended, Representative Adams observed that more education is needed at the elementary and middle school levels to educate youngsters on the health dangers of tobacco use.

Kentucky Agency for Substance Abuse Policy Report

The committee received a report from the Kentucky Agency for Substance Abuse Policy (KY-ASAP) regarding how that agency uses the tobacco settlement funds it receives. Addressing the committee were Mr. Van Ingram, Executive Director, Office of Drug Control Policy (ODCP), Ms. Amy Andrews, KY-ASAP State Coordinator, and Ms. Heather Wainscott, ODCP Branch Manager.

The three officials discussed how the tobacco funds are used as a part of grants to county and regional KY-ASAP boards to use in substance abuse prevention and treatment. Mr. Ingram indicated they continue to have low administrative costs. Ms. Andrews pointed out they allow local boards to tackle what they see as the overriding problems in their areas. Ms. Wainscott discussed the agency's involvement with the Partnership for a Drug-Free America.

The committee then heard testimony from Ms. Lola Patterson and Mr. Joe Williams, KY-ASAP coordinators respectively in Knott and Graves counties. The speakers discussed some of the activities they have undertaken in their communities to fight substance abuse. Following Ms. Patterson's remarks, Mr. Ingram responded to Representative McKee that there seems to be an increase in the prevalence of certain drugs in Kentucky, while the abuse of others is leveling off. The immediate intent, he indicated, is to focus on the proliferation of "pain clinics" in the state. Responding to Senator Parrett, Ms. Patterson described a Knott County ordinance aimed at regulating pain clinics in that county.

Both Ms. Patterson and Mr. Williams commented to Representative McKee that funds are needed to deal with prescription pain medication abuse, and generally to improve the economy by decreasing poverty and spurring job growth. Mr. Ingram mentioned the problem that exists in the state with prescription drug abuse.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 12:30 p.m.

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