

## Economy flounders, but Kentucky banks strong

by Chuck Truesdell  
LRC Public Information

FRANKFORT — Although the national economy will be mired in recession well into 2009, Kentucky's community banks are not troubled by the same problems that have toppled Wall Street, experts told lawmakers last month.

"Kentucky banks have been extremely prudent in their lending standards," said Dr. Donald Mulineaux, a banking and finance professor at the University of Kentucky. He noted that state banks have seen returns on assets and equity three to four times that the national average. The average Kentucky bank also has reserves above and beyond that required by regulators to be called "well-capitalized."

The good news comes amid a recession Mulineaux projected would be larger than average. "The problems are only going to get worse in the banking industry as a whole," he said.

Dr. Paul Coomes, an economics professor at the

University of Louisville, said Kentucky is managing better than other states because the state was not caught up in the spike in housing prices. "We didn't have a bubble; we're not having a bust," he said. He noted that the area has seen steady growth in home prices of 2-4 percent annually, and that more than half of all foreclosures in Kentucky are from investor properties. "They're not all families losing their homes," he said.

The flipside, Coomes said, is that job growth has been low since the decade began. Manufacturing and retail jobs have left, with health care the leading growth sector. "We're a relatively unhealthy state and a relatively older state," he explained. Professional and business services as well as the public sector have also seen growth in employment since 2000.

Kentucky's economy did nothing to drag the national economy down, the professors said. In fact, they revealed, the federal government's aid to Citi-

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Sen. Dick Roeding, R-Lakeside Park, questions those speaking before the Nov. Banking and Insurance Committee meeting.

## CSG selects Kentucky law as national model for energy policy

by Rob Weber  
LRC Public Information

The Council of State Governments has selected a comprehensive energy efficiency plan approved during the 2008 regular legislative session by the Kentucky General Assembly as model legislation for states across the nation to refer to for guidance on energy issues.



**House Majority Floor Leader Rocky Adkins**

House Bill 2, sponsored by House Majority Floor Leader Rocky Adkins, D-Sandy Hook, was chosen as model legislation by the Council of State Government's Suggested State Legislation Committee during the CSG's annual meeting in Omaha, Neb., which was held Dec. 4-7. The committee, which is made up of state lawmakers and legislative staffers from all regions of the country, selected House Bill 2

from hundreds of submissions.

"This is another sign that Kentucky is emerging as a national leader on energy issues," Adkins said. "It speaks well of our accomplishments to know that policymakers throughout the nation will



**Sen. Bob Leeper**

look to our commonwealth for guidance on one of the most pressing national issues we face."

As model legislation, House Bill 2 will be included in the next volume of the Council of State Government's "Suggested State Legislation" publication. The booklet contains a series of draft legislation from state

statutes on topics of current interest and importance to states. Policymakers across the country use the "Suggested State Legislation" publication for guidance

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## Corn not only ethanol source, lawmakers told

by Rebecca Mullins  
LRC Public Information

FRANKFORT— Corn is not the only way to make ethanol. Scientists can also make the alternative fuel from the fiber of straw, wood and even corn cobs, scientists told state lawmakers, through a process called cellulosic—or fiber cell wall—technology.

Unfortunately, cellulosic technology is not yet very cost effective for industry, Dr. Karl Dawson of the Kentucky-based research company Alltech told the Interim Joint Committee on Agriculture and Natural Resources on Dec. 10. But the potential for cellulosic ethanol, the need for corn as both a transportation fuel and human food source and even government policy could change that, he explained.

"The policies on these (alternative fuels) are changing constantly at the federal level, and I'm

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sure at the state level you can say the same,” he said. “But there are some technologies that must be invested in...for us to take advantage of alternative fuel sources.”

Dawson said the competition between the use of corn grain to make ethanol and the need for human food is “very intense at this point in time” since many grain rich companies are using corn to make automotive fuel. That could help open the door for more cellulosic ethanol production which Dawson said is a well-known technology with plenty of feedstock.

In the next five to 10 years, Dawson said it is estimated that the U.S. will have 1.3 billion tons of cellulosic material that could be used to produce around 100 billion gallons of fuel. “(That’s)  $\frac{3}{4}$  of the energy we normally get from gasoline,” he said.

Dr. Czarena Crofcheck of the University of Kentucky Department of Biosystems and Agricultural Engineering, who explained the chemistry behind the cellulose to ethanol conversion process, also said that economics will determine how well-used the

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group alone is more than the capitalization of every Kentucky bank. But while Kentucky is faring better than many other states at the moment, the future might not be so bright. “When the national economy slows down, they take us with it,” Coomes said.

That will create problems down the road, said Rep. Mike Denham, D-Maysville. With unemployment rising, Kentucky’s banks may need help in 2009, long after the current deadline for federal aid has passed.

“If there’s one thing we’ve learned in the last 90 days, it’s that what’s true today may not be true tomorrow,” he said.

Ballard Cassady, President of the Kentucky Bankers Association, stressed the difference between Wall Street banks and local community banks. “The chasm is huge between JPMorgan Chase and the Main Street banks,” he said. “We still have money, and we’re still lending.”

# Lawmakers hear pension study group recommendations

by Chuck Truesdell  
LRC Public Information

FRANKFORT — Changes on issues ranging from health care management to the investment experience of board members could solidify the future of state pension funds, members of a study group told a legislative panel last month.

One subcommittee focused on the potential move from the current defined benefit pension plan to a defined contribution plan, where employees could make their own investment decisions through a 401(k) or similar plan.

The Kentucky Public Pension Working Group, chaired by Finance and Administration Secretary Jonathan Miller, presented its findings to the Interim Joint Committee on State Government. The idea of the group, Miller

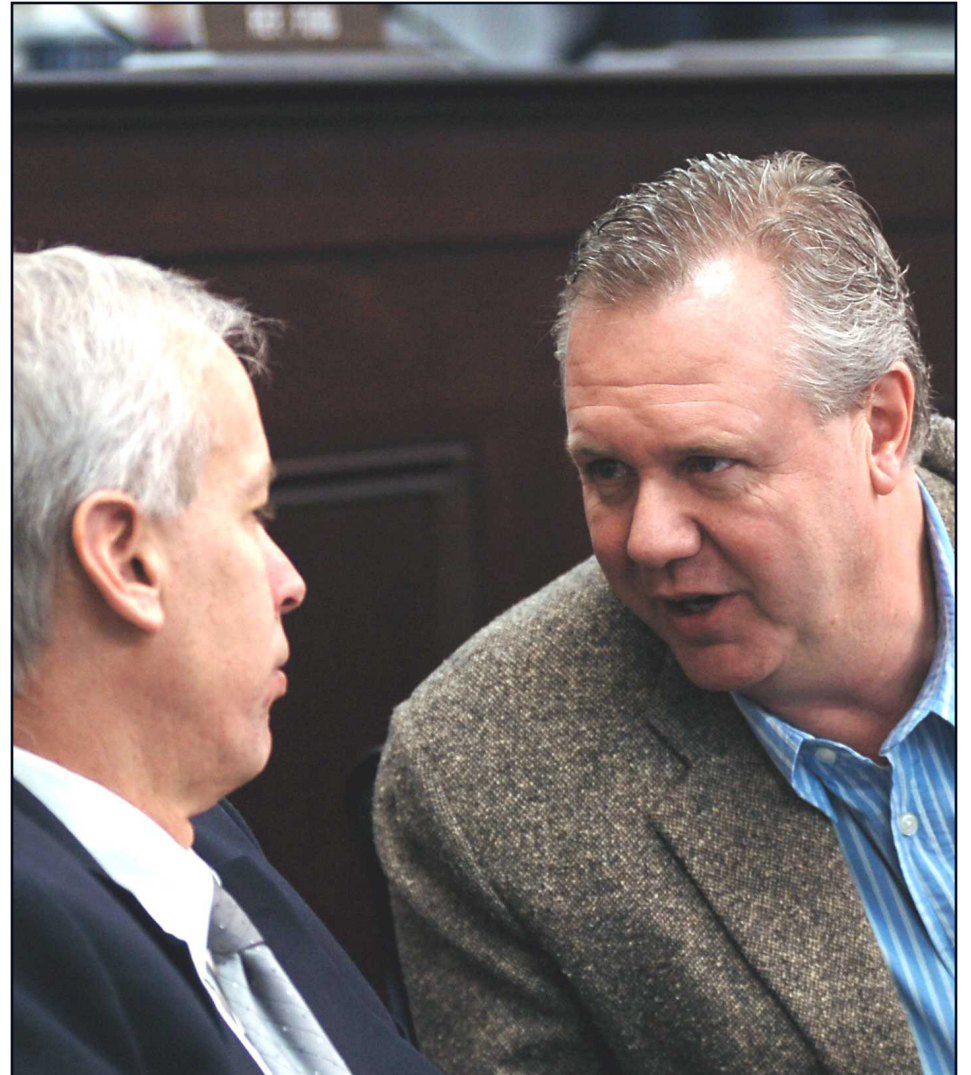
said, was not to present a single comprehensive plan, but several possible suggestions for improving the long-term viability of the system.

The panel was divided into six subcommittees, each presenting its own section of the report. Among the recommendations announced last week by Gov. Beshear was the need for more investment experience by members of the boards that oversee the various pension plans that benefit state and local employees as well as teachers.

Under the proposal, certain appointees to the Kentucky Retirement Systems and Kentucky Teachers Retirement Systems boards of trustees would be required to have at least 10 years experience dealing with invest-

## CSG, from page 1

in confronting some of the foremost issues facing states. Issues selected for the publication are generally ones that take an innovative approach to an issue of sufficient complexity that



State Rep. Tim Couch, R-Hyden, right, talks with Rep. Joe Fischer, R-Ft. Thomas, during the Interim Joint Committee on State Government meeting on Nov. 24. The committee discussed state pensions.

ments or other financial matters.

The panel also submitted recommendations to deal with the state health insurance fund. Effective disease management and wellness programs could tackle Kentucky’s status as an overall unhealthy state, the report said, and could reduce costs both short-term and long-term. Medicare Advantage plans, Employer Group Waiver Plans, and other programs could also help reduce government costs while maintaining the quality of benefits, while using the state’s ability to buy drugs in bulk could reduce prescription costs.

One subcommittee focused on the potential move from the current defined benefit pension plan to a de-

defined contribution plan, where employees could make their own investment decisions through a 401(k) or similar plan. Such a move would not reduce the current unfunded liability, the report said, and would reduce the amount going into the current fund to cover future needs.

Employees already have access to 401(k) plans through the Kentucky Public Employees’ Deferred Compensation Authority, the report noted, with 23 percent participation.

Strategy to increase that number could help more workers take an active part in their retirement planning while keeping participation mandatory, it said.

a bill drafter would benefit from seeing the details of another state’s approach.

Adkins said he has already seen interest in other states of Kentucky’s approach to promoting energy efficiency and renewable energy resources.

“Our nation’s goal of becoming energy independent will get a strong boost if more states undertake comprehensive initiatives like we have in Kentucky,” he said.

House Bill 2 promotes energy

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# 2009 Session Calendar

2009 REGULAR SESSION CALENDAR  
(approved by LRC 9/24/08)

JANUARY – PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6 Part I Convenes (1)	7 (2)	8 (3)	9 (4)	10
11	12	13	14	15	16	17
18	19 Martin Luther King, Jr. Day	20	21	22	23	24
25	26	27	28	29	30	31

Denotes break between Parts I and II. Bill drafts may be requested during this period for introduction when Part II convenes.

FEBRUARY – PART II

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3 Part II Convenes (5)	4 (6)	5 (7)	6 Last day for new bill requests (8)	7
8	9 (9)	10 (10)	11 (11)	12 (12)	13 Last day for new Senate bills (13)	14
15	16 President's Day HOLIDAY	17 Last day for new House bills (14)	18 (15)	19 (16)	20 (17)	21
22	23 (18)	24 (19)	25 (20)	26 (21)	27 (22)	28

( ) Denotes Legislative Day

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 (23)	3 (24)	4 (25)	5 (26)	6 Concurrence (27)	7
8	9 Concurrence (28)	10 VETO	11 VETO	12 VETO	13 VETO	14 VETO
15	16 VETO	17 VETO	18 VETO	19 VETO	20 VETO	21
22	23	24 SINE DIE (29)	25 (30)	26	27	28
29	30	31				

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technology is.

“We can do this. Right now, it’s just expensive,” said Crofcheck.

“As it becomes something that’s beneficial for industry to get involved in...I think it will move forward.”

Alltech recently received a grant of up to \$30 million from the federal government to move forward with construction of a cellulosic ethanol biorefinery in Springfield, Kentucky. Alltech has announced that the biorefinery will be one of the nation’s first to use cellulose, like corn cobs and corn stover, at a level of up to 30 percent. Another \$8 million for the project came from the state.

Committee Co-Chair Rep. Tom McKee, D-Cynthiana, congratulated Alltech on the federal grant.

“That is exciting,” said McKee. “We were so proud of you for receiving that, as a state.”





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# Committee Meetings

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### **INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES** **Minutes of the 6th Meeting of the 2008 Interim November 12, 2008**

The 6th meeting of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, November 12, 2008, at 1:00 PM, in Room 149 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; Representatives Jim Gooch Jr., Co-Chair, and Tom McKee, Co-Chair; Senators David E. Boswell, Ernie Harris, Dan Kelly, Bob Leeper, Vernie McGaha, Joey Pendleton, Dorsey Ridley, Brandon Smith, and Damon Thayer; Representatives Royce W. Adams, John A. Arnold Jr., Dwight D. Butler, Mike Cherry, Hubert Collins, James R. Comer Jr., Tim Couch, Mike Denham, Jeff Greer, Keith Hall, Richard Henderson, Jimmy Higdon, Charlie Hoffman, Brad Montell, Fred Nesler, David Osborne, Sannie Overly, Don Pasley, Tanya Pullin, Marie Rader, Rick Rand, Tom Riner, Steven Rudy, Dottie Sims, Jim Stewart III, Greg Stumbo, Tommy Turner, Ken Upchurch, and Robin L. Webb.

Guests: Richard Sparrow, Stephanie Klatha, Dairy Farmers of America; Maury Cox, H.H. Barlow, Willy Campbell, Marcus Wright, Steve Young, Bill Newell, Larry Barley, Billy Right, Denise Jones, Kentucky Dairy Development Council; Mike Chandler, Gary Lee, James C. Cowherd, Southern Belle Dairy; Steve Gurley, Danny Jasper, Dean Foods; Mark Flagg, Flavorich; Dave Atchley, Turner Dairy; David Klee, Dairy Products Association; Aaron Johnson, Tony Mayes, U.C. Milk Company; Lori Scott, Morningstar Foods Company, Becky Nash, Nash Jerseys; Stewart Jones, Jack Durbin, Donald Smith, Greg Burton, Eunice Schlappi, Kentucky Department of Agriculture; Joe Bertram, BaCo Dairy; Robert and Christie Adams; Mary P Jones, Joe Pave Mattingly, Austin

LRC Staff: Tanya Monsanto, Kelly Blevins, Biff Baker, Lowell Atchley, and Stefan Kasacavage.

Sen. Jensen noted a quorum was

present and asked for a motion to approve the minutes of the October 8th meeting. The minutes were approved. Then, Sen. Jensen recognized Sen. Kelly for introduction of Sen. David Givens who would be named chair of the new Senate Agriculture Committee. Sens. Harris, McGaha and Thayer gave reports of the Natural Resources, Rural Issues and Horse Farming subcommittees, respectively. After a motion and a second, all three subcommittee reports were approved. Then, Sen. Jensen asked for a motion to approve the 2008 interim report of the Interim Joint Committee on Agriculture and Natural Resources. After a motion and a second, the report was approved.

Mr. Richard Sparrow, Dairy Farmers of America, presented an explanation of how milk is priced nationally. He described the 5 commodities that are used in pricing milk: block and barrel cheddar cheese, dry milk powder, whey powder and butter. Each of these commodities is used in a formula to create different Class I-IV milk prices. Federal milk market orders set the price of milk by region and sets 90 to 95 percent of the price to both the processor and the producer. There are other aspects of the federal milk market ordering system such as the over order premium. According to Mr. Sparrow, milk production is down and fluid demand must be met by production outside of Kentucky. With transportation costs up, there is concern that Kentucky needs to grow its production.

Sen. Harris asked if there is a formula for transportation costs. Some out-of-state producers can transport for \$0.25 per hundred weight whereas Kentucky producers must pay \$0.90-.95. Kentucky should not be at a competitive disadvantage. Mr. Sparrow replied yes. This is the direct farm deducted hauling rate. Some costs associated with transportation are absorbed by the over order premium structure.

Rep. Denham asked who determines the regulated and unregulated areas for milk marketing orders and whether Virginia is regulated. Mr. Sparrow explained that there is a producer referendum, and Virginia is regulated by a state milk commission. They are unregulated in terms of federal milk marketing orders.

Some unregulated federal milk marketing areas are regulated by a board or state commission.

Rep. Sims asked how many producers are in Kentucky. She further stated that some farmers in rural areas are giving up dairy due to transportation costs. Mr. Sparrow responded there are around 1,100 producers and hauling rates have been high. All other costs are up too.

Rep. Henderson asked if there are declines in Montgomery country and whether incentives are needed to bring the industry back. Mr. Sparrow said yes. There were 25-30 dairy farms there and we do need incentives.

Then, H.H. Barlow, a dairy farmer, spoke next regarding dairy opportunities. He discussed the history of cow herd sizes, production and number of farms in Kentucky. Kentucky is 23rd in dairy herd numbers and 26th in terms of the amount of milk produced. Dairy competes with tobacco and has been a part of Kentucky heritage.

Farm milk price issues and volatility in prices account for the decline in the industry. It is hard for small producers to budget and there are inequities such as freight charges. Kentucky has forage and strong market potential but only one-half of the milk is being produced in Kentucky. He called for expanding and attracting new dairies by establishing a task force to examine tax credits, state environmental and water quality permitting and technical assistance on design, sites, and economic models for dairies.

Rep. Gooch asked if a task force would examine the use of animal waste for energy production. Mr. Barlow stated yes and explained that Alltech is using a methane digester. Rep. Webb asked if state institutions are helping young farmers enter the business. Mr. Barlow stated we need more support at University of Kentucky, regional and state universities to promote young dairymen.

Sen. Jensen asked if there were copies of the presentations so staff can make them available to the members. Mr. Barlow replied yes.

Then, Mike Chandler and Steve Gurley provided comments and described Southern Belle Dairy and Dean Milk respectively. Mr. Chan-



dlar explained that Southern Belle is surrounded by states with abundant milk production and there are concerns regarding the formation of a milk commission that would have subpoena power. Mr. Gurley, representing Dean Milk, stated that Kentucky does not need a milk commission. Milk is a competitive business and is already heavily regulated. Changes in regulation can cost Dean Milk its competitive edge. Federal milk orders establish minimum prices and maintain efficiency. Dean milk supports tax breaks and revenue insurance.

Sen. Jensen asked the presenters to provide their statements to staff. Sen. McGaha asked what revenue insurance is. Mr. Gurley stated he did not know and that the corporate office would provide him with an answer. Sen. McGaha asked how much of their manufactured milk comes from Kentucky. Mr. Gurley stated approximately 50 percent at the high point and 38 to 40 percent at the low point. Mr. Chandler stated that Southern Belle Dairy purchases most of its milk from Kentucky. The purchases can be 60-65 percent on average with 90-95 percent in the springtime when milk production in Kentucky is high. One hundred percent of our milk comes from cooperatives.

Sen. Pendleton asked if their companies do business in states that have milk commissions. Mr. Gurley stated that he did not know, and Mr. Chandler stated that Southern Belle does not do business in those states. Sen. Pendleton asked how far milk is transported into Kentucky. Mr. Chandler responded that Southern Belle purchases from local cooperatives and if milk is unavailable then from Illinois. Sen. Pendleton continued that tankers come in from Texas which must cost a lot.

Rep. Denham asked if their industry has engaged with the dairy producers to resolve the problem. Mr. Gurley stated no and Mr. Chandler stated yes. Mr. Chandler continued that Southern Belle does not oppose farmers. We just don't want to become uncompetitive because of additional regulation.

Sen. Jensen asked if milk is cheaper out-of-state. Mr. Chandler stated that his company would prefer to purchase locally if they could get all the milk here, but production is too low.

Maury Cox, Dairy Development Council, spoke next. He described

the organization and the reduction in producer numbers over the past several years. Cow numbers have decreased since 1977 and producer stability is greatest in states where there is protection. Federal market orders are not based on producer costs or downstream pricing and the over order premiums do supplement the haulage. That puts Kentucky dairymen at a disadvantage. He advocated a milk commission to identify problems and advocate solutions to the General Assembly. A milk commission can provide oversight and transparency in a market that is very complex. A commission can seek alternatives such as revenue generating tax incentives, bonding issues for milk check protection, and recommending methods to ensure animal health. Then, Mr. Cox described several states with milk commissions or boards.

Sen. Kelly asked if over order premiums are paid to milk cooperatives. Mr. Cox stated that it is based on contracts between producers and manufacturers. Rep. Denham asked whether differences could be resolved. Mr. Cox stated that some differences yes. Rep. Stumbo asked if there is information from other states to show implementation of a milk commission reverses the production decline trends. Mr. Cox replied that there are two states that have implemented commissions with history to examine. Virginia is one.

Mr. Mark Flagg with Flavorich spoke about problems with past legislation that would create a milk commission such as subpoena power, public release of information, and funding the commission with assessments. It encroaches on business. There are other options such as producer groups to promote larger dairy producers that will generate economies of scale; leveraging existing assets; payment incentives; and establishing college programs in dairy management.

Rep. Webb asked staff to examine the subpoena power issue. Rep. Sims stated that the dairy issue is a very important issue. Then, Sen. Jensen called up a deferred regulation 301 KAR 2:132. There was an amendment offered by the Department of Fish and Wildlife Resources. The regulation as amended was approved without objection.

## **INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Subcommittee on Rural Issues Minutes of the 3rd Meeting of the 2008 Interim November 12, 2008**

The 3rd meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, November 12, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Mike Denham, Co-Chair; Senator Bob Leeper; Representatives Dwight D. Butler, Mike Cherry, James R. Comer Jr., Jeff Greer, Marie Rader, Steven Rudy, and Tommy Turner.

Guests: Gary Marsh, Miles Farm Supply, Owensboro, Kentucky; Dennis Parrett, Managing Partner, Cecilia Farm Service, Cecilia, Kentucky.

LRC Staff: Biff Baker; Susan Spoonamore, Committee Assistant.

The July and October 2008, minutes were approved, without objection, by voice vote, upon motion made by Rep. Marie Rader and seconded by Rep. Jeff Greer.

The focus of this subcommittee meeting was on the high cost of fertilizer. The first speaker was Mr. Gary Marsh, Miles Farm Supply, Owensboro. Mr. Marsh explained that the steep climb in fertilizer prices began in 2000 and has risen approximately 130% through July 2008. He said several supply and demand factors have contributed to higher prices, including a decline in domestic nitrogen supply, an increase in natural gas prices, higher energy prices, a dramatic increase world-wide in nutrient demand, increased shipping/transportation costs, falling value of the U.S. Dollar, and the rise in U.S. nutrient demand.

Mr. Marsh then showed the members a power point presentation illustrating the various supply and demand factors. He also pointed out that U.S. corn production increased dramatically in 2007 in order to meet the demand for ethanol production, thus putting more pressure on fertilizer demands.

Mr. Marsh predicted that at his farm supply company, fertilizer demand for 2008 will be down approximately 40% because of the spike in prices from spring until fall. He did

say that the costs of fertilizer inputs have been dropping and that the industry predicts the costs of fertilizer will be back down to pre-spike prices in the next few years. As an example, he said that the cost of 10-10-10 has dropped about 25% since spring. Some of the factors causing the drop in prices have been an increase in world ammonia, urea, phosphorus, and potash capacity. Another factor has been the drop in the price of oil, which has lowered freight costs.

Upon questioning, Mr. Marsh responded that most of the U.S. potash is imported from Canada, most phosphate comes from Florida, and over 50% of our nitrogen is imported from countries such as Russia and China. He also responded that the reason for almost half of the ammonia plants closing in the U.S. has been due to the high cost of natural gas. Because of natural gas prices, the U.S. can't compete with other countries in keeping the production cost of ammonia down.

Mr. Marsh also said that a big reason for the increase in worldwide demand for fertilizer is that developing countries have started using more fertilizer as their agronomic economies grow, and the governments heavily subsidize the costs. It was also pointed out that with the increase in homeland security measures, it is increasingly difficult for dealers to handle bagged ammonium nitrate.

The next speaker was Mr. Dennis Parrett, Cecilia Farm Service, Cecilia. Mr. Parrett's presentation was based on the premise that fertilizer prices have increased as the price for the commodity (such as corn) has increased. Fertilizer companies recognize that farmers are receiving higher commodity prices and they want a piece of it. To illustrate that, he showed data comparing the input costs of corn as a percentage of total revenue received over a six year period. The data showed that over that time, even with this year's high fertilizer prices, input costs were a smaller percent of total revenue in 2008.

Mr. Parrett is concerned about 2009, however. Because the price of grain has fallen so much from its highs earlier this year, if fertilizer costs don't also fall much more it will be difficult for farmers to make a profit raising grain next year.

Next, Mr. Parrett discussed net farm income for 2008. National net farm income is expected to be con-

siderably higher than average, but he warned that the high price of grain is the driving factor behind that. He pointed out that Kentucky is not a big grain state. In fact, we are a huge beef cattle state and cattle prices have been very low. With the combination of late freezes, droughts, and high fertilizer prices, cattle producers are having a difficult time making any profit.

Upon questioning, Mr. Parrett stated that the increase in the production of ethanol has not been the reason for higher food and fuel prices. Is has helped lead to higher corn and soybean prices, however.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE**

**Minutes of the 4th Meeting  
of the 2008 Interim  
November 13, 2008**

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, November 13, 2008, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Harry Moberly Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Harry Moberly Jr., Co-Chair; Senators David E. Boswell, Tom Buford, Denise Harper Angel, Ernie Harris, Alice Forgy Kerr, Bob Leeper, R.J. Palmer II, Tim Shaughnessy, Brandon Smith, Elizabeth Tori, Johnny Ray Turner, and Jack Westwood; Representatives Royce W. Adams, John A. Arnold Jr., Scott W. Brinkman, Dwight D. Butler, Larry Clark, James R. Comer Jr., Jesse Crenshaw, Mike Denham, Bob M. DeWeese, Derrick Graham, Keith Hall, Jimmy Higdon, Jimmie Lee, Lonnie Napier, Fred Nesler, Don Pasley, Marie Rader, Rick Rand, Charles Siler, Arnold Simpson, John Will Stacy, Tommy Turner, John Vincent, Jim Wayne, Robin L. Webb, and Brent Yonts.

Guests: John Hicks, Acting State Budget Director; Greg Harkenrider, Deputy Executive Director for Financial Analysis, Office of the State Budget Director; Bill Caylor, Kentucky Coal Association.

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

Senator Boswell moved that the minutes from the previous meeting be approved as written. The motion was seconded by Representative

Webb. The motion carried by voice vote.

Chairman Moberly thanked Representative Vincent for his service to the committee. Representative Vincent introduced his newly elected replacement, Representative-elect Kevin Sinnette.

Mr. John Hicks, the acting State Budget Director provided the committee with a quarterly economic and revenue report, discussed the revision of the enacted revenue forecast for FY 2009 by the Consensus Forecasting Group (CFG), and detailed budget reduction planning being done by the state. He discussed the less than expected individual income tax, sales tax, and corporate income tax revenues for the first quarter of FY 2009, stating that estimates of expected FY 2009 revenues are down \$293.6 million from the current CFG estimate. He stated that this decrease has been caused by several factors, including weaker withholding growth, decline in retail sales, and high levels of corporate tax refunds.

Mr. Hicks discussed the current outlook for the United States gross domestic product, national average personal income as compared to Kentucky's average personal income, and the rate of inflation. He also highlighted national and state-wide nonfarm employment figures, comparing current nonfarm employment and employment growth with last year's employment figures for the same sectors.

Next, Mr. Hicks discussed the estimates for the FY 2009 Road Fund, stating the revised estimate is a decrease of \$70.6 million in revenues from the current CFG estimate. He discussed the various reasons for this decrease, citing lower motor fuel consumption, decline in motor vehicle purchases, tighter credit standards, and higher unemployment as factors affecting the decline. The decreases in the Road Fund revenues started before the fiscal year began. He discussed national economic trends and stated that national sources indicate that much of the country, including Kentucky, is now in a recession.

Representative Moberly discussed the inadequacy of the current budget and the effects the budget reduction plan set forth in the budget bill could have on education and health and human services within the state. He also discussed the potential for the budget deficient to increase over the biennium. Mr. Hicks said that the trend among most other

states is that the second year of the biennium budget shortfalls will be worse than the first year.

Representative Yonts asked how the less than expected state employee retirements have affected the budget shortfall. Mr. Hick replied that the Budget Director's office is working on a plan to satisfy the \$179 million budget expenditure reductions which does not take into account retirement savings.

Representative Moberly asked if the executive branch had to include some one time money to reach the \$179 million budget reductions. Mr. Hicks stated that some of the plan required debt restructuring which has been implemented, but these savings are not recurring because it stretches out over time.

Next, the committee heard testimony from Mr. Bill Caylor, Executive Director of the Kentucky Coal Association, regarding the status of the state's coal industry. He discussed current coal prices, production, and employment statistics. He stated that coal production is up by 2.9% in east Kentucky and by 4.5% in the western part of the state. He discussed the economic impact coal mining has on the state economy, creating over 18,000 jobs and \$355 million in direct wages. He discussed various issues surrounding coal mining permit applications. Mr. Caylor finally discussed improvements in mine safety and the positive aspects of mountain top removal.

Senator Smith commented on the importance of coal in the state. He then asked Mr. Caylor to discuss issues with the 404 permit process. Mr. Caylor responded that the Army Corp of Engineers for the Louisville region is delaying the processing of 77 coal mining permits because of litigation filed by environmental activists. The Corp of Engineers has asked the permit applicants for more detailed information regarding cumulative impact assessment on watersheds surrounding potential mining sites.

Representative Clark asked how the coal industry recruits mine workers. Mr. Caylor stated that the average age of a miner is 50 years old. He stated that labor pool in Appalachia has decreased and drug abuse in the region is high. It is difficult to replace workers that are retiring, but some community colleges are starting to offer mine training. Representative Clark discussed the prevalence of drug use among the labor force and

the difficulties it presents to companies.

Representative Moberly asked what the coal industry believes needs to be done for the state to handle a future carbon emission reduction mandate. Mr. Caylor replied that there will probably be cap and trade legislation at the federal level, and that carbon capture research is of primary importance.

Being no further business, the meeting was adjourned at 2:45 p.m. A tape of this meeting and all meeting materials are available in the Legislative Research Commission library.

## **INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE**

**Minutes of the 5th Meeting  
of the 2008 Interim  
November 25, 2008**

The 5th meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, November 25, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Tommy Thompson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Tommy Thompson, Co-Chair; Senators Julian M. Carroll, Julie Denton, Ernie Harris, Dorsey Ridley, Dick Roeding, and Dan Seum; Representatives Sheldon E. Baugh, Johnny Bell, James R. Comer, Jr., Will Coursey, Ron Crimm, Robert R. Damron, Mike Denham, Ted Edmonds, Tim Firkins, Danny Ford, Jim Gooch, Jr., Jeff Greer, Mike Harmon, Jimmy Higdon, Dennis Horlander, Dennis Keene, Adam Koenig, Rick Rand, Steve Riggs, Arnold Simpson, John Tilley, Ken Upchurch, Ron Weston, and Susan Westrom.

Guests: Ballard Cassady, John Cooper and Debra Stamper of the Kentucky Bankers' Association; Dr. Donald J. Mullineaux, University of Kentucky; Dr. Paul A. Coomes, University of Louisville.

LRC Staff: Rhonda Franklin, Chad Collins and Jamie Griffin.

The minutes of the October 29, 2008, meeting were approved.

Ballard Cassady, Executive Director, Kentucky Bankers' Association (KBA), reviewed the multitude of bank acquisitions and federal economic stimulus actions taken by Congress and various federal agencies, beginning with the acquisition of Bear Stearns by JP Morgan Chase on March 16th, 2008 through the No-



vember 23rd agreement by the FDIC and the U.S. Treasury to provide additional funds to Citigroup. He reported that Kentucky's banks did not participate in many of the practices that were the downfall of other banks nationwide, including involvement in the sub-prime mortgage market, the adjustable rate mortgages or investments in mortgage-backed securities. He stressed that Kentucky's community banks are strong and well capitalized in contrast to many national banks and banks in other states.

Dr. Donald J. Mullineaux, University of Kentucky, addressed the performance of Kentucky banks compared to banks nationwide. He stated that the federal stimulus packages enacted in recent months were unprecedented in our nation's history. He elaborated on the KBA statement that Kentucky banks are strong, stating that Kentucky banks are more profitable than their counterparts nationwide, citing that Kentucky banks have experienced almost triple the national average of return on assets and return on investments, and the lack of bank failures in Kentucky compared to other states. Despite starting at a disadvantage by having higher expenses and lower interest, Kentucky banks did not engage in subprime or exotic mortgages, which have resulted in a lower non-performing loan ratio than most of the nation, and did not invest in mortgage backed securities which will bolster Kentucky banks as the economic climate deteriorates further nationally.

Dr. Paul A. Coomes, University of Louisville, addressed other economic factors influencing Kentucky's relative economic stability. Regarding housing Dr. Coomes related that while some states such as California had forty percent (40%) annual housing inflation in recent years, the same states have had the greatest loss in home values in the last four (4) to five (5) quarters, while Kentucky experienced a lower rate in housing inflation and resulting lower loss in home values. Concerning the foreclosure numbers in Kentucky, Dr. Coomes' research sources indicate that fifty percent (50%) of the foreclosures in Jefferson County were not homeowner occupied, but investor properties. Regarding new housing, he reported a slowdown in new housing starts to one/half the number in 2005.

Regarding job growth, Dr. Coomes reported that job growth

has ceased in Kentucky, with a negative one-half percent (-½%) growth in jobs through September, 2008. Kentucky's job growth slowed to two percent (2%) during the last decade, compared to a two percent (2%) annual growth in the 1990's. Citing a loss of 55,000 manufacturing jobs since the year 2000, Dr. Coomes stated the loss was largely due to automation. Further he stated that retail jobs in 2008 are less than in 2000 and blamed the increase in self-service at retail outlets. Dr. Coomes reported there is job growth in the following sectors: health care due to an aging and unhealthy population; professional and technical jobs with salaries averaging \$70,000 or more annually; government jobs; finance jobs; and construction jobs involving remodeling, commercial and industrial construction.

Rep. Mike Harmon stated that he is very glad to hear that Kentucky banks are doing a great job.

Rep. Jamie Comer asked why examiners did not realize that some of the large banks that have failed were in trouble.

Dr. Mullineaux stated that examiners worked in many of the banks everyday and did not uncover the potential problems.

Rep. Tommy Thompson asked about the outlook for unemployment.

Dr. Coomes stated he expects the number of unemployed to increase. He stated that there are people with marginal credit that have not hit bottom at this time.

The meeting adjourned.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Subcommittee on Postsecondary Education**

#### **Minutes of the 3rd Meeting of the 2008 Interim November 17, 2008**

The third meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, November 17, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Carl Rollins II, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Carl Rollins II, Representatives Jim DeCesare, C. B. Embry Jr., Bill Farmer, Jim Glenn, Reginald Meeks, Charles Miller, Tom Riner, Charles Siler, and

Addia Wuchner.

Guests: Dr. Richard Crofts, Interim President, Council on Postsecondary Education; Dr. Kumble Subbaswamy, Provost, University of Kentucky; Dr. James Votruba, President, Northern Kentucky University; Dr. Michael B. McCall, President, Kentucky Community and Technical College; Dr. Mary Evans Sias, President, Mr. Steve Mason, and Ms. Claudine Gee, Kentucky State University.

LRC Staff: Audrey Carr and Lisa Moore.

Representative Rollins said the subcommittee will discuss how institutions are coping with state funding shortfalls and how tuition increases impact student affordability and access to college. He introduced Dr. Richard Crofts, Interim President, Council on Postsecondary Education (CPE), to share information about how universities are coping with their current financial situations.

Dr. Crofts said most university presidents have used the budget planning process to absorb the very large, original cuts of 12 percent. After the cut was diminished, instead of putting the money back where it was, the presidents used those plans to reallocate resources to strategic priorities. He said this was a very wise and commendable move on their part.

Dr. Crofts said the CPE charged him with developing a new tuition setting process for the 2009-2010 academic year, which the CPE approved this on November 7, 2008. He said five basic assumptions were made in the process: 1) tuition decisions should be well aligned with state goals for postsecondary education; 2) the rationale for those decisions should be publicly stated and understood and there should be ample opportunity to receive input from stakeholders on the rationale for reaching tuition decisions; 3) there is no need to assume that tuition increases should be the same for all of Kentucky's higher institutions of learning; 4) the CPE should have to take into account the impact of state funding decisions and previous tuition decisions; and 5) this should be an iterative process stretched out over several months so that the CPE, the public, and elected officials can give full and open consideration to tuition decisions before they are finally enacted.

Dr. Croft said universities will be asked to report on a variety of different subjects. They have provided

the first report, which was the impact of previous funding decisions on institutional operations. The reports are provided in the meeting materials. He said the CPE will also ask universities for information about how they have tried to manage costs as well as any additional steps taken for efficiency. He said universities will be asked to report the basis for tuition discussion in terms of increases in fixed costs and how much revenue a given tuition rate will increase how that revenue will be used. Finally, universities will be asked to provide reports on what they are doing to increase productivity.

Dr. Crofts said in addition to the reports, the CPE will be paying close attention to issues of affordability. Several factors will be taken into consideration such as the level of student debt, which is currently placed around \$17,000, which he feels is too high. He said a reasonable amount of debt that students should have to pay back needs to be identified and enforced. The CPE will analyze available resources for need-based aid and merit-based aid. He said there have been significant increases in financial aid through state programs, but the increases are flattening out. Finally, the CPE will look at comparing Kentucky's tuition rates to other comparable states and other comparable institutions. He also said the CPE will look at the marker of the percentage of the average family income to use as another comparative figure.

Representative Rollins introduced Dr. Kumble Subbaswamy, Provost, University of Kentucky (UK) to give the first university report. Dr. Subbaswamy said UK's sole focus the last two years has been on becoming a top 20 research university and the budget cuts have affected UK's long-term planning. He said in 1997, the General Assembly gave a mandate to UK to become a major comprehensive research institution ranked nationally in the top 20 public universities by 2020.

Dr. Subbaswamy said most top 20 universities have a median household income, and a population of people with a bachelor's degree, higher than the national average. Kentucky ranks lower in those categories than the national average. He noted if Kentucky's state government spent the same percentage of the gross state product on healthcare as the average of the top 20 states, it would realize a saving of over \$1



billion annually in state healthcare expenses. He believes UK should pursue the goal of becoming a top 20 university.

Dr. Subbaswamy discussed UK's business plan. He said UK will pay 40 percent of the cost through cost reallocation, fundraising, indirect cost recovery, and hospital revenues. He noted since 2001, UK has captured over \$88 million in costs saved and costs avoided. He gave several examples of ways that UK has saved money. These are located in the meeting materials in the Legislative Research Commission (LRC) library.

Dr. Subbaswamy discussed undergraduate education issues in comparison with the average top 20 universities. He said students ACT/SAT scores in top 20 universities average around 1248. Students attending UK have average scores of 1096. UK's student to faculty ratio is 17 to 1, and top 20 universities tend to have student to faculty ratios of 15 to 1. He noted UK's retention rate is 81.0 percent, and a top 20 institution is 92.0 percent. UK's graduation rate is 61.4 percent compared to a top 20 institution rate of 77.5 percent.

Dr. Subbaswamy said the \$20 million cut attributed to: eliminating 71 faculty positions and 117 staff positions; no salary increases for staff; and a cut of operating expenses by \$3.7 million. This in turn causes reduced hours of operation of student computer labs, exercise facilities, and the student center; reduced individual student sessions in the counseling and testing center; reduced student support services provided by the Teaching and Academic Support Center; reduced libraries' materials budget; reduced student travel budgets; delayed replacement of computers and other equipment; and delayed masters programs in Environmental Studies and Clinical and Translational Sciences.

Dr. Subbaswamy said UK is experiencing higher enrollments and more degrees, but still they are far less than top 20 universities. UK has an undergraduate enrollment of 18,995 and a top 20 university averages 27,261. UK averages 3,775 bachelor's degrees, and top 20 universities average 6,299.

Dr. Subbaswamy said the preliminary fall data for 2008 shows record numbers of enrollment for the following groups: undergraduate applications – 11,120, up 4.7 percent; African-American freshmen – 341, up 32 percent; Governor's Scholars/

Governor's School for the Arts Scholars freshmen – 389, up 12 percent; and transfer enrollment increased by nearly 100 students – to 940.

Dr. Subbaswamy said UK now has 1,998 faculty members but has lost 71 faculty positions. He said top 20 universities average 2,724 faculty members, so UK needs to be adding positions and not eliminating them. He noted the 71 faculty lines lost equaled \$10.6 million in external research funding lost.

Dr. Subbaswamy said UK's current state appropriation is \$13.8 million and is 4.6 percent higher than in 2001-2002. He said since 2001, UK has generated over \$88 million in savings and absorbed five mid-year budget reductions. He said 86 percent of UK's academic budget is personnel and if another budget reduction were to occur, cuts would have to be made to crucial services, programs, and people. He noted UK and research universities are a good return on investment for state dollars. UK takes in \$300 million in state contributions and turns it into a \$2 billion expenditure stream.

Representative Glenn asked if there was a copy of the PowerPoint available. Education staff made copies and distributed to members.

Representative Rollins asked if UK had met the goal of paying for 40 percent of the cost of the business plan through revenue generated by the university and through costs saved and avoided. Dr. Summaswamy said UK actually exceeded that amount in the first year of the previous biennium when it received six percent from the state. He explained UK only met the goal for one year because the budget cuts were implemented immediately after the increase.

Representative Rollins asked if UK could improve retention rates if students were better academically qualified. Dr. Summaswamy said there is a correlation and retention does improve with better prepared students. He does not see UK's mission as becoming highly selective in the students it accepts to the school.

Representative Rollins asked if the \$10.6 million lost in external research funding because of the cuts in faculty is a hard number that can be backed up by proof. Dr. Subbaswamy said it is an average, and could be more or less, but the number is a robust and conservative estimate.

Representative Rollins asked

what internal reports UK uses to manage the efficiency of the faculty. Dr. Subbaswamy said there is annual distribution of effort for each teacher and an evaluation system tied to salary increments. He also said there are goals set for each department and top 20 metrics applied to track how they are doing. Representative Rollins asked if top 20 metrics determine the measurement of what it takes to be a top 20 university. Dr. Subbaswamy said it is objective criteria and not subjective.

Representative Miller asked if the faculty to student ratio of 17 to 1 increased after the loss of faculty. Dr. Subbaswamy said the new number will not be calculated until census numbers are released, but he expects a high faculty to student ratio in the next reporting cycle.

Representative Meeks said he is concerned that there is no Plan B. He said the General Assembly continues to make demands on the universities, while giving them mid-year budget adjustments that make long-range planning impossible. He believes Kentucky should focus on a Plan B in light of the economic times.

Dr. Subbaswamy said UK takes the mandate of becoming a top 20 research university by 2020 very seriously. He said the timeline may need to be adjusted as a result of the economic fluctuations and the lack of ability to make investments, but suggested keeping the noble goals in place.

Representative DeCesare would like to see the number of tuition increases, raises, etc. during the same seven year period in order to compare data. He agrees that there should be a Plan B because business plans change with budgetary times. He hopes to come up with a Plan B that does not alter the goals significantly.

Representative Farmer said it appears UK has as good or better research on the top 20 institutions than itself. He said the top 20 university numbers is a moving target and is not constant. He asked if the other institutions are experiencing the same kind of funding cuts and having to absorb similar cuts as UK, or whether their levels of funding remain constant allowing them to move at a much faster rate.

Dr. Subbaswamy said UK updates the reports and fluctuations annually because it is constantly changing. He said the current economic downturn is affecting all the states, but Kentucky is one of only two or three

states that have received budget cuts as high as six percent. He said UK is looking at second successive mid-year cuts, while other universities are looking at their first set of budget cuts in recent years. He also noted the other universities with which UK is competing have never suffered mid-year cuts to the magnitude that UK has over the last seven years.

Representative Meeks asked how many changes have occurred in the last seven or eight years in those top 20 schools. Dr. Subbaswamy said the lower third or so show some movement, but the top 10 schools generally remain the same with slight changes in order.

Representative Rollins asked how many academic programs have been eliminated at UK. Dr. Subbaswamy said when Dr. Lee Todd arrived at UK in 2001, there was a vast restructuring and elimination of programs, which resulted in a \$18 million savings. He said if there are more budget cuts, the elimination of programs would be imminent.

Representative Rollins introduced Dr. James Votruba, President, Northern Kentucky University (NKU), to give an update on NKU's strategies for coping with the current financial situation. Dr. Votruba said these are difficult times from one end of the Commonwealth to the other and national economists believe the recession is here to stay at least 18 months to 2 years. Therefore, he would like to communicate what NKU is doing to weather the storm rather than discuss the budget cuts which are outlined in the meeting materials.

Dr. Votruba said the overall decrease in net state general appropriations for operating expenses totals \$2.8 million. In total, NKU cut \$7.3 million, or 6.3 percent, from division base budgets and reallocated \$4.5 million to high priority goals and previously committed obligations. These cuts included the elimination of 25 staff positions, roughly 3 percent of NKU's staff position base. Total public funds for fiscal year 2008-2009 are \$13.2 million short of the business plan funding requirements – an 8 percent shortfall in funds.

Dr. Votruba said NKU's goal is to create more than 50,000 new high paying jobs in Kentucky and return more than \$270 million in incremental new Kentucky tax revenue. He said NKU is not giving up on the business plan, but putting it on hold and forming a Plan B.

Dr. Votruba said NKU has established a President's Advisory Committee on Efficiencies and Savings to coordinate the implementation of initiatives to be good stewards of limited resources. The committee is in the process of evaluating over 100 ideas that have been submitted by faculty, staff, and students to maximize service delivery at less cost.

Dr. Votruba said NKU continues to realize significant savings through effective energy management. He said NKU has invested in energy savings such as lighting retrofit projects and improvements in HVAC. Overall, since 2005, the university has invested \$3.5 million in energy savings projects realizing an annual energy savings of \$600,000 a year.

Dr. Votruba said they have scheduled the closing of the university's Covington campus and negotiated a lease for classroom space for the Adult Learning PACE program from Gateway Community and Technical College. This measure is expected to avoid significant maintenance expenses.

Dr. Votruba said NKU has partnered with the Transit Authority of Northern Kentucky to provide faculty, staff, and students free bus service on TANK buses reducing the escalation of costly parking space on campus, while providing more affordable transportation options to its students.

Dr. Votruba said to reduce benefit costs, NKU will continue to build the university's Wellness Program, as well as selected a new health-care insurance provider, saving over \$500,000.

Dr. Votruba said the significant budgets cuts have had its consequences. He said NKU will not be able to address all the community needs in order to remain competitive and support the regional plan for economic competitiveness called "Vision 2015." He said the comprehensive plan to support the "Vision 2015" business plan is on hold, but it has not been eliminated. He said enrollment growth will be placed on hold for the time being, even though enrollment demand at NKU is at record levels.

Dr. Votruba said work will be ramped up with P-12 education. In these tight budget times, difficult decisions will have to be made and he believes less investment should be made in remediating students in things that they should have learned in high school. He said this is a good

thing, but is a change in the way business is normally conducted. He also said regional stewardship efforts will be focused more directly on economic growth and P-12 enhancement.

Dr. Votruba said NKU is 65 percent tuition dependent and this is the highest among Kentucky's public universities. He agreed that one size does not fit all and NKU has been very aggressive setting tuition rates and in providing need-based financial aid.

Representative Glenn asked Dr. Votruba for information concerning the urban scholarship program that NKU offers. Dr. Votruba said it is called the "last dollar program" and he will get the information to Representative Glenn. He noted the program had increased student urban enrollment by 40 to 50 percent. He also said NKU staff went on-site to urban schools to help students and their parents complete the Free Application for Federal Student Aid forms. He said the return on this modest investment proved to be fairly large.

Representative Glenn asked about NKU's collaboration with the P-12 programs on remediation. Dr. Votruba said NKU's provost is currently working with all the Northern Kentucky school districts to design math, reading, writing, and science remediation programs. NKU has given notice to school superintendents that students will not be accepted into the university and remediated at the same rates as previous years. He said this will be a hard lesson for high schools to accept, but feels this is the right direction as too many students have to be remediated in college.

Representative Rollins asked if Gateway Community and Technical College is involved with the P-12 coordination. Dr. Votruba said Gateway is involved and the change in NKU's student enrollment policy has been communicated to its staff. He feels many transfer students will end up enrolling at Gateway Community College due to the change. He also said Gateway is close to obtaining their SACS accreditation, which will help NKU and the region as well.

Representative Rollins asked Dr. Votruba how many transfer students NKU accepts from the community college system. Dr. Votruba said about 100 total and 30 or 40 students from Gateway Community College. He feels Gateway's accreditation should increase the number of

students transferring to NKU from the school. He also said NKU has a web-based program that is used as a recruiting tool statewide for an undergraduate completer program with the Kentucky Community College and Technical System (KCTCS).

Representative Rollins introduced Dr. Michael B. McCall, President, KCTCS, to give an update on how the budget cuts have affected KCTCS. Dr. McCall said KCTCS is the state's primary provider of workforce education and training, and is essential to the global competitiveness of business and industry and the economic development of the Commonwealth. With the expected loss of thousands of highly skilled workers who will reach retirement age over the next 10 years, combined with the need for more highly skilled workers to keep business and industry on the competitive edge, the KCTCS plan focuses on expanding existing programs and creating new programs to meet the projected openings in high growth, high wage jobs called for by the Kentucky Department of Workforce Investment and the Cabinet for Economic Development.

Dr. McCall said KCTCS provides a low cost, accessible pathway for the majority of Kentuckians to pursue a baccalaureate degree. The KCTCS plan focuses on eliminating barriers to KCTCS students transferring to Kentucky's four-year colleges and universities in order to achieve 11,334 transfer students (based on the CPE definition of transfer students) from a CPE headcount enrollment goal of 115,800 KCTCS students in 2020.

Dr. McCall said another major initiative of KCTCS is to address the remediation needs of Kentucky students. The KCTCS plan focuses on the following three initiatives: implement early student intervention strategies in collaboration with school districts to better prepare high school students entering KCTCS; offer remediation services to all KCTCS students who enroll with a demonstrated need for remediation in order to successfully complete college-level courses; and assume the primary role in providing adult education and literacy program and services as seamless pathways to postsecondary education.

Dr. McCall said the budget appropriation for calendar year 2008 has been reduced by two consecutive three percent budget reductions, which is equivalent to a little over \$13.5 million below the original 2007-2008 budget amount. He said

there have been six budget reduction cuts over the last ten years and this had made long-range planning very difficult.

Dr. McCall said the KCTCS tuition increase was the lowest that was approved by any higher education institution this year. He said the only public funds that KCTCS utilizes are state appropriations and tuition and fees. He said tuition has increased drastically over ten years, but KCTCS was left with no choice after ten budget cuts but to supplement fees on the backs of students.

Dr. McCall said enrollment has declined from 92,828 to 89,940 in the fall of 2008. Other changes in personnel, programs, and services include: 240 fewer full-time and part-time faculty and staff positions since July 1, 2007 (the 2007-2008 total full-time and part-time faculty and staff was 8,462). These decreases were affected by the colleges' ability to offer programs, courses, and services to students and businesses. KCTCS also eliminated full academic programs on one or more campuses of 10 colleges; capped enrollment in one or more programs at 12 colleges; offered fewer courses or course sections by 14 colleges; and reduced services to students and businesses at 15 colleges.

Dr. McCall said several cost containment strategies have been implemented over the last ten years. Gateway Community College ended operations on one of its campuses (Highland Heights) and is leasing that campus to NKU. He said Jefferson Community College capped enrollment on its downtown campus and assisted students in enrolling in courses on the college's other campuses. Somerset Community College discontinued class offerings at Wayne County High School when that school board indicated that it needed to begin charging for use of that space. Owensboro Community and Technical College is no longer operating its libraries on weekends.

Dr. McCall said KCTCS has looked at some resource reallocation strategies. The KCTCS Board of Regents has approved an aggressive plan, the "Plan for a Competitive Commonwealth", to address House Bill 1 2020 mandates for KCTCS. He said the 2008-2009 funding levels severely limit KCTCS' ability to address the plan expectations. The 2008-2009 budget approved by the KCTCS Board of Regents allows KCTCS to move forward on plan commitments,



although not as fast as originally intended.

Representative Farmer asked if KCTCS included students in high school completing dual enrollment courses in its census. Dr. McCall said they did.

Representative Meeks asked about specific program changes at Jefferson Community College. Dr. McCall said that he did not have the specifics and that Representative Meeks should speak with Dr. Anthony Newberry, President/CEO, of Jefferson Community and Technical College. He did note that the GED testing service would no longer be offered at the downtown campus and he will find out for Representative Meeks if someone else has picked up this testing service.

Representative Siler commended KCTCS for bringing higher education to nontraditional students in many geographic locations. He said many times KCTCS serves as a conduit for these nontraditional students onto higher learning. Dr. McCall said there are currently 67 different higher education centers across the state.

Representative Rollins asked if a new Gateway Community College facility was opened as the Highland Heights location was closed. Dr. McCall said the new location in Mt. Zion was already open before the Highland Heights facility was closed so there is actually one less center open. Representative Rollins said it can be quite a challenge to find some of the facilities and Dr. McCall said an urban facility would be ideal.

Representative Rollins asked about Wayne County High School charging a price for Somerset Community College offering classes at their facility. Dr. McCall said Wayne County High School was going to begin charging a fee for the use of the facility, and KCTCS made the decision to use that faculty somewhere else due to tight budgetary times. Representative Rollins believes empty buildings are not good for anybody and they should be utilized as much as possible. He is concerned because a classroom is a classroom and is owned by the public if located within a public school.

Representative Rollins said the KCTCS virtual learning program is interesting as it can save students money because students can stay home and take courses on-line the first two years and then transfer in. He said it is important for all universities to understand the importance

of accepting on-line course grades as standard practice to save students money in attending college. Dr. McCall said the transfer system should be made as seamless as possible because studies have proven that students who transfer into a KCTCS school end up graduating.

Representative Miller asked how many buildings were utilized for the GED testing program that was eliminated. Dr. McCall said the GED testing program occurred in one KCTCS facility, but personnel had to be allocated to classrooms rather than providing the testing service. Representative Miller believes GED testing is important for Kentuckians and should be easily accessible.

Representative Meeks asked about students transferring from community colleges back into four-year colleges and universities. He asked if research was being conducted to find out why more community college students are not transferring into four-year colleges. Dr. McCall said KCTCS is working with the CPE on collecting data on barriers in the transfer system and he will get the information to Representative Meeks.

Representative Embry referred a comment to Dr. Subbaswamy of UK. He said Dr. Subbaswamy pointed out that the average median family income in Kentucky is \$12,000 less than the average in the states that produce top 20 colleges and universities. He would like Kentuckians to increase their education levels so they can earn more income. He would also like for the citizens to support the General Assembly in their efforts to support higher education, but at the same time there are other funding areas in need such as Medicaid, healthcare, and Kentucky infrastructure. Dr. Subbaswamy said there are short and long-term problems that will take everyone's collective wisdom to solve.

Representative Rollins introduced Dr. Mary Evans Sias, President, Kentucky State University (KSU), who updated the committee on the fiscal impact of state budget cutbacks at the university. She said KSU absorbed \$2.2 million in reductions in state appropriations.

Dr. Sias said KSU has taken positive steps to stabilize its budget and eliminate deficits and has revised the strategic plan into five-year increments. She said KSU is reprioritizing the items within the strategic plan and will review the plan on a quar-

terly basis.

Dr. Sias said KSU has looked at efficiency and effectiveness. She said KSU has saved over \$600,000 by making adjustments in staffing, facilities, lighting, and fuel costs. She said the university has consolidated printing to a Xerox copy center and consolidated paper and printing costs.

Dr. Sias discussed the budget impact on faculty recruitment. The impact of these budget reductions over the last two years has shifted workloads to fewer staff. She said about six faculty members have been laid off, but most of the attrition has come through not filling positions as people leave them. KSU has experienced unplanned retirements among faculty and staff thus increased dependency on temporary staffing arrangements and inexperienced staff for instruction and support services. The university will be challenged as it seeks qualified faculty and support staff to replace those lost through attrition.

Dr. Sias explained because of KSU's land grant status, KSU's appropriation is allocated first to the federal mandate that requires 100 percent state match for federal appropriations. As federal appropriations increase, KSU's general fund appropriations are adjusted downward to offset any increase in federal appropriations. As a result, fewer state appropriated dollars are available to conduct the university's primary mission of educating Kentucky students.

Dr. Sias said \$235,000 was realized in savings due to negotiations with a new health care provider. She said KSU was able to keep the same level of payments for health insurance while keeping the same amount of coverage for employees.

Dr. Sias said there was \$2.7 million needed for repairs for leaking roofs and a collapsed roof in a dormitory. She said \$600,000 was found for repairs, but they still need \$1.2 million to complete the repairs. The costs for repair include repairs due to mold and mildew damage as well as water damage. She also said KSU's boilers need to have emission problems fixed to meet tests required by the Environmental Protection Agency, and if they are not fixed, repairs can cost up to \$1.5 to 2 million to be able to get the boiler back in-line.

Dr. Sias said KSU has hired advisors to focus on recruitment and enrollment. She said federal funds

are being used for these positions and they are limited to five years. It is critical to use these federal funds for this effort if KSU is to improve its retention and graduation rates. KSU has a high number of students requiring remediation and these students are 50 percent less likely to graduate than other students. She said the whole effort of the university will be put into getting these students graduated.

Dr. Sias said KSU has led the Commonwealth in the percentage of enrollment growth over the past two years. She said they added a new dormitory the last year, but still had to place 61 students in hotels. In order to meet the goals of 2020, more housing space is crucial to the university.

Dr. Sias said KSU is applying for competitive grants and searching for avenues to bring in money through its aquaculture program. She said KSU will be spending its land grant program and federal funds to offer programs through a new School of Agriculture. She noted the land grant dollars are not allowed to be used for programs not based in a school context.

Dr. Sias noted there were no funds available for study abroad for students. She said this study is critical for students to grow and compete in a global economy.

Dr. Sias said revenues in the state are down and KSU has made as many budget cuts as possible. She said KSU incurred an increase of \$829,000 in fuel costs over the last year and has taken steps by asking each vice-president to identify five percent budget reductions in order to anticipate future increased fuel costs. She also said KSU will reduce staff, travel, and review each outstanding purchase order to ensure they do not extend payment beyond 90 days. She said KSU is essentially allocating its money in quarter cycles to control expenditures.

Dr. Sias said KSU is the smallest of Kentucky's comprehensive institutions, but is the only historically black college in the Commonwealth, and only 1 of 105 in the nation. She said part of KSU's mission is to provide access to opportunity for all of the citizens of the Commonwealth. She noted KSU has led the Commonwealth with respect to transferring and enrolling two-year students into four-year institutions, but the money that provides the transfer scholarships and the recruiter at community

colleges to ensure a seamless system is at-risk.

Representative Wuchner said she is concerned about the large percentage of students who need remediation at all universities. She noted that underprepared students in college only have about a 50 percent graduation rate. She asked if the universities are communicating college readiness expectations to the high schools in their areas.

Dr. Sias said KSU is having those dialogues, but it is different for African-American students. She said across the nation, African-American students score lower than Asians, Hispanics, and Whites. She said KSU is working on teacher effectiveness and improving teaching quality and student achievement. She said they work with the high schools through technology to get the students remediated prior to them arriving on campus. She also said KSU is implementing a one-stop student center to get students all the help they need and after hours tutoring in the dormitories.

Representative Wuchner said 81 percent of students entering KSU need remediation and the percentages vary from 30 to 70 percent across the Commonwealth and this is not acceptable. Dr. Sias said KSU plots retention rates by county and communicates to high school principals and counselors feedback on any potential problems with students so that problems can be resolved at the high school level.

Representative Miller commended Dr. Sias on KSU's efforts to solicit funds from alumni to help support students with tuition, fees, and books. He has not noticed other universities utilizing this tool and said KSU should be a model for this effort. Dr. Sias said KSU made an aggressive effort and alumni are proud of their school and happy to help current students. She noted many students leave KSU due to finances and not because of bad grades.

Representative Meeks said the General Assembly needs to set mandates to high schools about student expectations upon graduation and not leave the responsibility to the universities if this is truly a priority. He asked Dr. Sias to explain the physical damage to the buildings at the university and she did so.

Representative Meeks asked Dr. Sias if KSU has led the state in enrollment increases. Dr. Sias said KSU has led enrollments for the state for the

past two years, but it has leveled off this year. She said more students are coming to live on campus and there is an increase in full-time equivalent students and more housing is needed. Representative Meeks mentioned KSU buying a hotel that is for sale in Frankfort. Dr. Sias said KSU is looking at all options, but funds are limited.

Representative Meeks congratulated Dr. Sias on the land grant developing a School of Agriculture. He feels this is a good move that will bring additional support from the federal government. Dr. Sias said they are excited about the new school and mentioned other new programs that they are planning for KSU.

Chairman Rollins said the committee did not have a quorum and the minutes from the August 11, 2008 meeting could not be approved. With no further business before the committee, the meeting adjourned at 12:10 p.m.

## **SPECIAL SUBCOMMITTEE ON ENERGY**

### **Minutes of the 6th Meeting of the 2008 Interim November 21, 2008**

The 6th meeting of the Special Subcommittee on Energy was held on Friday, November 21, 2008, 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 Brandon Smith, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Charlie Borders, Denise Harper Angel, Ernie Harris, Jerry P. Rhoads, Katie Stine, Robert Stivers II, and Johnny Ray Turner; Representatives Royce W. Adams, Scott Alexander, Eddie Ballard, Dwight D. Butler, Leslie Combs, Tim Couch, Keith Hall, Fred Nesler, Sannie Overly, Tanya Pullin, and Tom Riner.

Guests: Scott A. Shearer, Ph.D., P.E., Professor and Department Chair, Bio Systems and Agricultural Engineering, University of Kentucky; Scott Maas, Business/ Cooperative Specialist with USDA-Rural Development, and Energy Coordinator for the Renewable Energy and Efficiency Programs for the Commonwealth of Kentucky; Dr. Len Peters, Secretary, Energy and Environment Cabinet; Don Newell, acting director of the Transportation Fuels, Supply and Distribution Division, Department for Energy Independence; Speaker Jody Richards and Representative John Will Stacy.

LRC Staff: D. Todd Littlefield, Committee Staff Administrator, Taylor Moore, and Susan Spoonamore, Committee Secretary.

The October 24, 2008 minutes were approved, without objection, by voice vote upon motion made by Representative Royce Adams and seconded by Representative Leslie Combs.

Scott Maas, Energy Coordinator, Business/Cooperative Specialist, USDA-Rural Development, Kentucky State Office, Lexington, Kentucky discussed energy programs currently available through the federal government, and the steps that Kentucky is taking to promote the programs.

Mr. Maas stated that under the 2008 Farm Bill, there are twelve to thirteen programs regarding energy initiatives. He emphasized three programs:

Section 9003 – Biorefinery Assistant Program provides loan guarantees for the development, construction and retrofitting of commercial-scale biorefineries, and grants to help pay for the development and construction costs of demonstration-scale biorefineries. He said that applications are now being accepted.

Mr. Maas said that there were two different biorefineries interested in this program. Both of the projects are biorefineries, basically converting yellow grease or animal fat into biodiesel.

Section 9007 – Rural Energy for America Program (REAP) expands and renames the program formerly called the Renewable Energy Systems and Energy Efficiency Improvements Program.

Section 9008 – Biomass Research and Development Initiative provides competitive grants, contracts and financial assistance to eligible entities to carry out research on and development and demonstration of biofuels and biobased products, and the methods, practices and technologies for production.

Mr. Maas stated that Kentucky's geographical location makes it possible for Kentucky to be a major player in all the programs.

The 2008 Farm Bill also includes Section 9009 – Rural Energy Self-Sufficiency Initiative, which authorizes funds of \$5 million per year beginning in FY 2009, to provide grants for the purpose of enabling eligible rural communities to increase their energy self-sufficiency.

He said that in 2007, Kentucky

received funds for two applications relating to a grain dryer in Hardin County, and a grant and guaranteed loan for a dairy facility in Logan County. In 2008, Kentucky had fifteen applications and five were deemed ineligible or incomplete. Six out of the remaining 10 applications were approved with the average grant amount of approximately \$22,000. Most of those grants were tied to poultry.

Mr. Maas stated that the main problem in getting applications approved is the lack of obtaining qualified energy audits on poultry operations. He said that the University of Kentucky has been helping with energy audits, but more help is needed.

Scott Shearer, Ph.D., P.E., Professor and Department Chair, Bio Systems and Agricultural Engineering, University of Kentucky discussed the broiler industry in the Commonwealth. He said that broilers are the number one food commodity in Kentucky and, Kentucky ranks 7th in the United States as a broiler producer. The broiler industry represents approximately \$814 million per year in income. He said Kentucky has 850 independently owned poultry farms representing 2,800 poultry houses.

He explained that the Kentucky Agricultural Development Board funded a project evaluating poultry houses specifically focusing on energy. He said that one evaluation showed that using insulation and changing from incandescent to cold cathode lights would save approximately 8,000 gallons of LP gas per year along with approximately 50,000 kilowatt-hours in savings. He said that this specific project could see an energy savings of approximately \$20,000 per year.

He said Kentucky needs to take advantage of the 2009 USDA programs, but in order to receive funding more energy audits were needed. He said that energy audits require up to 20 person-hours. He stated that Kentucky needs the professional capability in order to perform energy audits to help Kentucky be more effective in terms of the applications process and bringing more of the federal funds to Kentucky.

Dr. Len Peters, Secretary, Energy and Environment Cabinet, discussed the contents of the energy plan that was recently released by the Governor's Office and the Energy and Environment Cabinet. He said that the plan is meant to be the initial



thoughts and draft of the Executive Branch's commitment for Kentucky to become a national leader in energy technology and production.

Secretary Peters explained the more important elements which will be critical to energy challenges in the 21st Century.

He said that a number of studies indicate that the energy needs for Kentucky by 2025 are going to be 40% above the needs of today. That increase is coming from both projected population growth, and the use of more energy intensive devices. We will be challenged to develop clean, reliable and affordable energy sources. Dr. Peters said, "I think we know that today's energy security is much more closely tied to national security than it was even in 1975 when we had the oil embargo crisis at that time. We are much more dependent on foreign supplies of energy that we were in the 1970s and 1980s

It is a political reality that we are going to have carbon management legislation at the federal level. If there is anything that we can do to position the Commonwealth to be able to handle that carbon management legislation we will be much better off.

This summer, we learned that the tipping point for gasoline is \$4.00 dollars.

The second thing that we learned during that time was that unlike the prior petroleum crunches—when the U.S. alone could take actions and really make significant changes in the global arena—we can no longer do that. With the emergence of China, India and other nations that are developing, the U.S. no longer by itself really can control the energy prices for supply and demand.

A third challenge but really one that is a great opportunity for this state – when you look at the average age of our electricity generating fleet today, it is about 35 years old. That is one of the reasons we have low energy prices at this point in time. Fifty years is the timeframe when most utilities begin to look at how they are going to really replace that electricity generating capacity. It is a challenge for us, but it is also a great opportunity as we move forward to use cleaner coal and other options for base load generation.

Secretary Peters stated that we needed to think about this as a sort of integrated whole so we can begin to reshape the energy portfolio in the Commonwealth to meet the needs

of Kentucky. Reducing carbon dioxide emissions, we'll come back to that time and time again. Eliminating and reducing the need for imported oil – how can we use our domestic resources particularly those within Kentucky for our energy needs. We should look at the opportunity for getting greater economic growth and job growth through the energy industry that we can develop over the next 15 to 20 years.

We have proposed a renewable and efficiency portfolio standard. It is that by 2025 that 25% of Kentucky's energy needs will be met by efficiency gains and renewable sources such as solar, wind, hydro and biofuels.

The second standard that we are proposing is what we refer to as an alternative transportation fuel standard. To the best of our knowledge, no other state has really taken this approach. It is really to try to get at the issue of energy independence. How we can use resources particularly within Kentucky to begin to displace the petroleum that we have to import in order to refine. And it is the fact that by 2025, sixty percent (60%) of transportation fuels used in this state will be derived from things like biofuels, coal-based liquids. We know that plug-in hybrids are going to be an important element, putting an additional expectation on electricity generation, and perhaps compressed natural gas.

Let me start in and spend just a few minutes on each strategy

The first strategy is efficiency in Kentucky's homes, buildings, industries and transportation fleets. We think we can accomplish an 18% reduction in the energy demand in 2025. If we do not improve efficiency we are going to be looking at building more power plants

The second strategy is around alternative energies and renewable energies, largely solar, wind, and hydro. We do not have a lot of opportunity for base-load wind or solar generation in Kentucky. However, we do have the opportunity to use these in a more distributed manner on homes, office buildings, etc. We are seeing improved and enhanced technologies all the time in utilization of solar thermal and/or even small wind stations that can be attached to buildings. So there is that great opportunity in order to do it. But the goal there is to pretty much triple where we are at today. It is the equivalent of about 1000 megawatts of clean energy that could come from

that arena.

The third strategy is in biofuels. Right now we produce about 40 million gallons a year of ethanol fuel. We are also producing some biodiesel in Owensboro from soybeans. We could increase the amount of bio-based fuels from somewhere in the range of 50 million gallons a year to 750 million to 800 million gallons a year. We have the opportunity to grow cellulosic crops so you do not get in the food vs. fuel debate, which I think we want to avoid if we can. But you can also do it on more marginal farm lands.

Strategies four, five and six are based around the largest energy resource that we have in this state and that is coal. The coal to liquid industry is absolutely critical, if the nation is convinced that energy security and national security are tied together.

The fifth strategy is also looking at the great opportunity for using coal to supply synthetic natural gas. We use the equivalent of about 45% of the natural gas that is produced in the state. We have the opportunity with well known, already- implemented technologies to convert coal to synthetic natural gas. The goal there is to compliment the natural gas industry so that we can produce in Kentucky the equivalent of 100% of the natural gas or the gas that we use at this point in time.

The sixth strategy is the one that has probably the largest technology hurdle that we have to move and address. That is the whole carbon capture sequestration. We are going to see geological sequestration of CO2 coming out of power plants. How extensively we are going to be able to implement that technology remains to be seen. One of the concerns that we have is that the federal government is looking at a single technology for carbon capture and sequestration and that is only geological sequestration. It is going to be a technology that is used and it is an important technology, but being a technologist, I like to have more options because I know it is not going to be applicable in every place. We are putting through some of the funds that have been allocated from the General Assembly into looking at biological sequestration that is producing the carbon-consuming algae. About two years down the road we would be looking at pulling a real 30 MW equivalent slipstream off one of their plants so that we are not simply looking at a pilot plant with syn-

thetic flue gas.

The seventh strategy is to begin examining the use of nuclear power for electricity generation in Kentucky. We have to have the conversation around nuclear. Are we going to be part of using nuclear as part of our energy solution or not? Right now it is used in most of the surrounding states to Kentucky, except for Indiana and West Virginia. There are construction and operating licenses in the early part of the application phase for about 15 nuclear operations in the general region that includes Virginia, Tennessee, South Carolina, Georgia and Alabama. It is going to be part of the national solution. Coal is going to be part of the national solution. At this time we rely on coal for 50% of our electricity generation across the nation. We are not going to get that number to zero percent. Whatever the number is we are going to have to have an energy portfolio mix that is quite substantial. We have to start that conversation. What are the issues with spent fuel, storage – what do we need to do. What is the general acceptance within the Commonwealth for that?

We are looking at integrating more fully, the energy and agriculture economies. I think it is well known that the agricultural community is ready, willing and capable of helping us with energy security and we need to advance that.

We have the opportunity to not displace coal but to use coal cleaner and more efficiently through IGCC, having carbon capture and sequestration be it geological or biological. It will move a long way towards achieving energy security by using a lot of our resources within the state – be they biofuels or natural gas, etc. And finally we will begin diversifying the electricity portfolio mix. But at the same time, we have significantly strengthened the agricultural industry and maintained a coal industry that is very important to us in terms of coal production.

Our best estimate is that we can generate somewhere around 40,000 jobs in the process. We must reduce carbon emission so that we are positioned for whatever action the federal government takes.

Sen. Harris asked for an update on a company that has made an application for a coal to biodiesel plant in Muhlenberg County.

Don Newell, acting director of the Transportation Fuels, Supply and Distribution Division, Department

for Energy Independence stated the company and the Division for Air Quality have held preliminary meetings to determine what is needed to provide a comprehensive application to get an air quality permit. We are looking at a substantial development in the Muhlenberg County area using coal for coal to diesel or coal to gas.

Sen. Harris asked if the process was moving quickly or is more information needed from the company.

Mr. Newell stated that it was his understanding that they have not submitted a complete application to Air Quality yet but is on the cusp of doing so. In general that would start about a one year permitting process. It was also his understanding that they would be doing the front-end engineering design and the final technical specifications of the facility simultaneously with the permitting process.

Sen. Stine asked if there were incentives for the broiler industry to work with the biofuel industry to work in concert to utilize the by-products of the chicken processing plants.

Secretary Peters stated that incentives are not generally discussed, but would not be ruled out. Biodiesel is going to be an important part whether or not it comes from things like soybeans or from recycling.

Sen. Stine asked if the Commonwealth was promoting biological research currently being done to use the carbon dioxide to grow algae that in turn can be used for fuel. If so, how is that being promoted?

Secretary Peters stated that was correct. The Cabinet is supporting a major project with the Center for Applied Energy Research that is part of a three year program. They are refining at the bench and pilot scale. We anticipate putting it on the slipstream of a 30 MW plant at one of the utilities to demonstrate.

Sen. Stine asked what opportunities or assets are available to small businesses that engage in environmental cleanup. For example, cleanup the pig refuse reservoirs and indoor coal slurry ponds – spent fuel cleanup.

Secretary Peters stated that there are a number of interesting opportunities, whether it is landfill gas or other ways.

Sen. Stine stated that she was talking about converting it through chemistry, not storing it.

Secretary Peters stated that most of the efforts in that particular

arena are being used for energy generation and/or energy production.

Sen. Stine asked how that was being promoted.

Secretary Peters stated that a couple of the operations can apply for energy tax credits.

Rep. Pullin stated that she was shocked at the information contained on page 109 of the report. Particularly that South Shore in Greenup County was one of the four locations given for building a nuclear plant. She asked if there had been any dialogue or discussion with the people of that community.

Secretary Peters stated that there had been no communication with that community. The sites mentioned in the report were only notional based upon water availability and things of that sort.

Rep. Pullin stated that she had not been consulted, and in her opinion, the notional sites should not have been mentioned in the report.

Rep. Pullin asked if the Cabinet or the Governor's Office would instruct the Economic Development Cabinet to not issue incentives for any other use for the land that has been identified for a possible nuclear plant. There is a company that is moving very rapidly to build another type of plant on that property.

Secretary Peters stated this is only a plan and a year from now we may decide that nuclear is not going to be a part of the energy portfolio mix for Kentucky.

Rep. Pullin stated that she noted the absence of any discussion regarding the U.S. Federal Energy Regulatory Commission's strategic transmission corridors in terms of a national grid.

Secretary Peters stated that the proposed plan was not meant to be exhaustive at this point in time. There are a number of things that were not discussed in great detail but that does not mean that we are not continuing to look at other issues.

Rep. Nelson stated that building a large coal to liquid plant would cost around \$10 to \$15 billion. How much would it cost to build a nuclear plant?

Secretary Peters stated that based on costs to rate payer for a current coal burning power plant, the costs would be approximately 20% higher, excluding any carbon tax or future federal legislation.

Rep. Nelson asked if there were any investors interested in constructing a nuclear power plant.

Secretary Peters said that there

is a utility company who is interested.

Sen. Stivers asked Dr. Peters to explain the statement that Kentucky's energy needs would increase by 40% by 2025. Is that percentage based on electric generation or a combination of all energy needs?

Secretary Peters stated that the 40% increase was based on all energy needs.

Sen. Stivers asked what would be the number for increase in pure electric generation.

Secretary Peters stated that the Public Service Commission says that the official number right now is 7,000 megawatts.

Sen. Stivers asked in terms of percentage, what would be the increase.

Secretary Peters stated that it would be approximately a 40% increase.

Sen. Stivers asked if the Cabinet had looked at delivering any increases in electric generation to other regions.

Secretary Peters stated that particular issue has not been addressed in the energy plan. We believe that within the next 20 years we are going to see major improvements and enhancements in the electricity grid at the federal level. Any increases in electric generation will be controlled through the federal government.

Sen. Stivers asked if it was true that Kentucky does not have the capability to use wind and solar as energy resources.

Secretary Peters stated that was correct. Kentucky does not have the resources, be they either solar or wind for baseload electricity generation using current technologies.

Sen. Stivers stated that based on our climate, I think you are saying, at best it is going to be supplemental, which given the figures you have shown us or told us earlier of 1000 megawatts and 22,000 megawatts of use, it is less than 5% of what we need.

Secretary Peters stated that at best, that is correct.

Sen. Borders stated that he agreed with the premise of being energy independent. When talking about nuclear power – there are many of us on this committee who need to better understand nuclear power before we go out and start talking to the general public. My concern is that even if a nuclear power plant were the best thing to ever happen

for certain locations in Kentucky, until we are educated and the public educated, we may never have the option to consider nuclear power.

Secretary Peters stated that the Cabinet is very close to talking in greater detail to the public. The Cabinet would be happy to provide additional background material to help educate everyone, especially this committee and the General Assembly.

Rep. Alexander stated that he was amazed and stunned regarding the letter that the Governor and the Attorney General released concerning stream buffer zones. He said that he could not agree with putting tighter regulations on the coal industry, especially with the economic crisis we are experiencing.

Rep. Combs asked if the Cabinet had a list for future plants for CTG, CTL and nuclear?

Secretary Peters said that the list can be found on their web site.

Rep. Combs, expanding on Rep. Alexander's comments, stated that when the Administration comes to Eastern Kentucky, they would be asked, how are you going to mine that coal?

Sen. Smith stated that he would like for the Cabinet and the Administration to gather input from both legislative bodies in moving forward with the energy plan. He also stated that he personally would like to talk to the administration about coal. Sales and receipts are up – coal is a friend to Kentucky.

Secretary Peters wanted to emphasize that Kentucky is looking at mining the same amount of coal in 2025 as we are today. In fact, in the intervening years, if one moves forward with coal-to-liquids we would actually be mining more coal during that period of time.

Sen. Smith stated that he hoped that was true. Because of the Governor's letter regarding the stream buffer zone, the future is very frightening for those of us living and working in the coal areas. We want to have a seat at the table.

Secretary Peters said that on the stream buffer zone letter, let me just say one thing: When we looked at the direction it was going, we felt that it was really going to create much more regulatory uncertainty as we were moving forward, which is not what the State needs, not what the coal industry needs. We feel we need to really go back and look at that whole regulation in terms of defining what



a “stream” is. It was the intention to move towards greater regulatory certainty in that regards.

Sen. Stivers asked if the UK College of Law is looking at the legal aspects of some type of immunity or who is going to have the legal responsibility for how we deal with carbon capture, sequestration, injection.

Secretary Peters stated that they are looking at all those aspects and more. Such as who owns the pore-space volume and what is the potential long term liability should CO2 not stay underground. Besides the UK College of Law, there are a number of individuals trying to understand all of those issues.

Sen. Stivers asked what the Administration’s position was on doing limited immunity for projects that are experimental or done under the umbrella of the Center for Applied Energy Research (CAER) or the Kentucky Geological Society (KGS).

Secretary Peters said he was under the impression that limited immunity had been solved with the KGS and CAER concerning a well that is being drilled in east and west Kentucky.

Sen. Stivers asked how they resolved that issue.

Secretary Peters stated that he would get that information to Sen. Stivers.

Rep. Pullin asked Secretary Peters to make a public commitment to the committee that the Cabinet and the Administration will not move forward one inch on nuclear sites until a thorough discussion has been had with the communities involved.

Secretary Peters stated that there is absolutely no problem with making that commitment whatsoever. There would be very extensive conversations throughout the state in that particular regard. We know there are opportunities for nuclear and we recognize the social fears. But on the other hand, we recognize that a nation like France produces 85% of their electricity from nuclear energy.

Rep. Pullin thanked Secretary Peters for his commitment.

Rep. Riner asked that if a community or their representative voted against a nuclear plant, would their request would be honored.

Secretary Peters stated that if a community was not supportive of a nuclear plant, then the administration would not be supportive.

Rep. Hall also expressed his dis-

appointment with the Governor’s letter concerning the stream buffer zone.

He said he was encouraged with the discussion on nuclear plants. Kentucky has to look at other avenues and be open-minded on all forms of energy.

Meeting adjourned at approximately 12:00 p.m.

**INTERIM JOINT COMMITTEE  
ON HEALTH AND WELFARE  
Minutes of the 5th Meeting  
of the 2008 Interim  
November 19, 2008**

The 5th meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 19, 2008, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order 1:12 PM, and the secretary called the roll.

Present were:

Members: Representative Tom Burch, Co-Chair; Senators Denise Harper Angel, Alice Forgy Kerr, Joey Pendleton, Dan Seum, Katie Stine, and Johnny Ray Turner; Representatives James R. Comer, Jr., Bob M. DeWeese, Joni L. Jenkins, Reginald Meeks, Darryl T. Owens, Ruth Ann Palumbo, David Watkins, and Addia Wuchner.

Guest Legislators: Representatives Jimmie Lee and Dottie Sims.

Guests: Dr. Judy Monroe, State Health Commissioner, Indiana State Department of Health; Dr. Michael Karpf, Executive Vice President for Health Affairs, University of Kentucky; Karen Cassidy, State President, and Jim Kimbrough, Issue Specialist for Long-Term Care, AARP; Joan Smith, Director, Lifehouse Center; Timothy Veno, Kentucky Association of Homes and Services for the Aging; Claude and Betsy Farley, Parents and Relatives of Oakwood Residents; Eric T. Clark, Kentucky Association of Health Care Facilities; Ellen Kershaw and Jaime Gill, Alzheimer’s Association; Sheila Schuster, PhD, Co-Chair, Rich Seckel, Co-Chair, Patrick Jeffreys, Project Director, Kentucky Voices for Health; Bruce Begley, Executive Director, and J.A. Logan, Medical Director, Methodist Hospital, Henderson; Patty Dempsey, The Arc of Kentucky; Karen Thomas Lentz, Johnson & Johnson; Anne Joseph, Covering Kentucky Kids and Families and Kentucky Task Force on Hunger; Amy Barkley, Campaign for Tobacco Free Kids.

LRC Staff: DeeAnn Mansfield,

CSA; Mike Bossick, Miriam Fordham, Ben Payne, Gina Rigsby, and Jonathan Scott.

A motion to approve the October 15, 2008 minutes was made by Senator Kerr, seconded by Representative Wuchner, and approved by voice vote.

Senator Stine, Co-Chair, Families and Children Subcommittee, reported the subcommittee met that morning and heard a presentation involving school nutrition by Paul McElwain, Director of the Division of Nutrition and Health Services, Department of Education. Pam Goins and Jennifer Ginn, Education Policy Division, The Council of State Governments, informed the subcommittee about the national School Lunch Program and the School Breakfast Program. The subcommittee heard testimony from Shane Tucker, Federal Program Manager, Office of Local Program, Transportation Cabinet, about the five programs of the Office of Local Programs. The subcommittee also heard a presentation on teen suicide in Kentucky from Dr. Hatim Omar, Department of Pediatrics, University of Kentucky. A motion to accept the report was made by Senator Stine, seconded by Representative Meeks, and accepted by voice vote.

Senator Harper Angel, reported the Health Issues Subcommittee met that morning and heard testimony on the Kentucky HIV Planning and Advisory Council (KHPAC) 2008 Year-End Report by Robert Edelen, Chair, Care and Prevention Committee. Deborah Wade, MSW, Program Director, WINGS Clinic, Ryan White Parts C & D, University of Louisville, gave a presentation on trends seen in HIV/AIDS patients treated at the Louisville clinic. The subcommittee also heard a presentation from Dr. Ruth Ann Shepherd, Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services. A motion to accept the report was made by Senator Harper Angel, seconded by Senator Kerr, and accepted by voice vote.

A presentation on tobacco prevention and cessation programs was given by Dr. Judy Monroe, State health Commissioner, Indiana State Department of Health. Dr. Monroe stated that tobacco is the single most preventable cause of death in the United States. According the 2007 BRFSS, Kentucky has the worse rate of adult smokers nationwide. Nicotine is as addictive as heroin or cocaine, and

70 percent to 90 percent are addicted to nicotine. Approximately 90 percent of people addicted to nicotine started smoking as teenagers. She said that approximately 83 percent of smokers say they would not smoke if they could do it over again. The reasons smokers regret starting are health, expense, addiction, disgust, and stigma. She stated that the Centers for Disease Control and Prevention (CDC) best practices on tobacco prevention and cessation are state and community intervention; health communication interventions; cessation interventions surveillance and evaluation; and administration and management. The CDC best practices on state action on tobacco-use treatment should include the following elements: 1) Sustaining, expanding, and promoting services available through population-based counseling and treatment programs including quitlines; 2) Covering treatment for tobacco use under both public and private insurance including both counseling and medication; 3) Eliminating costs and other barriers to treatment for underserved populations, particularly the uninsured; and 4) Making the healthcare system changes recommended by the clinical practice guidelines.

Senator Kerr asked about the Quitline. Dr. Monroe said that a Quitline is telephone-based cessation services offered toll-free to the general public, is evidence-based, and reactive or proactive.

Representative Lee asked if data was available that supported Indiana youth stopped smoking because of the increase in the cigarette tax or did they go across state lines to buy products. Dr. Monroe stated that a small percentage did go other places, but nationwide a ten percent increase in the cigarette tax showed a seven percent decrease in youth smoking. He asked if Indiana’s program had not been in place long enough to obtain sufficient about cigarette taxes and youth smoking, and she said this was correct. He asked if the cessation program would pay for pregnant women to use nicotine patches, and she said not through the Quitline. He asked if Medicaid would pay for the nicotine patches, and she said, yes, if a doctor prescribed one for a patient.

Representative Meeks asked how hard it was to get the support of the legislature for the tobacco prevention and cessation program. She stated that the Governor supported

it and she reached out to community partners to get them to spread the word that this legislation was important and needed to be passed because it would improve the health of the citizens of Indiana.

Senator Harper Angel asked about the difference between the Quitline and the Enhanced Quitline. Dr. Monroe stated that the Quitline is for non-pregnant women who will receive four counseling sessions. The Enhanced Quitline is for pregnant women and allows ten counseling sessions.

Representative Meeks asked about the funding for community-based grants. Carla Newhaus stated that a grant could be anywhere from \$20,000 to \$250,000 based on the community. He asked which programs were funded, and she said program recommended by the CDC.

Representative Jenkins asked if there were in youth programs in the middle and/or high schools. Ms. Newhaus stated that they work with school districts to have tobacco-free campuses following CDC comprehensive guidelines. Ms. Newhaus said the great need and main focus is on the ninth graders.

Representative David Watkins, Dr. John Logan, Medical Director, and Bruce Begley, Executive Director, discussed the angioplasty procedures at Methodist Hospital in Henderson. Representative Watkins stated that currently, patients who heart problems have to be transferred to another hospital, because CON prohibits interventions in Henderson. He said that technology has changed immensely. Representative Watkins and Dr. Logan stated that they want the ability to give patients the care they are qualified to provide. Dr. Logan stated that only two institutions in Kentucky cannot provide angioplasty and that is Henderson and Hopkinsville.

Dr. Michael Karpf, Executive Vice President for Health Affairs, University of Kentucky, gave a presentation on growing to serve the health care needs of Kentuckians, Creating Jobs for the Commonwealth. Dr. Karpf stated the mandate from the General Assembly for the University of Kentucky was to become a top 20 public research institution. The slow but steady decline in clinical activity within the organization had to be addressed for the organization to maintain the relevance in the health care marketplace of the Commonwealth. The Strategic Planning consisted of

advanced subspecialty care – Level I Trauma Center, regional care – allowing patients to remain close to home and utilize local services, and efficiency, quality, and patient safety – Center for Enterprise Quality and Safety established to focus on the development of efficient processes aimed at optimizing clinical outcomes and the safety of patients. He stated that the clinical outreach network has created a strong foundation for the virtual network. With relationships with community hospitals and physicians, they now have nearly 150 clinical outreach practices and linkages to approximately 4,500 beds. Dr. Karpf stated that geographical expansion is critical to ensure access to a large enough population to support advanced subspecialty care. From fiscal year 2004 through fiscal year 2013, the anticipated investment in the clinical enterprise will exceed \$1.6 billion. This investment will be completely self-funded through operations and bond issues.

A presentation on Lifehouse Center was given by Joan Smith, Executive Director. Ms. Smith stated that Lifehouse is a maternity home in Louisville. Lifehouse's mission statement is to provide for the spiritual, emotional, physical, and intellectual needs of pregnant and or parenting teens and women and their child – both born and unborn – in a Christ-centered home environment. She said that she wants criteria and the definition of a maternity home established so young pregnant mothers can reach their full potential and give birth to a health baby. Right now it meets all the Louisville standards of a group home. A maternity home should be able to welcome any young girl or woman, who is pregnant and in need of help, regardless of age.

When a young woman seeks help at Lifehouse, she has already decided to carry her baby to full term and is in need of assistance. Lifehouse was opened in April 2007, and is already at capacity on one out of every ten girls that inquire will come into the program because there are rules and regulations. The rules and regulations are strict to help the girls meet goals. These young women are not wards of the state and come for different reasons such as being overwhelmed, financially strained, in need of medical care, or simply being embarrassed by their situation. Lifehouse has medical care, counseling, schooling, good nutritional programs, mentoring pro-

grams, job placement, financial planning, nightly classes, and continuing support for up to three years after delivery. Lifehouse staff consists of a R.N., a social services director, a PhD therapist, a Seven Counties counselor, and retired teachers and social workers who serve as house moms. All residents, staff, and volunteers have criminal history background checks. She said that \$100,000 has been donated for college education and all medical needs are provided pro bono. All girls must be in school, or if they have their high school diploma or GED, they must have a job. All funds raised for Lifehouse have come from private sources.

Senator Harper Angel asked about the spiritual aspect of the program. Ms. Smith said that part of the program is to help the girls see their spiritual side and they are encouraged to attend church services, but they are not affiliated with any church.

A presentation on Kentucky Voices for Health, Building a healthy Kentucky together, was given by Sheila Schuster, PhD, and Rich Seckel, Co-Chairs, and Patrick Jeffreys, Project Director, Kentucky Voices for Health. Kentucky Voices for Health is a coalition of concerned Kentuckians who believe that the best healthcare solutions are found when everyone works together to build them. They are supported by a grant from the Public Welfare Foundation to the Foundation for a Healthy Kentucky, given to support the Foundation's work with a coalition of advocates to expand health coverage in the public and private sectors, identify revenue sources to support public health care programs, and build the capacity of consumers to advance health care reform in Kentucky. Right now, families and businesses in every county are facing rising costs, and too many of us go without needed health care. Healthy families create healthy economics, and a healthy Kentucky is something we all want. The coalition's goal is to reduce the number of Kentuckians without health insurance or health coverage. The 2005 Census data show that the numbers are growing. Kentucky Voices for Health initiatives for 2008-2009 are to 1) significantly increase the tobacco tax to reduce smoking and improve health; 2) enroll and expand public sector health coverage to children and families; and 3) expand health coverage in the private sector for young adults.

Representative Burch stated that Kentucky needs a universal health plan.

A presentation on AARP: Long-Term Care was given by Karen Cassidy, RN, MSN, EdD, Volunteer State President, and Jim Kimbrough, Volunteer Issue Specialist for Long-Term Care. Ms. Cassidy stated that projections show that by the year 2030, the 60+ population will be 1,287,999 persons, representing 26.2 percent of the population. Today, Kentucky is ranked 27th in the nation in the proportion of our population over age 65, and in 2025, Kentucky is projected to be 14th in the nation. As the population continues to age, so will the needs and demands for human services. A large number of these persons will be some of our state's most vulnerable citizens. These individuals will present a challenge to our state's increasingly limited resources, both economic and human. To meet even the most basic human needs, our state must be forward thinking and find new strategies to meet these demands. The current long-term care system cannot fully meet today's needs and does not offer enough options for seniors. Some seniors need nursing home care, but they also deserve choices.

Ms. Cassidy said that an individual should have the option to remain in their home. An individual should not have to spend down all of their resources to enter a nursing facility just to receive services they could receive at home, which is not possible at the present time. Kentucky's aging services budget has received only one small increase in 15 years. There are 7,000 older Kentuckians that need state services. The services include home-delivered meals, someone to assist them with bathing and dressing, or life-supporting transportation. Currently, these 7,000 older adults receive no services from the state. There are 7,800 older adults receiving some help, but they actually need additional help to stay in their homes. The annual cost of living in a nursing home for one individual under Medicaid is approximately \$35,000. The cost for the same individual to remain at home under the Medicaid Home and Community Based Waiver is an average of \$5,000 per year. Kentucky faces significant fiscal and policy challenges, and we need to take a hard look at long-term care in Kentucky. The old ways of providing services for our elderly will not work. In a recent study,



more than 80 percent of older Kentuckians said they would prefer to remain in their own homes now. The state budget cannot afford to institutionalize five million Kentucky baby boomers in the future.

There being no further business, the meeting was adjourned at 2:58 p.m.

**INTERIM JOINT COMMITTEE  
ON HEALTH AND WELFARE  
Subcommittee on Families and  
Children  
Minutes of the 5th Meeting  
of the 2008 Interim  
November 19, 2008**

The 5th meeting of the Subcommittee on Families and Children of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 19, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Katie Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Representative Tom Burch, Co-Chair; Senators Perry B. Clark, and Joey Pendleton; and Representative James R. Comer Jr.

Guests: Bill Doll for the Kentucky Medical Association; Tim Weldon, Pam Goins, and Jennifer Ginn for the Council on State Government.

Guest Legislator: Representative Jimmie Lee.

LRC Staff: Ben Payne, Mike Bossick, and Cindy Smith.

First on the agenda was a presentation on school nutrition by Paul McElwain, Director of the Division of Nutrition and Health Services for the Kentucky Department of Education, and Pam Goins and Jennifer Gin, Education Policy Analysts at the Council of State Governments. Mr. McElwain informed the subcommittee about how menus are formulated in Kentucky schools. Each meal plan in the schools is federally required to serve one third of the recommended daily allowance of nutrients. The subcommittee was informed that dietary menus are constructed in two ways, by nutrient standards or by food item selection. The subcommittee also learned about the fresh fruit and vegetable program and the food commodity program from the U.S. Department of Agriculture. Mr. McElwain informed the subcommittee that Kentucky has more schools recognized by the Healthier U.S. Schools Challenge than any other state in the country.

Senator Stine asked if there is

room for innovation in the commodities program. Mr. McElwain said that schools have the discretion to purchase as much of the commodities as the commodities district program has available. Also, the Department of Defense purchases the best fruits and vegetables for the troops and schools also have access to that purchase program.

Senator Stine asked if schools have any partnerships with Kentucky Proud. Mr. McElwain said he does not know of any partnerships with Kentucky Proud, but in some counties schools participate in co-ops. In Bath County, there is a school co-op that cleans vegetables and gets them ready for purchase. Once schools purchase the vegetables, on the day they are prepared, the school brings in the farmers that raised the vegetables and they give presentations to the students about the vegetables, how they are grown and harvested.

Representative Lee asked if the Department of Education has ever conducted a survey of children about meals they consume outside of the school day. Mr. McElwain said that the Department had not done that type of survey and he wasn't aware of any other entity that had. Dr. Hatim Omar of the University of Kentucky told the members that three years ago a survey was done at two schools in Lexington and it was concluded that 51 percent of the children were overweight, and 78 percent of the meals were inappropriate. The same surveys were completed in Lincoln County and it was found that 86 percent of the meals were inappropriate.

Senator Stine asked if the meals at school could be used as an educational mechanism. Dr. Omar said absolutely and that schools can educate parents to lead by example.

Senator Stine asked what entity sets dietary guidelines. Mr. McElwain said they are set by the USDA and the Department for Health and Human Services and they are updated every five years.

Representative Burch asked if commodities are figured by income. Mr. McElwain said that commodities are figured by taking the personal plate commodity rate and multiplying it by the reimbursable lunches served the previous year. That total is the number of commodities that can be purchased and then schools make choices of what to purchase.

Representative Comer asked if there are qualifications for a school

nutrition director and what the salary is. Mr. McElwain said that in 2005, SB 172 was passed which required that each school district have a full-time food service director. It also allows small school districts to share with other school districts. If the food service director is not qualified when they are hired, they have three years to complete the qualifications. Salaries vary by district.

Pam Goins and Jennifer Ginn, representing the Education Policy Division of The Council of State Governments (CSG), also discussed school nutrition. CSG informed the subcommittee about the National School Lunch Program and School Breakfast Program. Nationally more than 10.5 million school children participate in the School Breakfast Program, with 70 percent receiving free meals and 10 percent receiving meals at reduced prices. Almost 31 million school children nationally participate in the School Lunch Program, with nearly 50 percent receiving meals free and 10 percent receiving meals at reduced prices. CSG discussed the USDA Commodity Food Program and how it supplies U.S. schools with 20 percent of the school meal comprised of more than 180 different commodity foods. CSG has drawn links connecting school nutrition to childhood obesity and points out that 25 million children and adolescents are overweight or obese. CSG also reported that Kentucky students are above the national average for students who are overweight or obese. CSG ended their presentation with some policy recommendations.

Next the subcommittee heard from Shane Tucker, the Federal Program Manager with the Office of Local Program of the Kentucky Transportation Cabinet. Mr. Tucker discussed the five programs of the Office of Local Programs. The programs are Transportation Enhancements, Safe Routes to School, Congestion Mitigation and Air Quality, Scenic Byways Program, Transportation Community and System Preservation. The five programs were discussed and the application processes along with the types of bicycle and pedestrian facilities that can be created under each program were presented. The general criteria the Office of Local Programs uses to select projects are based on need, benefits to a community, reliable estimates, funding possibilities, and the projects readiness for implementation. The sponsoring local entities of the projects are expected to

solicit public support, obtain matching funding, and arrange for long term maintenance of the project.

The subcommittee received a presentation from Dr. Hatim Omar, with the Department of Pediatrics at the University of Kentucky. Dr. Omar spoke about Teen Suicide in Kentucky. The subcommittee was informed that suicide is one of the top three causes of death for 11 to 21 year olds in Kentucky. The subcommittee learned that there are numerous risk behaviors that contribute to teen suicide. Youth mortality is at a higher percentage in Kentucky than in the nation and suicide rates in Kentucky are also higher than the national percentage. Dr. Omar also detailed the University of Kentucky Adolescent Health Program and its practices to help prevent teen suicide in Kentucky.

Representative Burch asked how much money is needed to serve all areas and stages. Dr. Omar said that \$1 million per year would help. Representative Burch asked if the program would be successful with \$2 million in the budget. Dr. Omar said with that amount of money within five years, Kentucky would look better than any other state.

Senator Clark asked if Dr. Omar would consider working with existing programs. Dr. Omar said that is what has to be done to make the programs work.

Senator Clark asked how teens know where to reach out to. Dr. Omar said that they did not advertise at first. They did talks at schools and information about the program spread by word of mouth. They also have a website that many teens have accessed. Many teens either email or call when they need help. Once a teen says they need help, help is given immediately, no matter what time of day it is.

The meeting was adjourned at 11:55 a.m.

**INTERIM JOINT COMMITTEE  
ON LICENSING AND  
OCCUPATIONS  
Minutes of the 5th Meeting  
of the 2008 Interim  
November 14, 2008**

The 5th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, November 14, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Gary Tapp, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Chair; Senators Tom Buford, Julian M. Carroll, Perry B. Clark, Julie Denton, Carroll Gibson, Denise Harper Angel, Bob Leeper, Dan Seum, and Damon Thayer; Representatives Tom Burch, Larry Clark, Ron Crimm, Tim Firkins, Dennis Horlander, Dennis Keene, Adam Koenig, Reginald Meeks, Charles Miller, David Osborne, Ruth Ann Palumbo, Carl Rollins II, Sal Santoro, Arnold Simpson, and Ron Weston.

Guests: Mac Stone, Executive Director, Stacia Alford, Grape and Wine Marketing Specialist, Office of Agriculture Marketing and Product Promotion, Kentucky Department of Agriculture; Andre Brousseau, Old Crow Inn Farm and Winery; Bruce Kunze, Kentucky Grape and Wine Council; Crit Luallen, State Auditor, Brian Lykins, Director of the Office of Information Technology and Special Audits, Auditor of Public Accounts; Henry Lackey, Commissioner, Department of Charitable Gaming; Rodney Brewer, Commissioner, Kentucky State Police; Norman Brown, Executive Director, Lee Harris, General Counsel, Kentucky Real Estate Commission.

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

Senator Tapp called the meeting to order and, before asking for a motion to adopt the minutes of the October meeting, welcomed Carrie Klaber, new committee analyst, to the committee. Afterwards Representative Meeks made a motion, seconded by Senator Harper-Angel and the minutes from the October 10, 2008 meeting were adopted.

First on the agenda, Mac Stone, Executive Director of the Office of Agriculture Marketing and Product Promotion, told committee members the Kentucky Department of Agriculture administers the marketing cost share program for the Kentucky Wine and Grape Council. He said that the marketing cost share program that wineries have access to is clearly defined. Mr. Stone said that the program was started both for marketing and distribution. Moneys were paid out of the fund based on production amounts. Larger wineries were absorbing all of their money early in the cycle, with the smaller wineries production leaving money unused. Mr. Stone said that Stacia Alford, Grape and Wine Marketing Specialist for the department, designed a

“Program Opt-in card” which allows wineries to estimate their production to receive money earlier in the cycle, and kept the playing field level. He said this will adjust every six month period. Mr. Stone said that there was a six month lapse in the rollover of funds due to bills and invoices being received after December 31.

Mr. Stone said that there are six active Kentucky Small Farm Wholesale licenses. He said that the \$12 reimbursement has been beneficial to the small businesses that have high expenses. He said that many wineries have full distributorship arrangements. Mr. Stone said that the department also works with the Tourism Department on a statewide marketing program, using Tourism’s purchasing power to buy advertising. He said they have developed a “Z-card” which details a map of where the wineries are located as well as other pertinent information. He said these are located at welcome centers, wineries, retail outlets and at trade shows. He said they have been well received and the department is looking at more funds to update the card with wineries that have opened since the first printing. He said that working with the Department of Tourism, Stacia has developed a website that has information on all the wineries posted. The website will become more interactive as wine trails are developed in the future.

Mr. Stone said the grape growers only have limited contact with the department through county extension offices. This makes it difficult to determine an accurate number of grape growers and where they are located. He said as the Council begins to mature there will be more focus on the grape growers and the grapes grown. Mr. Stone said that the University of Kentucky has been helpful in locating the growers.

Regarding wine production, Mr. Stone said that a survey was sent to the 49 wineries that are licensed. He said responses were received from 25 wineries. He said that even though the data was incomplete there appeared to be an increase in production each year, beginning in 2004 through the first half of 2008. Mr. Stone said that 14 out-of-state wineries are licensed in the state, adding that there had been no complaints that these wineries were pushing in-state operations out of the market. Mr. Stone said that there were two types of wineries, one that depends on tours and the tasting room at the

winery, while the other has less foot-traffic but expands to retail sales.

Mr. Stone said that this year there was a bumper crop of grapes; however, not all the grapes were purchased locally because the wineries were not prepared for the large harvest. He added that it was not clear if this was due to inventory not selling, or if wineries were buying grapes or grape juice out of state because it was cheaper. Mr. Stone said that the World Equestrian Games, coming to Kentucky in 2010 will be an opportunity for Kentucky wine to have international exposure. He added that in addition to a tasting room there will be a shipping station for visitors to have wine shipped to their home. Mr. Stone said that this year Kentucky hosted wine competitions at festivals and added a competition at the State Fair. He said wine judging is different because there are standards that must be met in order to be awarded a gold, silver or bronze medal. He said there were 165 medal winners at competitions across that state. Mr. Stone said that the Kentucky Grape and Wine Council are in the process of producing a video on the wine industry in the state to use for educational and promotional activities. He said that October is has been established as “Grape and Wine Month” and wineries are planning activities in conjunction with this month. Mr. Stone said that future goals of the Grape and Wine Council are to partner with “Kentucky Proud” to continue to improve marketing and wholesale reimbursement programs, to increase the Kentucky wine market and the recognition of Kentucky wine, and to continue to improve the quality of Kentucky wine. He said that working with the University of Kentucky viticulturist has been invaluable. Mr. Stone said that the council is looking at access to a fund for bird netting to protect the grapes when they are ready to harvest. He said that some wineries are considering Sunday precinct sales in order to expand their business since other states show that Sunday is the second biggest day for tourism. Mr. Stone also said that the brown Department of Transportation signs that have been posted on interstates and major highways have been a huge boost to wineries that are located in more rural areas.

Representative Crimm asked if the state was involved in the retail aspect of the wine industry. Mr. Stone said the department helped

with point of purchase or promotional activities but not in retail activity. Representative Clark asked if it was necessary to request funds every budget cycle. Mr. Stone said the program was new and that at this time there was not a perpetual fund in place. Senator Leeper asked how the department determined who was on the wine trail map. Mr. Stone said the department used data from the Alcohol Beverage Control to determine who had a license and who had a tasting room to invite tourist. Senator Seum asked if grape growers contracted with wineries. Bruce Kunze, Kentucky Grape and Wine Council, said that growers do not work on contracts due to the evolution of the industry. He said that due to production from last year not being used some verbal contracts this year were not honored. Mr. Kunze said the council is working on identifying all the growers in the state to put together a system so that growers will have a contract to guarantee sales and will know who they are going to sell to. He said that a grading system will be put in place to assure quality of grapes. Senator Seum asked if there was a minimum number of acres a grower should cultivate. Mr. Kunze said he produced six to seven tons of grapes per year on an acre and one half and did not have problems selling his grapes. He added that he had established a good relationship with a winery who knew that he would sell them good grapes. Mr. Kunze added that the University of Kentucky was a good contact for information on producing grapes. Mr. Stone said that some of the grapes that produce wine people look for on the shelves do not grow well in Kentucky. Representative Keene asked if the department or the wine council had an estimate of the industry’s growth in the next five years. Mr. Stone said that the department was more focused on the diversity of grape planting and improving the quality of wine in Kentucky. Andre Brousseau said he had been in touch with the county extension agent in Boyle County to ascertain how the office calculated agricultural statistics and was told the information is extrapolated from the number of responses received from surveys.

Next on the agenda, Crit Luallen, State Auditor, gave a report on an audit of Charitable Gaming in Kentucky performed by her office earlier this year. She said in 2007 Charitable Gaming produced \$489 million mak-



ing it second in Kentucky to the Lottery which brought in \$744 million dollars and just ahead of horse racing which produced \$470 million dollars. She said this ranks Kentucky fourth in the nation in charitable gaming receipts. Ms. Luallen said the amount of money generated is one reason that the auditor's office decided to issue this briefing report. She said they looked at various aspects of the industry; how Kentucky compared to other states in certain categories, and how Kentucky is regulating and providing oversight to the charitable gaming industry. She said the data in the report will hopefully serve as a resource to legislators and other policy makers looking at the area of gaming in Kentucky. Ms. Luallen said the report examined data ranging from 2001 through 2007. She said the conclusion was that the Department of Charitable Gaming should increase oversight and develop stronger controls of this significant industry. She said the first recommendation was that the department should conduct regular audits of charitable organizations. Currently Kentucky law does not require, nor has the department adopted a policy to perform scheduled audits to ensure that the more than 750 charitable organizations are consistently monitored. She said that currently audits or investigations are initiated only as a result of a gaming complaint.

In 2007, Kentucky licensed 758 organizations engaged in charitable gaming and the department's audit branch issued 16 reports. Additionally, as of April of 2008, when the field work ended, the investigation branch had 15 open cases from 2005, 48 open cases from 2006, and 44 open cases from 2007, and 10 cases from 2008 as of April, 2008. She said that investigations deal with issues that might result in criminal activity or wrong-doing rather than routine audits. Mrs. Luallen said that without an audit the financial data provided to the department is self-reported and not verified. In 2006, the department had 44 staff positions; including investigators, accountants, and attorneys to oversee charitable gaming state wide. Due to recent budget cuts the staff has been reduced to 42 employees. Auditor Luallen said that, according to the department, more staff could help decrease the continual backlog of investigative cases as well as ease the need for more regular auditing.

Ms. Luallen said another recom-

mendation in the report was that the department should maintain a state registry of gaming volunteers. She said Kentucky law does not require the department to maintain a registry to properly track and monitor volunteer activities. Because some professional volunteers may be able to personally benefit by engaging in collusion or criminal activities, the reports recommends that the department better monitor volunteer information in order to protect the interest of the charities. She said the auditor's office also recommends that the department include a broader range of information in its annual report that would make the oversight of the industry more transparent. The report maintains that the department should provide additional information such as data analysis of several years of charitable gaming financial activity, statistics regarding various regulatory activity, and the names of organizations that do or do not return their legal amount of receipts to the charities. Mrs. Luallen said the auditor's office is also recommending that the department strengthen its guidelines for financial reporting by the organizations; which now have no deadlines toward making revisions to their financial statements. Additionally the report notes that Kentucky does not publically fund awareness and treatment of gaming problems as several other top ten gaming states do.

Auditor Luallen also said that, of the top ten states in charitable gaming, Kentucky is the only state that does not receive general fund dollars from charitable gaming receipts. Kentucky provides funding solely to fund the Department of Charitable Gaming and it is not structured, nor would it be allowed by current law, to provide additional revenue for other governmental purposes. She said the report shows that in the top ten states money provided from gaming receipts to state and local governments for other purposes ranges from approximately \$600 thousand in Virginia, to as high as \$51 million in Minnesota. Mrs. Luallen said in Kentucky the department is funded through a fee on gross receipts that is paid by the licensed organizations, and on July 1, 2008, the fee was increased from .53 percent to .60 percent. She said the report also notes that Kentucky has seen a decrease in receipts and attendance statewide in 2007, despite being one of the top ranked states nationally. She said gross receipts in

2001 were at \$607 million but declined to \$489 million by 2007. Attendance was 5.4 million in 2001, but decreased to 4.3 million in 2007. She said a declining economy, higher gas prices, and recent smoking bans are suggested by the department as reasons for the reduction in gaming activity. Auditor Luallen said the report included several tables that break down the information she had provided in more detail, in particular a county by county table. She said that during the process the auditor's office met and worked with the Department of Charitable Gaming and the staff was cooperative. She said there is a follow-up meeting scheduled with the department to discuss how the department can expand the auditing that it does using its existing resources.

Mrs. Luallen said that with the large number of charities relying on these gaming proceeds it is important that the state have strong controls and oversight of the charitable gaming industry to ensure that every possible dollar goes to the charitable causes that they support.

Senator Gibson asked if the .six-tenths percent fee taken from the charities gross receipts was enough to cover the department's expenses. Mrs. Luallen said that this money was the only revenue the department raised for its operation. Henry Lackey, Commissioner for the Department of Charitable Gaming said that the department's budget is just over three million dollars with the bulk of the money coming from the fee. He said that initial license fees and fines make up the other portion. He added that the department receives no general fund dollars. Senator Seum asked how much the net receipts have dropped since 2002. Mrs. Luallen said table three on page 12 had a chart that shows the proceeds to charities over time. Representative Burch asked if the auditor's office had looked at how the money was distributed by the charities. Mrs. Luallen said that was why her office suggested that there be more auditing oversight. She said if the department had more resources to do more auditing it would be possible to cover more charities and be sure that the money is going where it is meant to go. Senator Thayer asked if the increase in the fee for gross receipts was done by statute or administrative regulation. Commissioner Lackey replied by statute. Representative Firkins asked if the auditor's office

was concerned with the 40 percent rule and who determined the payout level. Mrs. Luallen said that a large payout is necessary in order for charitable gaming to be competitive with the Lottery and gaming across the river. Commissioner Lackey said the 40 percent was mandated by the General Assembly. Senator Tapp said the 40 percent was a national standard. Senator Leeper asked if more money, to perform more auditing by the department, would have to come from the general fund. Commissioner Lackey said the General Assembly would have to take action to increase the sixteenths of a percent fee. Representative Clark said Representative Wayne had a bill in the last session to help addicted gamblers that was for charitable gamers only; however, it was his feeling that the Lottery and the thoroughbred industry should be included. Senator Denton asked if the counties received any money from the department. Commissioner Lackey replied they did not.

Next on the agenda, Rodney Brewer, Commissioner of the Kentucky State Police spoke to the committee regarding efforts to control illegal gambling in Kentucky. He said the state police do not have the resources to be pro-active in the area of illegal gambling. He said most cases opened are reactionary after receiving a complaint, usually through an anonymous call. He said, in 2007 the state police received approximately 79 gambling complaints. Through September 30 of this year, he said there have been about 81 gambling complaints. Commissioner Brewer said in 2007 the state police investigated 18 gambling cases; and to date in 2008 there are about 21 gambling cases. He said most of the gambling cases are worked by the Drug Enforcement Special Investigations Unit, even though many of the cases come in to the post dispatch. He said they are farmed out for obvious reasons. He said the investigations take quite a bit of time and usually require someone undercover to enter the facility to see if illegal activity is actually taking place. He said most of the cases investigated are in Veterans of Foreign War, American Legion posts, and truck stops. He said the ones that are in private entities, clubs such as VFW, often come in as an alcohol related complaint and upon further investigation illegal gambling is uncovered. He said this is not the case with truck stops, where a neighboring truck

stop will call to complain. Commissioner Brewer said because the state police do not take a proactive stand discovering illegal gambling is often the result of investigating illegal drug activity or illegal alcohol use.

Senator Tapp asked, of all the crime committed in the state, how much crime committed in the state is drug related. Commissioner Brewer said in 1984, the state police used established criteria to study which crimes in Kentucky had some type of nexus to the drug world. He said the result was that the state police were using 18 to 20 percent of their resources to combat illegal drug activity. Using the same criteria in 1994 the result was well over 40 percent. He added that the state police resources have not increased exponentially. He said that according to some estimates today, depending on the part of the country reporting, 60 percent of property crime committed have a direct relationship to drug activity.

Senator Seum said, in Jefferson County, at any given time there are 15,000 outstanding felony warrants. Commissioner Brewer said that the state police have a pilot project called e-warrant; an electronic system that is an electronic file that all police officers have access to. He said it is being started in Jefferson County. Representative Burch asked what is being done to eliminate illegal gambling machines. Commissioner Brewer said that the statute is interpreted to say that the machines in and of themselves are not illegal, it is dependent upon the way that they are used and the payout of the machines that makes them illegal. He added that most are for fun and a game of chance with no reward at the end.

Next on the agenda, Norman Brown, Executive Director and Lee Harris, General Counsel from the Kentucky Real Estate Commission explained the commission's 2009 legislative initiative to committee members. Ms. Harris, General Counsel told members that the commission's complaint process is different than most professional licensure boards. She said the proposed changes to the process were taken from the Medical Licensure Board's process. Ms. Harris said this process would eliminate minor types of cases through an informal settlement process, and allow the commission to send a letter of concern rather than take action against a licensee. She said the

complaint process would be left to the commissioners to vote, signed by Norman Brown, Executive Commissioner, and officially issued by the commission. She said this process would occur in the instance of escrow account theft and more serious grievances. Mr. Brown said there was a section to allow licensees to come to the commission to ask for a written opinion. He said the commission currently does this but in an unofficial capacity. He said a record is kept of the requested opinions and they are published so other licensees will know how the commission interprets certain statutes or regulations. Ms. Harris said there will also be a proposal to codify policies such as charges for a late renewal, charges for time share, and other fines and definitions that are not set in statutes. She said they would ask for statutory authority to issue cease and desist orders rather than requesting an injunction. The changes also include a proposal to make statute consistent with an agency form allowing principal brokers and managing brokers to act as dual agents in designated agency situations and asking sellers who are also licensees to disclose their status in the contract.

Senator Tapp asked how many grievances the commission received in a year's time. Ms. Harris said approximately 300 complaints; broken down into consumer complaints against licensees, investigations into applicants who have a criminal background, and unlicensed brokerage. One hundred-twenty complaints have been filed by a consumer against a licensee. Commissioner Brown said there have been two to four hearings in the past three years. He said most complaints are resolved through mediation. Senator Buford asked if the legislation had the support of the Kentucky Realtors Association. Ms. Harris said the commission had given both proposals to the association; however, they have not had a response from them to date. Senator Buford said some of the language was broad and that he was concerned that there was not a limit on the definition of moral turpitude. He asked if there would be a list to define this language. Ms. Harris said they would provide a definition.

There being no further business to come before the committee, with a motion and second the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Minutes of the 4th Meeting of the 2008 Interim November 24, 2008**

The fourth meeting of the Interim Joint Committee on Local Government was held on Monday, November 24, 2008, at 10:00 AM, 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 Steve Riggs, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, Ernie Harris, and Dan Kelly; Representatives Ron Crimm, Robert R. Damron, Mike Denham, Ted Edmonds, David Floyd, Richard Henderson, Charlie Hoffman, Dennis Keene, Adam Koenig, Reginald Meeks, Brad Montell, David Osborne, Arnold Simpson, Ancel Smith, and Ken Upchurch.

Guests: Representative Alecia Webb-Edgington; Todd Cassidy, Tourism, Arts and Heritage Cabinet; Mary Pedersen, Kentucky Office of Homeland Security; David Nicholson, Jefferson County Circuit Court Clerk; Bob Arnold, Denny Nunnelley, Tom Troth, Tim Sturgill, Ellen Williams, and Roger Recktenwald, Kentucky Association of Counties; J.D. Chaney, Kentucky League of Cities; Ron Wolf, Louisville Metro Government; Vince Lang and Shellie Hampton, Kentucky County Judge Executive Association; Richard Tanner and Sam Crawford, Kentucky Magistrates and Commissioners Association; Sara Boswell Dent, Administrative Office of the Courts; and Gay Dwyer, Kentucky Retail Federation.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Kris Shera, Elizabeth Beardsley, and Cheryl Walters.

Upon the motion of Representative Keene, seconded by Representative Meeks, the minutes of the October 17, 2008 meeting were approved.

Chairman Thayer introduced a new LRC staff member, Kris Shera, to the committee.

The first order of business was a follow-up discussion from the committee's last meeting on the impact of the film industry on Kentucky local governments. Chairman Thayer recognized Mr. Todd Cassidy, Tourism, Arts and Heritage Cabinet. Mr. Cassidy showed the committee videos on the film industry, which due

to technical difficulties, were unable to be shown at the committee's last meeting. He gave the members a list of productions pending inducements and productions lost to competing states. Mr. Cassidy noted that \$200,000 is spent a day in film production. He asked the committee for their support in passing legislative incentives to attract films to be produced in Kentucky.

Representative Henderson commented that it seemed pretty simple to him—either spend the money here or there. He agreed that incentives should be passed.

Senator Kelly asked if legislation from the 2008 session was what Mr. Cassidy was referring to. Mr. Cassidy stated yes, it was HB 756, which never got out of the House.

Representative Meeks asked what incentives were included in HB 756. Mr. Cassidy stated that HB 756 included a sales tax exemption and a 15% tax credit for development of a film production facility in Kentucky.

Chairman Thayer commented that he would like to see more films produced in Kentucky and would like to work with Mr. Cassidy to get a bill passed.

The next order of business was a discussion on the progress of the Kentucky E-Warrants System. Chairman Thayer introduced Ms. Mary Pedersen, Chief Information Officer with the Kentucky Office of Homeland Security, and Mr. David Nicholson, Jefferson County Circuit Court Clerk.

Ms. Pedersen first gave the committee some background information on the E-Warrants System. She explained that the system was developed to standardize and automate the arrest warrant process enabling electronic signatures and ensuring a secure electronic database. Ms. Pedersen noted that there were 300,000 plus warrants.

Mr. Nicholson told the committee that there were 55,975 warrants in Jefferson County. He stated that the E-Warrants system "went live" in Jefferson County on January 28, 2008. Mr. Nicholson noted that over 44,000 Jefferson County paper warrants were imported the weekend of October 3, 2008.

Ms. Pedersen stated that Campbell County "went live" with E-Warrants on September 22, 2008, with Woodford, Bourbon, and Scott Counties "going live" the week of November 17, 2008. She noted that the next counties to "go live" will



mostly likely be Fayette, Oldham, Henry, Trimble, Spencer, Shelby, Anderson, Franklin, and Bullitt.

Ms. Pedersen next discussed the prerequisites for establishing the E-Warrants system in a particular county, which include: an in-writing agreement to participate from all user agencies (judges, law enforcement, county attorney, circuit clerk, dispatch, and jail); a designated primary judicial point of contact; a designated jurisdictional administrator—overall system administrator for the county and/or judicial district; completed clean-up of paper bench warrants in preparation for conversion from KyCOURTS to E-Warrants; and completed clean-up of paper arrest warrants and selection of manual conversion option.

Regarding the E-Warrants status for Jefferson County, Ms. Pedersen pointed out that as of November 18, 2008, 72% of the authorized warrants of arrest has been served, 53% of the authorized criminal summons has been served, and 26% of the authorized bench warrants has been served. She noted that there are presently over 2,400 users and 80 roles in Jefferson County.

Representative Crimm commented that sheriffs are paid to issue the warrants. He asked if the E-Warrants system would have any impact on the sheriffs. Mr. Nicholson replied that the impact would be minimal.

Representative Riggs commented that this system was a great example of a government program going well. He suggested that it be publicized. Representative Riggs asked the speakers if they were comfortable with the security of the system by putting these warrants on a server. Ms. Pedersen stated that the system is well secured and that they have done all they can do to make it secure.

Senator Kelly asked who is responsible for doing the work to the system, including maintenance, and will the system belong to the state. Ms. Pedersen stated that a vendor does the developing and scanning, that there is a contract with the vendor, and that the state does own the system.

Representative Denham asked if her office has seen any resistance, and when the rest of the state would be operational with this system. Ms. Pedersen said they have not seen any resistance. She added that it will be a couple of years to get the system implemented statewide.

Representative Henderson commented that her office will run into problems with the rural counties regarding the technology. Ms. Pedersen stated that before they commit to a county, they look at it to see if they have the necessary technology.

Senator Gibson asked who would be held accountable for mistakes in the system. Mr. Nicholson said that accountability would fall upon the agency responsible for the warrants. He added that in Jefferson County it would be the clerk's office.

Chairman Thayer recognized Representative Alecia Webb-Edgington, former executive director of the Kentucky Office of Homeland Security, for some comments. Representative Webb-Edgington told the committee that she was pleased to see that the E-Warrants system was being continued that she helped start in 2006 under the Fletcher administration. She expressed her gratitude to the clerks, judges, Administrative Office of the courts, and the Kentucky State Police for their assistance with the project.

The last item of business was a presentation of the Kentucky Association of Counties (KACo) legislative platform for the upcoming 2009 Session of the General Assembly. Chairman Thayer recognized Mr. Bob Arnold, Executive Director of KACo.

Mr. Arnold told the committee that KACo's issues are not new and are not going away. He then introduced Mr. Tom Troth, Director of Legislative Affairs for KACo, to discuss KACo's legislative agenda. Mr. Troth told the committee that KACo is working with the Kentucky League of Cities (KLC) on the following issues: (1) pension reform, in the areas of fair employer contributions and reemployment. Mr. Troth stated that KACo is requesting that the General Assembly give careful consideration to providing additional pension relief to county governments, including the adoption of a less aggressive but actuarially sound full funding standard for the actuarially required contribution, and to provide relief from the restrictive reemployment provisions of 08 SS HB 1; (2) jail funding, in the areas of reimbursement and medical expenses. Mr. Troth explained that the counties wish to be reimbursed for the time each prisoner spends in the county jail when that prisoner is charged with a felony and the sentencing judge gives credit for time served in the county jail toward the prisoner's sentence. He said that

KACo also believes that counties should be charged no more than the Medicaid rate when treatment of inmates in county jails is required; (3) collection of property taxes and third-party purchasers of delinquent tax bills. Mr. Troth stated that KACo fully supports the efforts of its affiliate organizations as they seek consensus on legislation dealing with the collection of delinquent property taxes, and the appropriate purchase of those delinquent tax bills by third party (private) purchasers; (4) \$22 million shortfall from the telecommunications tax. Mr. Troth told the committee that KACo would like to see the state budget be amended to add \$22 million to compensate local governments for money lost since January, 2006, from the hold harmless provision of the telecommunications tax legislation; and (5) the way cities and counties enact ordinances. Mr. Troth pointed out that the method by which local governments enact ordinances should be consistent for both cities and counties. He said KACo believes that the three county statutes should be combined into one comprehensive statute that is consistent with the city statute.

Mr. Troth told the committee that KACo also has some emerging issues. He said KACo would like to see a parallel procedure for wastewater collection on a regional basis as exists for drinking water under the provisions of KRS Chapter 74. Mr. Troth stated that KACo is concerned that with the advent of the 2010 census, many counties will exceed the 30,000 mark in population calling for a maximum occupational license fee of 1%. He added that KACo is concerned that this will invoke the offset provisions of the law providing a transfer of the 1% to the cities currently having an occupational license tax in the county.

Representative Riggs asked for an example of an emergency in which an ordinance would have to be enacted. Mr. Troth said in a flood, tornado, or earthquake where a county would need to provide regulations in a short period of time.

Regarding the area of employer contributions in pension reform, Representative Montell asked if counties had felt the full effect yet. Mr. Troth replied no.

Representative Crimm commented that he tried to get a bill passed that would recoup the money from the telecommunications tax. He said he intended to run that bill

again.

Representative Hoffman asked if KACo will have one bill that will include all of their issues relating to occupational license taxes, or will they deal with each issue one at a time. Mr. Troth said they are working with KLC on what would be the best way.

Regarding the issue of reemployment, Representative Floyd asked who counties were competing with for retired peace officers. Mr. Troth said private entities. Mr. Arnold added that more than peace officer jobs were being competed with.

There being no further business, the meeting was adjourned at 12:05.

## **INTERIM JOINT COMMITTEE ON SENIORS, VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION**

**Minutes of the 6th Meeting  
of the 2008 Interim  
December 4, 2008**

The 6th meeting of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection was held on Thursday, December 4, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Carroll Gibson, Vernie McGaha, Dick Roeding, Dan Seum, Jack Westwood, and Ken Winters; Representatives Sheldon E. Baugh, Tom Burch, Dwight D. Butler, Mike Cherry, Larry Clark, Tim Couch, Ron Crimm, Bill Farmer, David Floyd, Jeff Greer, Tim Moore, Fred Nesler, Steve Riggs, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Charles Siler, Ancel Smith, and John Tilley.

Guests: Adjutant General Edward Tonini, Kentucky Department of Military Affairs, Carlos Pugh, Legislative Liaison, Joint Executive Council of Veterans' Organizations of Kentucky, Howard Howells, and Lori Grizzell; Les Beavers, Commissioner, Kentucky Department of Veterans' Affairs; George Burgess, Commissioner, Cabinet for Economic Development, Department for Existing Business Development, and Mark Needham, Assistant to the Governor.

LRC Staff: Erica Warren, CSA, Mustapha Jammeh, Andrew Coyle, and Rhonda Schierer.

Co-Chair Tori welcomed members and guests and asked members

to review the minutes from the November committee meeting for approval. The minutes were approved by a unanimous voice vote upon a motion and a second.

Co-Chair Tori called upon Adjutant General Edward Tonini, Kentucky Department of Military Affairs. Gen. Tonini gave a brief PowerPoint presentation on the Kentucky National Guard and Department of Military Affairs legislative issues for 2009. These issues included amending KRS and KAR as necessary to implement Military Family Assistance Trust Fund (MFAST) special circumstances grants and the extending of the application period following a deployment from 90 to 180 days. Gen. Tonini would like to use MFAST Special Circumstance Grants to allow expending funds to benefit multiple eligible military members or their families. Gen. Tonini gave two recent scenarios where such language would have helped. Gen. Tonini added that the fund presently has a cash balance of \$522,616.20 that could be used in part to provide a service to the military families if these changes were made. Gen. Tonini finished his power point presentation by discussing the Kentucky National Guards' veterans' nursing home eligibility. He stated that KRS 40.325 specifically states "to provide long-term care to veterans" who are residents of Kentucky and presently the federal definition of "veteran" requires some type of federal active duty. He suggested that language could be written to allow national guard retirees a bed in a veterans' nursing home even though it would require full cost payments. Gen. Tonini added that the Kentucky Department of Veterans' Affairs staff has been supportive of the idea. Gen. Les Beavers, the Commissioner of the KDVA, gave alternatives for how this may be done within the federal guidelines.

After much discussion among committee members, the committee agreed to have resolutions drafted for the 2009 Regular Session that supported the necessary changes to allow National Guard soldiers without federal active duty to be eligible for placement at a veterans' nursing home. Staff will work with the KDVA to draft a resolution.

Co-Chair Tori called on Carlos Pugh, Legislative Liaison, Joint Executive Council of Veterans' Organizations of Kentucky (JECVO). Mr. Pugh introduced JECVO members Howard Howells and Lori Grizzell and gave

a brief legislative report on JECVO. He stated that the JECVO Legislative Committee will be made up of 5 JECVO members including himself and Don Dixon, Jim Terrell, Howard Howells, and Frank Konnerman. He added that their items for discussion in the 2009 Regular Session will be to allow pull tab machines to be used at post and clubs 24/7 and not just when bingo is in session, the merit position hiring bill, fully funding KDVA, and funding the burial honors program.

Co-Chair Tori called on Commissioner Beavers to discuss legislative priorities of the KDVA. Before Gen. Beavers gave his PowerPoint presentation, he discussed the Kentucky Medal for Freedom and passed one around for committee members to see its detail. Gen. Beavers then proceeded to discuss the KDVA's 2009 legislative agenda. Agenda items for the KDVA include support for a veterans' hiring preference in state employment, a reduction in the number required meetings of the Governor's Advisory Board, and an option to furlough state merit personnel. Gen. Beavers then outlined the KDVA budget items for KY 09-10, including specifics for a 4% reduction proposal requested by the governor. He also went over details about state veterans' nursing homes, a 4th state veterans' nursing home in Greenup County, VA community-based outpatient clinics, and state veterans' cemeteries. Pam Cypert discussed the post 9/11 Chapter 33 GI Bill.

Co-Chair Pullin asked Gen. Beavers why the nursing homes do not bill private health insurance companies. Gen. Beavers stated that the private healthcare insurance could help with co-pays which are not plentiful, and that there are only a few patients with long-term care insurance for non VA-covered nursing home expenses.

Co-Chair Tori called on George Burgess, Commissioner, Department for Existing Business Development, Cabinet for Economic Development to discuss the economic importance of military activity in Kentucky. Each member was given a booklet of information published by the Kentucky Commission on Military Affairs. Mr. Burgess stated that the military spent about \$9.5 billion in Kentucky during 2006, the last year for which complete data is available. He stated that among organizations that could relocate outside of Kentucky, the military is the largest employ-

er. The military has the 2nd largest payroll among Kentucky industries and Kentucky is ranked 9th highest among the 50 states in number of active duty military. He also stated that on a per capita basis, the military spends more in Kentucky than in any bordering state except Virginia and Missouri. Mr. Burgess added that military expenditures have risen in Kentucky over the last decade by \$4.3 billion, and military retirement pay in Kentucky is over \$405 million annually. Fort Knox was given major new missions during the last BRAC round. He added that the whole region will feel the economic impact of Fort Knox's transformation, as labor, housing, and retail markets respond to the new residents and their dollars.

Co-Chair Pullin asked Mr. Burgess what the Cabinet for Economic Development is doing to keep the private businesses located at former Naval Ordinance Station in Louisville. Mr. Burgess stated that they are working with the Louisville Metro Chamber of Commerce and Brad Richardson at One Knox.

Rep. Clark expressed his concern for hiring out-of-state contractors instead of Kentucky based contractors at Fort Knox. Mark Needham, Special Assistant to Governor Beshear, responded to the concern and stated that they held two construction forums in Louisville and Elizabethtown but that some Kentucky contractors fail to bid due to being too busy with other contracts to meet deadlines.

The committee reviewed Administrative Regulation: 17 KAR3:020.

There being no further business, the meeting adjourned.

#### **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Minutes of the 4th Meeting of the 2008 Interim November 24, 2008**

The fourth meeting of the Interim Joint Committee on State Government was held on Monday, November 24, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Mike Cherry, 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 Julian Carroll, Ernie Harris, Alice Forgy Kerr, Johnny Ray Turner, and Ed Worley; Representatives Eddie Ballard, Sheldon Baugh, Kevin Bratcher, Dwight

Butler, Larry Clark, Tim Couch, Will Coursey, Tim Firkins, Joseph Fischer, Danny Ford, Derrick Graham, Mike Harmon, Jimmy Higdon, Charlie Hoffman, Jimmie Lee, Lonnie Napier, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Carl Rollins II, John Will Stacy, Tommy Thompson, John Tilley, John Vincent, Jim Wayne, Alecia Webb-Edgington, and Brent Yonts.

Guests: House Speaker Jody Richards; Jonathan Miller and Greg Haskamp, Finance and Administration Cabinet; Todd Hollenbach, Office of State Treasurer; Tad Thomas, Office of Attorney General; John Hicks, Office of State Budget Director; Joe Meyer, Education Cabinet; and Mary Elizabeth Harrod, Personnel Cabinet.

LRC Staff: Bill VanArsdall, Brad Gross, Alisha Miller, Karen Powell, Greg Woosley, and Peggy Sciantarelli.

The Committee gave special recognition to Representative Baugh and Representative Vincent, who will be retiring from the General Assembly at the end of 2008. The Co-Chairs also welcomed House Speaker Jody Richards, who was sitting in at the meeting. Representative Cherry also recognized absent members Representatives Rob Wilkey and Kathy Stein, who will not be returning to the House of Representatives in 2009.

Later in the meeting, the minutes of the October 22 meeting were approved without objection, and Representative Cherry recognized the State Government Committee's new acting committee staff administrator Bill VanArsdall.

Senator Thayer, Co-Chair of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, read the subcommittee report for the October 28 meeting of the Task Force. The report was approved without objection.

Next on the agenda was a report from the Personnel Cabinet regarding state employee turnover and retirements. Mary Elizabeth Harrod, Director of the Division of Employee Management, represented the Cabinet. Ms. Harrod said that the workforce currently totals 33,520, compared to 35,593 at this time last year. She went on to say that turnover is based on resignations, dismissals, transfers out, layoffs, and terminations. The current turnover rate is 6.2 percent. The turnover rate for both 2005 and 2006 was 9.8 percent; for 2007, it was 8.7 percent. In previous years, an



average of about 607 employees have transferred between agencies. Only 140 employees have transferred out in 2008, which indicates that not as many positions are being filled. There have been 1,979 [executive branch] state employee retirements, to date. When Representative Cherry said it appears that the number of retirements is fewer than anticipated with the approaching expiration of the benefit window in January 2009, Ms. Harrod said that is correct.

When Representative Yonts asked, Ms. Harrod confirmed that the total number of retirements might not be determined until as late as the last week of December. Representative Yonts said, as he recalls, original projections were that 5,300 to 5,500 would retire, and that 3,500 or 3,600 slots would be allowed to be filled. John Hicks, Acting State Budget Director, briefly came to the speaker's table and agreed with the figures quoted by Representative Yonts.

Representative Rollins asked whether there is any data regarding the number of employees scheduled to retire before 2009. Ms. Harrod said that the Cabinet does not have that information. She said that, although data is available about age and years of service, the Cabinet does not have information about purchases of service credit.

Representative Clark asked whether the Cabinet, in determining the turnover rate, tracks total years of service of employees who leave. Ms. Harrod said they do track that information but that she did not have those numbers with her. She said that the Cabinet reports a detailed analysis of employee turnover and retirement, by agency, to the Governor's Office, the Personnel Board, and LRC in January of each year. Representative Clark said that significant turnover at the entry level would entail greater hiring costs for the Commonwealth and also could reflect that entry salaries are too low. Ms. Harrod noted that past analysis indicates that most turnover occurs within the first two years of employment. Discussion concluded, and Representative Cherry thanked Ms. Harrod.

Next on the agenda was a report from the Kentucky Public Pension Working Group, which was created by executive order dated May 29, 2008. The first speaker was Finance and Administration Cabinet Secretary Jonathan Miller, Chair of the Working Group. Secretary Miller pro-

vided the following 4-page handout to the Committee: "Recommended Investment Actions"; and a November 20, 2008, press release from the Office of the Governor, "Gov. Beshear calls on pension systems to reform investment practices."

In his opening remarks, Secretary Miller said that the working group was charged with presenting policymakers with a series of options on how to pursue issues that were not fully resolved through House Bill 1, the bipartisan legislation relating to retirement that was enacted in the 2008 special session. He went on to say that there was clear consensus among the working group members that action needed to be taken immediately regarding the issue of pension fund investments. An independent consultant hired by the working group, Hammond Associates, found that if the two pensions systems—Kentucky Retirement Systems (KRS) and Kentucky Teachers' Retirement System (KTRS)—had met the average investment returns of their peers across the country, they would have had an extra \$5 billion profit over the past decade. He also noted that the reports of the Working Group's six subcommittees were based on data prior to the recent national and global financial crisis, which would lead to an assumption that any losses of the Systems would actually be more significant.

Secretary Miller said that there was a definite desire to get more investment experts on the boards of the two pensions systems. He said that the KRS board has two members who can be considered experts—Chris Tobe, a certified financial analyst in Louisville who was appointed by the Governor about six months ago, and Clay Owen, retired former treasurer of the University of Kentucky, who was appointed by the Governor a few days ago. There are no such investment experts on the KTRS Board.

Secretary Miller reviewed the following recommended investment actions listed in the handout. Recommendations (1) and (2) relate to the composition and member qualifications of the Systems' investment committees. Other recommended actions are: (3) Prohibit system employees from serving as voting members of the investment committees; (4) Members of the Systems' investment committees shall participate in continuing education, on an annual basis, consistent with their invest-

ment consultant's recommendations of best practices in the pension industry; (5) Both systems shall conduct an asset/liability modeling study to determine an asset mix that is broadly diversified among traditional and alternative asset classes immediately, and at least every five years hence, or more frequently if circumstances warrant such a study; (6) Both systems shall limit active or passive external manager concentrations to not more than 15 percent of the market value of the fund; and (7) Both systems shall conduct a formal review of their administrative regulations, using the "prudent man" standard, to remove all regulations that impair the ability of the Systems to implement efficient investment portfolios and take other appropriate actions, as necessary. Secretary Miller said that these recommended actions have the support of the Governor, the Chamber of Commerce, and employee groups. He went on to say that the leaders of the pension systems have indicated their general agreement, though they were not able to commit specifically before consulting with their boards. The KTRS Board is meeting on December 15, and the KRS Board may have a special meeting before the end of the year.

Senator Harris asked how much the Systems earned during the period in which it was estimated that their average investment return was \$5 billion less than that of their peers. Secretary Miller said that the Systems might argue with the \$5 billion figure; however, other groups that have looked at this issue found the Systems to be lagging behind other pension systems. He said he does not know how much was actually earned but that it can be found in the investment consultant's report, which is included in the full report of the Working Group. He noted that the report is available in print and can also be accessed on the Finance Cabinet web site.

State Treasurer Todd Hollenbach, Chair of the Investments Subcommittee, spoke. He said that the Investment Subcommittee's goal was to ensure that it came up with recommendations that the Governor could utilize in order to effect change. He explained that Hammond Associates identified several critical issues: Investments of both retirement systems have significantly underperformed; the governance structure responsible for investment oversight is inadequate; the investment portfolio

is not sufficiently diversified among asset classes; and the investment manager structure had concentrated positions with increased risk. He said that the recommendations which the Governor has put forward address all of those issues.

Mr. Hollenbach said that for the 10-year period ended June 30, 2008, manager returns for both Systems were generally above the median when compared to other public pensions funds similarly situated. However, asset allocation in both KRS and KTRS differed substantially from the median. He said that the recommendations have the goal of correcting that by ensuring that investment professionals are on board who can better guide the Systems.

Representative Owens suggested that it would be helpful to do another peer group comparison after the current financial crisis subsides. Secretary Miller said that has been a recommendation of the Systems, which feel that in this downturn they may have performed better than some of their peers due to the fact that investments in international stocks, which previously had been doing so well, have recently been performing poorer than the domestic stock market. He went on to say that other systems have focused more on diversification. KRS and KTRS recognize the importance of that and have started the process. Hopefully, the efforts of the Working Group will help accelerate that process. Mr. Hollenbach agreed that after the crisis is over, it might be worth doing a "post mortem" to compare performance with other funds.

Representative Wayne commended the efforts of the study group. He asked whether it is recommended that legislation be drafted to make asset managers subject to financial disclosure requirements. Secretary Miller said he would not be opposed to that and believes that the Administration would favorably receive that kind of legislation.

Representative Cherry said that he is working on retirement "clean-up" legislation for the 2009 regular session to address issues such as the definition of hazardous duty, whether the County Employees Retirement System (CERS) should pay employer contributions on returning employees, and whether to make returning employees eligible for the \$20,000 free life insurance. He said he is also working on separate legislation to codify some of the Working Group

recommendations in statute and that he would be glad to work with Representative Wayne to include financial disclosure provisions. He is also seriously considering sponsoring legislation to phase in to the full ARC (actuarially required contribution) over a 10-year period for the CERS. Representative Cherry said he would welcome input from interested parties.

Senator Thayer said he is pleased to hear that Representative Cherry is working on this legislation. He said he has heard many comments about reemployment issues. He went on to say that the five-year ARC for CERS was discussed in today's Local Government Committee meeting. The state Senate has been questioning the pension systems' investment returns and practices for almost two years. Bipartisan legislation passed in the 2008 regular session changed the composition of the KRS and KTRS Boards' investment committees. Senator Thayer expressed reservation about recommendations to change composition of the boards through administrative regulation but said there is agreement with the goal of the Working Group. He said the General Assembly will be working with the Administration toward that goal in the 2009 session.

Secretary Miller said that the Administration fully welcomes the dialogue. He pointed out that the Governor issued his recommendations relating to investments first because that issue was considered the most urgent. In coming weeks the Governor will announce his recommendations in other areas relating to pension reform, and the Administration will be working with stakeholders and members of the General Assembly to find right solutions. He added that the Administration shares the concerns about providing relief to cities and counties in a way that maintains long-term actuarial viability of the retirement system.

Representative Stacy asked about the recommendation relating to removal of administrative regulations that impair the ability of the Systems to implement efficient investment portfolios and take other necessary actions. Secretary Miller said that this recommendation was made by KTRS, which feels that some of their regulations have become antiquated. Treasurer Hollenbach added that, on the statutory level, KRS has expressed concern over the fact that some of the best money manage-

ment firms refuse to manage funds of public pension plans that are subject to overly burdensome open records laws. For that reason, the consultant said it might be warranted to review the Open Records Act for possible change as it pertains to investments.

Representative Riner asked whether the Administration would be willing to issue an executive order to require financial disclosure for asset managers if this is not accomplished through legislation. Secretary Miller said he does not know whether an executive order could be imposed on the independent pension systems.

Reports of the Working Group's remaining five subcommittees followed. Each report was preceded by introductory remarks from Secretary Miller. Tad Thomas, Assistant Deputy Attorney General in the Office of the Attorney General, reported on behalf of the Securities Litigation Subcommittee.

As stated in its report, the Subcommittee identified the following areas in which the retirement systems can improve their securities litigation policies and procedures: (A) Establishing and updating of official written policies; (B) Establishing a much lower minimum damages threshold for consideration of active participation in securities fraud litigation; (C) Establishing procedures for evaluating cases to pursue as an active litigant; (D) Establishing procedures for retaining litigation counsel; (E) Coordination of securities litigation plans; and (F) Role of the Attorney General.

Mr. Thomas said that the Subcommittee was charged with reviewing the securities litigation policies of KRS and KTRS, including whether the Systems were either "leaving money on the table" or actively pursuing securities litigation in an appropriate fashion. In addition, they reviewed the Attorney General's role in securities litigation. The most important finding was that it does not appear that the Systems are "leaving money on the table." He went on to explain that, to date, the approach to securities litigation has been passive—although not inappropriate. That means that someone else is filing the class action or leading the litigation and that the retirement systems are filing proofs of claims after litigation is completed. To take an active role would be to pursue lead counsel status or to opt out of a class action.

The 1998 passage of the Public Securities Litigation Reform Act by the U. S. Congress changed the landscape in securities litigation. Prior to 1998, the lead plaintiff was the first person to file; after 1998, the lead plaintiff was always the plaintiff who had the highest amount of damages or losses. Thus, plaintiffs in securities class actions mostly are pension systems. Even if KRS or KTRS desired to be lead plaintiff, they would in most cases lose out to larger pension systems like California and New York, which are very active in litigation.

Mr. Thomas said that even before the Subcommittee started its work, the Systems had already taken action to improve their policies and procedures. Most significantly, KRS and KTRS have hired an evaluation counsel, Keith Johnson, whose job is to evaluate potential securities litigation and assist the funds and their boards in deciding whether to take an active or passive role in litigation. He said that the Subcommittee recommends that both Systems should establish or update official written policies. KTRS did not have written policies and procedures regarding securities litigation; however, KRS did. Both systems are already working with Mr. Johnson to implement this recommendation.

Mr. Thomas explained that KRS's largest loss was \$35 million, which is significantly below its current minimum threshold of \$75 million. KTRS does not have a minimum threshold. Some retirement systems do not have a minimum threshold, but the vast majority do, ranging from \$2 million to \$25 million. He said that there is a cost involved in even evaluating whether to actively participate in a case and that the retirement systems should base their minimum thresholds on how active and aggressive they want to be with respect to litigation. It is recommended that KRS significantly lower the \$75 million threshold and that KTRS establish a threshold. Both systems are working on this with Mr. Johnson.

Mr. Thomas noted that Mr. Johnson, as evaluation counsel, is an independent adviser and would be excluded from representing the retirement systems in any litigation he recommends. He said the Subcommittee recommends that the Systems pre-approve litigation counsel so that counsel will be available on short notice to get a case filed. This would also enable the Systems to set up ethical boundaries for litigation

counsel.

Mr. Thomas said it is recommended that the Systems coordinate their securities litigation plans to the extent possible. By hiring Mr. Johnson, they will be able to share information and also possibly share litigation counsel and use the same pre-approved board. In some instances, they might be able to combine their losses in order to seek lead plaintiff status.

Mr. Thomas said that the statutes governing both Systems include language that the Attorney General can serve as a legal adviser to both Boards. He noted that KRS and the Office of the Attorney General have recently worked together in a case that resulted in victory before the U. S. Supreme Court. The Subcommittee felt, however, that the AG's role could be strengthened. There were no further questions for Mr. Thomas.

Joe Meyer, Deputy Secretary in the Education Cabinet, reported on recommendations of the CERS Reorganization Subcommittee, which he Co-Chaired with State Auditor Crit Luallen. Mr. Meyer said that the purpose of the Subcommittee was to study the potential transfer of classified school board employees from CERS to either KTRS or KERS (Kentucky Employees Retirement System); whether to leave them in CERS and rate them separately from city/county employees; or whether to move local government employees to a new retirement system known as LGERS (Local Government Employees Retirement System). He explained that the core issue was whether non-school board members subsidize school board members in CERS; if so, what subsidy exists and how to deal with the actuarial and operational consequences; and whether there is a counter-balancing subsidy through the provision of health care benefits to local government "unescorted" retirees whose employers do not participate in the Kentucky Employees Health Plan (KEHP).

Mr. Meyer discussed the following key findings stated in the Subcommittee report. When rated separately, non-school board employees receive a small subsidy from school board employers on pension contributions, but school boards receive a larger subsidy from nonschool board employers on health insurance contributions. KRS actuarial consultants found that non-school board employers subsidize school board employers in an amount ranging from \$32.6



million to \$43.8 million, depending on the assumptions used. According to PricewaterhouseCoopers (PwC), local government employers who do not participate in KEHP benefit from a \$37.2 million subsidy for their “unescorted” retirees. If the groups in CERS were divided, over time school boards would pay approximately three percent more than the current employer rate; non-school boards would pay approximately five percent less than the current employer rate.

Mr. Meyer said that the Subcommittee considered the following options: leave the system as is; leave school board employees and local government employees in CERS but rate each group separately; move the school board employees to KTRS and leave local government employees in CERS; move school board employees to KERS and leave local government employees in CERS; leave school board employees in CERS and move city/county employees to a newly established Local Government Employees Retirement System; or, lastly, split the school board employees from the local government employees on a prospective—future hire—basis only and have a different employer contribution rate for each. He said this last option is currently undergoing actuarial analysis.

Mr. Meyer explained that the major barrier to the split is the fact that school board employees could not be placed in either KTRS or KERS because they have different benefit structures. He went on to explain that if school board employees are moved, it would require the establishment of a separate subgroup. To split assets would present a significant challenge, involving major fiduciary responsibilities, and timing and tax issues. If CERS school board employees were moved to KTRS, there would be issues of management capability of KTRS. School board employees comprise approximately 55 percent of CERS membership. KRS estimated that to break out the school board employees into a separate subgroup would cost approximately \$5 million over a five-year time frame. KTRS estimated that the impact on its budget would involve startup costs of \$2.1 million and approximately \$3.4 million per year in additional management costs because of the large number of additional employees. Such a change would significantly increase the financial responsibilities of school boards at a time when they

have limited resources. The Subcommittee recommended that, if such a change is made, it be done in the first year of the biennial budget, when the burden for the local school districts could be discussed within the concept of the overall budget deliberation.

Mr. Meyer said that two issues are still open—the prospective split of city/county employees from school board employees, and valuation of the “unescorted” retiree subsidy. He went on to say that, at the Personnel Cabinet’s request, PwC updated previous studies of the “unescorted” retiree issue. Because questions have been raised regarding some of the numbers and assumptions, the Working Group is continuing to revisit the validity of the PwC study in order to fully understand the nature of the study in favor of the local government employers for the health care benefit.

Representative Clark asked whether it would be possible for the Subcommittee to provide the State Government Committee Co-Chairs with a summary of the six options, prioritized according to financial impact and potential barriers. He said this would make it easier for the members to understand the issues involved. Mr. Meyer agreed to do so.

Next on the agenda, John Hicks, Acting State Budget Director, reported for the State Funding Subcommittee. Mr. Hicks said much of their work was colored by House Bill 1. He said the Subcommittee focused on improvements in process and other changes that might be necessary to implement the legislation in the most diligent manner possible, as well other issues, particularly with respect to KTRS.

Mr. Hicks gave an overview of the policy options proposed for KRS, which were stated as follows in the Subcommittee’s report. (1) Projected amounts of additional funding needed to adhere to the targeted funding requirements in HB 1 should be publicized as early as they are available. (2) KRS should conduct a full experience study prior to the actuarial valuation as of June 30, 2009, upon which the ARC will be based for the FY 2010-2012 biennial budget. (3) The actuarial valuation, currently required to be conducted annually, should be conducted every two years to coincide with the biennial budget process.

Mr. Hicks discussed the following policy options proposed for KTRS.

(1) Measures should be taken to both address the accumulated costs of health care that have been paid by the pension fund, and address the ongoing increasing costs of providing health care benefits to retirees. The Budget of the Commonwealth should provide adequate funding to eventually eliminate the practice of diverting pension funds to pay for health care expenses. (Mr. Hicks noted that, through FY 2010, it is estimated that \$540 million has been borrowed from the KTRS pension fund—at 7.5 percent over 10 years—to fund health care benefits.) (2) As a component of a comprehensive funding plan, the Commonwealth should consider issuing bonds to pay off all, or a portion, of the accumulated costs of the health care benefits over the last three biennial budgets, which can be a more cost-efficient method to pay for these obligations than the current budgeting practice. However, bonds should only be issued if market conditions are favorable, resulting in: (a) the borrowing costs being less than the current budgeted interest costs assumed at the actuarial rate of return of 7.5 percent; and (b) the investment return on the proceeds of the bonds can reasonably be expected to exceed the cost of the borrowing over the life of the borrowing. (3) If bonding is utilized to pay a portion of the unfunded liability, an independent investment advisory committee should be established to assist KTRS with investment allocation and cash management issues.

Mr. Hicks discussed policy options proposed for both KRS and KTRS: (1) The Commonwealth should employ an actuary to review the assumptions used by the actuaries in the biennial valuation process and advise as to their reasonableness. (2) Both KRS and KTRS should implement an independent actuarial audit every four years to review the actuarial assumptions and performance of the firms employed by the systems. (3) Measures should be taken to address the ongoing increasing costs of providing health care benefits to retirees.

Senator Carroll asked how much the \$540 million borrowed from the KTRS pension fund is projected to cost by the time it is repaid. Mr. Hicks said that \$42 million is allocated from the General Fund for that purpose in the current budget for KTRS. Next year the cost is expected to increase to \$60 million and will continue to grow at a rapid pace. He

said that four years ago the cost was budgeted at \$13 million.

Representative Thompson asked whether, in looking at pension obligation bonds as an alternative to retiring the loan from the KTRS pension fund, it was found that the interest rate would generally be lower and that there might be some savings in debt service. Mr. Hicks said that the opportunity of lowering the interest rate was seen as the most positive potential element of pension obligation bonds. Associated with that, though, would be the other risks of a pension obligation bond—i.e., achieving returns greater than the cost of borrowing and achieving returns greater than the expected rate of return that the pension system relies upon. There were no further questions.

Greg Haskamp, special assistant to Secretary Jonathan Miller, reported for the Defined Contribution Plan Subcommittee. Mr. Haskamp said that the central question evaluated by the Subcommittee was whether or not transitioning some or all of Kentucky’s employees to a defined contribution type plan would reduce or eliminate some of the accrued unfunded liability. He said that in conducting the study, the Subcommittee undertook three case studies; heard testimony from three nonpartisan national experts on public pension plans; interviewed four current and former public pension plan administrators from outside the Commonwealth, including two of the strongest defined contribution plans in the country; engaged two economists and two actuaries with extensive experience in both public and private plans; took testimony from Kentucky’s existing defined contribution plan administrators with the Kentucky Public Employees Deferred Compensation Authority; and heard the story of an individual who had participated in a tried-but-failed defined contribution plan in West Virginia.

Mr. Haskamp went on to explain that the Subcommittee found that Kentucky is one of 48 states that offer a defined benefit plan as the primary vehicle for retirement. Within defined benefit plans there are certain inherent economic efficiencies, dealing primarily with the economies of scale. Defined benefit plans are able to tolerate risk a lot better than individuals are when the market sours, and the individual retirement recipient does not have the total risk

of an investment on his shoulders. A defined contribution plan of any design will not reduce or eliminate any part of the already accrued unfunded liability that the Systems face, which totals \$26 billion for pension and health care benefits combined. Approximately 23 percent of employees participate in the Deferred Compensation defined contribution plan. While maintaining the voluntary aspects of that plan, the Subcommittee expressed hope that some strategies could be developed on the employer's side to entice greater participation in that plan.

Representative Graham asked about the two states that have defined contribution plans. Mr. Haskamp said they are Alaska and Michigan. He said that Alaska changed to a defined contribution plan within the last 10-15 years but potentially plans to revert back to a defined benefit plan. Michigan's plan has been in effect longer than Alaska's. He went on to say that Nebraska started offering a defined contribution plan in 1965 but later reverted to defined benefit through a cash balance plan. Representative Graham said it would be helpful to know how the recent stock market downturn has impacted the investment rate of return for Alaska's and Michigan's plans, compared to the impact on plans in defined benefit states. Mr. Haskamp said that they could research that for Representative Graham.

Senator Thayer asked about the states that have hybrid plans. He also inquired about West Virginia. Mr. Haskamp said that the Subcommittee studied two states—Florida and Oregon—of the several that offer optional hybrid plans, which allow an employee to choose whether to participate in a defined contribution plan. He said that West Virginia had transitioned its teachers' retirement to a defined contribution plan but ultimately reverted back to a defined benefit plan.

Representative Cherry asked whether Kentucky would be considered a hybrid state because of the 401k type plan offered through the Deferred Compensation Authority. Mr. Haskamp said that most studies would not include Kentucky as a hybrid. Secretary Miller noted, too, that there is no employer contribution to deferred compensation accounts.

Mr. Haskamp also reported for the Health Care Subcommittee. He reviewed background information in the Subcommittee report relating to

the rise in healthcare costs and efforts that have exclusively focused on the task of managing healthcare costs for employees of the Commonwealth. He noted that Kentucky is one of just 13 states with any assets set aside for non-pension benefits, according to a study by PEW Charitable Trusts which said that Kentucky had \$929 million set aside (as of 2006). As stated in the Summary, Mr. Haskamp noted the following key factors identified by the Subcommittee for the Commonwealth to consider in its efforts to maintain healthcare costs: (1) A large portion of the Commonwealth's healthcare costs for employees could be substantially reduced through effective disease management and wellness efforts. (2) A number of states (e.g., Alabama), public pension plans, and other employers have utilized Medicare Advantage plans to substantially lower the plan costs they face, without lowering benefits to employees. These programs are sustainable for the foreseeable future and assist in lowering GASB (Governmental Accounting Standards Board) liabilities. (3) Nine plans have implemented employer group waiver plans to lower costs, and testimony indicated that many of these plans were relatively small. (4) Other states, like West Virginia, have also sought innovative solutions to deal with skyrocketing healthcare costs through the creation of trusts for favorable GASB treatment of liabilities. (5) A key strategy among states and large employers is to maximize economies of scale by utilizing group purchasing plans for pharmaceuticals.

Senator Carroll asked whether other cost-control options had been identified that could be implemented immediately. Mr. Haskamp said the key factors he enumerated were the primary options considered by the Subcommittee but that a number of smaller recommendations are also found in the report. Secretary Miller said the Governor will be issuing a new set of recommendations before the end of the year. It will include a package of "big picture" healthcare reforms, many of them relating to cooperation with the pension systems regarding purchasing power for prescription drugs and a fully engaged wellness program.

Representative Fischer asked whether the \$929 million that Kentucky had set aside is net of the \$540 million borrowed from the KTRS pension fund. Mr. Haskamp said that the

PEW study did not include that information. Secretary Miller said he assumes that it does not include that money but that he will get that data for Representative Fischer.

Representative Thompson asked whether there is recent data available pertaining to the asset size of both the KRS and KTRS plans and the extent of the unfunded liability. Secretary Miller said that they do not have those numbers but that the Working Group has asked the Systems—and the Systems have agreed—to present the latest numbers to the 2009 General Assembly.

Representative Cherry thanked the speakers, and business concluded. The meeting was adjourned at 2:50 p.m.

**INTERIM JOINT COMMITTEE  
ON STATE GOVERNMENT  
Task Force on Elections,  
Constitutional Amendments, and  
Intergovernmental Affairs  
Minutes of the 3rd Meeting  
Of the 2008 Interim  
November 25, 2008**

The 3rd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, November 25, 2008, 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 Carroll Gibson, Ernie Harris, Alice Foggy Kerr, and Johnny Ray Turner; Representatives Kevin D. Bratcher, Larry Clark, Tim Firkins, Joseph M. Fischer, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, and John Will Stacy.

Guests: Trey Grayson, Secretary of State; Sarah Ball Johnson, State Board of Elections; Roger Barrett, Harp Enterprises.

LRC Staff: Judy Fritz, Bill VanArsdall, and Terisa Roland.

Senator Thayer asked for approval of the October 28, 2008 minutes, and they were approved.

Secretary of State Trey Grayson, and Sarah Ball Johnson, State Board of Elections, gave an update on the General Election.

Secretary Grayson said a voter registration record was set with almost 2.9 million registered voters in Kentucky. He said there were a few issues at sites; but nothing like in other states. There was some dupli-

cation of new cards.

Secretary Grayson said the State Board of Elections conducted 15 hours of training with the county clerks since the May Primary. There were 14,800 poll workers throughout Kentucky on Election Day. There were 30 new clerks this year running their first Presidential General Election and three new clerks running their first election.

Secretary Grayson said Kentucky set a record number of absentee voting ballots – 116,000 in the General Election, and 75,000 were in person. Just before the election, a social security master index was purchased which included 80 million names of those that had died. There were about 28,000 names of deceased registered voters in Kentucky found on the list. Most of them that had died were no longer living in Kentucky.

Secretary Grayson said on Election Day the lines were the longest in the morning. He said the calls to the State Board of Elections were typical for Election Day and there were very few voting machine issues. A record was set with the total number of Kentucky voters being approximately 1,825,000.

Secretary Grayson said the major issues were in Kenton and Hardin Counties which were found to be programming errors. He stated it was only the third error since using Harper Enterprises and that they had apologized for the error.

Secretary Grayson also said there will be more attempts to federalize elections. Some of the issues will be early voting, mandated voter-verified paper ballots at the federal level, and voter registration issues. He said Congress will look at military and overseas voters getting ballots to and from overseas.

Sarah Ball Johnson, State Board of Elections, gave some statistics on military voting. She said the Board of Elections has created a web page as of July 1, 2008 for overseas citizens to use. There have been 1,900 visits to the site. The board is very pleased with the progress and will reevaluate the site looking for ways Kentucky can help overseas voters. There were 314 e-mail votes.

Ms. Johnson also discussed housekeeping legislation to cleanup and strengthen the future elections.

James Lewis, Leslie County Clerk was welcomed to the meeting.

Representative Marzian questioned the two races in Hardin County and asked if they had actual paper



ballots?

Secretary Grayson said after a December hearing they will know the outcome of the race, and that there is a way to compare the number of images from the two machines though there are no paper ballots. He said that the machines had not been checked out prior to the election. However, Secretary Grayson stated he trusts the electronic machines Kentucky has used for almost 20 years.

Representative Stacy asked about the machines in Hardin County.

Secretary Grayson explained the voting machine. There was discussion on bringing the different types of voting machines for the committee to view.

Roger Baird, President of Harp Enterprises, said he takes care of the voting systems in 96 counties in Kentucky and stated he has worked in this process for 25 years. Mr. Baird discussed the images on the voting machines that are in question.

Representative Fischer asked about the statue that was violated by poll workers pre-scanning the votes. There was discussion on KRS 117.205, the statue that deals with machine malfunction and the integrity of the ballots.

Representative Harmon made the statement that every vote does count and feels the situation in Hardin County has been taken care of.

Representative Owens asked if rules would be in place to make sure the malfunction would not occur again.

Representative Stacy asked if it was illegal to stand around the polls during Election Day after a person had voted.

Ms. Johnson said there is a statute that establish who is allowed in the polling room on Election Day.

Representative Stacy also asked if a person's bar code is scanned to determine when a voter had voted during the day. Secretary Grayson said the scanner does not indicate the voters in any particular order.

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

A tape of this meeting can be found in the Legislative Research Commission library.

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

### **Minutes**

**November 18, 2008**

The Capital Projects and Bond Oversight Committee met on Tuesday, November 18, 2008, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Mike Denham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Mike Denham, Co-Chair; Senators Jerry Rhoads and Dan Seum; and Representatives Robert Damron, Steven Rudy, and Jim Wayne.

Guests testifying before the Committee: Jeff Mosley, Finance Cabinet; Dr. Gary Ransdell and John Osborne, Western Kentucky University; John Hicks, Governor's Office for Policy and Management; Tom Howard and Brett Antle, Office of Financial Management; Bob Wiseman, University of Kentucky; Paul Kaplan and Nancy Brownlee, Finance and Administration Cabinet; Sandy Williams and John Covington, Kentucky Infrastructure Authority; Grey Giles, Catholic Healthcare Initiatives; Tom Strohmeier, Morgan Keegan; Chauncey Lever, Foley and Lardner; and Carl Herde, Baptist Healthcare System.

LRC Staff: Nancy Osborne, Shawn Bowen, Kristi Culpepper, Don Mullis, and Samantha Gange.

Representative Denham asked Nancy Osborne, Committee Staff Administrator, to review correspondence and information items.

Ms. Osborne said the first item of correspondence was an annual report from the Division of Real Properties regarding Energy Efficiency in Leased-in Facilities for Fiscal Year 2007. She noted that HB 2 passed in the 2008 General Assembly calls for new standards for high performance buildings for both state-owned and leased facilities.

The next item of correspondence was the annual report from the Auditor of Public Accounts on Lease Law Compliance for Fiscal Years 2006 and 2007. The report recommendations track back to the recommendations made to the Committee in May 2008 after the Auditor's Office reviewed the emergency leasing process related to an award of an emergency lease (PR-4725) for the Department of Corrections in Campbell County.

Ms. Osborne then briefly reviewed various items in the monthly Staff Update, including Western

Kentucky University's involvement in the new Gateway to Downtown Bowling Green Signature Tax Increment Financing (TIF) project; and the University of Louisville's plan to implement a mandatory meal plan for all full-time undergraduate students. Also discussed was an article about Northern Kentucky University receiving consent from the Great Lakes Valley Conference to sell alcohol in the new Bank of Kentucky Center. The last item in the Staff Update noted the University of Kentucky's hiring of a firm to modernize the master plan for the Coldstream Research Campus.

Ms. Osborne next discussed items of old business. At the last meeting Committee members asked for an accounting of the expenditure of the \$75 million state grant that was used for the Louisville Arena Authority (LAA) project. The LAA reported that about \$450,000 was spent for feasibility studies, \$73.9 million was spent for design and construction expenses, and another \$996,000 was spent on administrative expenses. The second item of old business concerned a question that came up at the October meeting regarding how the rating agencies looked at the (TIF). It was noted that for the Arena transaction that the TIF revenue standing alone would not have received investment grade ratings.

Mr. Jeff Mosley, General Counsel for the Finance and Administration Cabinet, was asked to apprise the Committee of any litigation related to the Arena. Mr. Mosley reported that there is one lawsuit currently pending in Franklin Circuit Court where the LAA and the Finance Cabinet are both parties. The lawsuit involves an appeal from the determination made by the Finance Cabinet denying a protest by RAM Engineering and Construction Company, a subcontractor that was not successful in its bid. The issue pertains to the Construction Manager-at-risk (CM-at-risk) project delivery method in general as set forth in KRS Chapter 45A and whether the subcontracts procured by the CM-at-risk must be competitively bid. The Finance Cabinet determined relative to the Administrative protest that the subcontracts do not have to be bid competitively and that the selection of the CM-at-risk was proper. Mr. Mosley indicated that because the lawsuit is active litigation, he could not go into the details.

Representative Wayne asked if there was any statute that needed clarification. Mr. Mosley indicated that the Finance Cabinet believes that the statutes are clear and no revision is necessary. Representative Wayne asked if statutes require that a subcontractor follow the procurement code in regards to prevailing wage. Mr. Mosley indicated that this was a question he could not answer at this time without additional research. Rep. Wayne asked if the Finance Cabinet could clarify the issue by letter. Mr. Mosley said he would.

Representative Denham indicated that the Committee had a quorum and asked the secretary to take the roll.

Representative Rudy made a motion to approve the minutes of the October 21, 2008, meeting. The motion was seconded by Senator Seum and approved by voice vote.

Representative Denham introduced Dr. Gary Ransdell, President, Western Kentucky University (WKU) and Mr. John Osborne, Vice-President for Facilities Management, WKU, to discuss three items of new business.

Mr. Osborne requested approval for a \$1.7 million project to construct a chapel and columbarium on the main campus of WKU. The fund source is private cash donations through the WKU foundation. The project was approved by the WKU Board of Regents and the Council on Postsecondary Education. The project will be an improvement on state property that will be owned by the university. Additionally, the project will be managed by the university and state prevailing wage laws will apply.

Representative Wayne asked if an endowment had been set up to maintain the columbarium long-term. Dr. Ransdell said that the money used to purchase an individual niche, \$2,500, will go into an account. The account will pay for all costs, including maintenance of the facility.

Senator Rhoads made a motion to approve the WKU project to construct a chapel and columbarium at a scope of \$1.7 million. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Mr. Osborne reported a \$120,000 restricted funds scope increase for the WKU L.T. Smith Football Stadium Turf Replacement project. He said that in the earlier bidding process it

became apparent that the project costs were underestimated.

Representative Denham asked Mr. Osborne to elaborate on the type of turf being replaced. Mr. Osborne said at the present time WKU has a synthetic turf with underlying drainage systems. Most all of the turf would be replaced with a new advanced turf that would be placed on the existing field.

Senator Rhoads made a motion to approve the turf replacement project scope increase of \$120,000. The motion was seconded by Senator Seum and passed unanimously by roll call vote.

Representative Denham asked Brett Antle, Deputy Director, Office of Financial Management, to come to the table. Mr. Antle discussed a new bond issue for Western Kentucky University, General Receipts Bonds, 2008 Series A. The bond is estimated to be \$46.9 million. Projects covered under this transaction are: Renovate Van Meter Hall, Renovate Science Campus Phase III, Expand Preston Center Phase II construction, Renovate Ivan Wilson Center Phase I, Replace Ford College of Business – Grise Hall, and Acquire Property and Construct Parking Lots. These six projects authorized were under HB 406 of the General Assembly during the 2008 Session with a total budget of \$58.5 million.

Dr. Ransdell said it is pertinent that bonds are being sold at a value lower than authorized in the budget. He noted that WKU would seek state funding in the next budget cycle for the construction of the College of Business building. He said the university plans to use a small portion of the agency bond issue of \$5.8 million to allow the architect to select a site and for preliminary schematics.

Representative Wayne asked if any of these projects would be included in Bowling Green's (TIF) plan. Dr. Ransdell indicated that Van Meter Hall is located within the boundaries of the TIF, but there is no correlation. WKU has three sites under consideration for the College of Business building that could be funded with a state bond at a future point with General Assembly authorization. Two of the sites under review fall under the signature TIF, but it is unclear if any TIF revenues would come from the state project. The incremental growth of salaries paid to state employees in such a building is projected to accrue to the income tax revenue funding of the TIF.

Representative Wayne commented that the area of the TIF in Bowling Green has increased from 106 acres to almost 400 acres and includes part of the territory WKU is looking at for development. Dr. Ransdell said that there are other elements in the TIF that are yet to be determined. For example, there has been preliminary discussion between the medical center in Bowling Green and the Warren County Fiscal Court relative to a future medical center building to be developed under the TIF and owned by Warren County Fiscal Court. He said WKU may be interested in leasing this building for the College of Nursing. Another university variable in the TIF would be WKU fraternity and sorority houses. Dr. Ransdell said that the WKU College of Business site is the only TIF element that would involve state bonds.

Representative Wayne commented that there are a lot of unknowns at this point with respect to the TIF. Dr. Ransdell said that a primary objective of the TIF is to bring downtown Bowling Green and the WKU campus closer together for economic development and quality of life.

In response to a question from Representative Damron, Dr. Ransdell said that the 2008-2010 budget authorized \$5.8 million (agency bonds) for design of the new Ford College of Business – Grise Hall building.

Representative Damron asked about selling a 20-year bond during an unstable market and whether WKU considered issuing bond anticipation notes. Dr. Ransdell responded that WKU's Board of Regents has given the chief financial officer and the treasurer discretion regarding the bond structure.

Representative Damron commented that the bonds sell quickly if the yield is high and his concern is that the state is issuing long-term paper at an artificially unstable time in the market. Tom Howard, Executive Director, Office of Financial Management, responded that in discussions with rating agencies regarding bond anticipation notes, there has been some concern in future market access should disruptions come back. He said part of the strategy with Morgan Keegan is to be prepared and to go to the market place with an official statement and, if market conditions are favorable, sell the bonds. If the market conditions are unfavorable, Morgan Keegan would pull the trans-

action or advance refund the bonds. Additionally, Morgan Keegan verifies that the financing is available before moving forward with the project.

Representative Damron asked if Morgan Keegan was looking at a strategy of using bond anticipation notes as opposed to 20-year paper. Mr. Howard said that Morgan Keegan has looked at that option, but in conversations with rating agencies, there is some concern over the amount of bonds that might be in the marketplace.

Senator Seum made a motion to approve WKU General Receipts Bonds, 2008 Series A. The motion was seconded by Senator Rhoads and passed unanimously by roll call vote.

Representative Denham recognized Bob Wiseman, Vice President for Facilities Management, University of Kentucky (UK). Mr. Wiseman asked the Committee for its approval to combine project authorizations to renovate lab space in the Thomas Hunt Morgan Biological Sciences Building. The existing \$2.5 million in authority authorized in 2008 HB 406 will be consolidated with \$700,000 from a separate authority in 2008 HB 408 to upgrade and renovate research labs. The revised project scope would be \$3,200,000. This project was approved by UK's Board of Trustees at its October 14, 2008 meeting.

Representative Damron made a motion to approve the consolidation request. The motion was seconded by Senator Seum and passed unanimously by roll call vote.

Mr. Wiseman next reported it has used available restricted funds from the UK HealthCare Enterprise totaling \$6,936,239 to purchase five items of medical equipment. No further action from the Committee was required for this report.

Representative Denham called on John Hicks, Deputy Budget Director, Governor's Office for Policy and Management, and Paul Kaplan, Acting Commissioner, Department for Facilities and Support Services, Finance and Administration Cabinet, to present the Finance Cabinet's monthly project report.

Mr. Hicks reported the allocation of \$1,108,900 from the Finance and Administration Cabinet's Acquire Land/Demolish Buildings statewide pool. The funds were used to purchase 34 acres for the Department of Military Affairs (DMA) to construct a National Guard Northern Kentucky Readiness Center in Burlington, KY.

Representative Denham asked why the purchase price was less than the appraised value. Nancy Brownlee, Director of the Division of Real Properties, joined Mr. Hicks at the table. Ms. Brownlee said that by statute, the purchase amount cannot be more than the appraisal amount, and that typically the state offers a purchase price below the appraisal amount and negotiates up to the appraisal amount.

Representative Denham asked where the property was located in Boone County. Ms. Brownlee said that the site backs up to the industrial park in Boone County and is near three large roadways.

Representative Denham noted that the state is spending \$8.7 million to purchase the land and the federal government is expected to spend \$19 million to construct the project. He asked if these figures were correct. Ms. Brownlee responded that the amounts were correct and added that if the state acquires property with federal funds, the appraised amount would be the purchase price.

Representative Denham asked what the balance was in the State-wide Deferred Maintenance Pool and have any other allocations for land acquisition projects been identified in the pool. Mr. Hicks said that he did not know of any current acquisition efforts and that the balance in the pool was about \$1.9 million.

Representative Wayne noted that DMA currently leases space from the Kenton County School District in Independence to support an armory. He asked what plan was in place for the current lease, which expires in 2014. Ms. Brownlee said that getting the construction bid together for the new armory would take time and, if necessary, the lease on the middle school armory could be extended until the new armory was finished.

Allocations over \$600,000 funded from authorized capital project pools are to be reported to the Committee. No further action was required.

Representative Denham thanked Mr. Hicks and Mr. Kaplan. He then asked Ms. Brownlee to report three lease reports from the Division of Real Properties.

Ms. Brownlee reported lease modifications for two properties in Franklin County. The first item reported was a lease modification for PR-3761, Council on Postsecondary Education. The agency requested im-



provements at the leased space are for installation of ADA compliant automatic door opening equipment at the point of entry for the Adult Education program. The cost of the improvements, \$1,546, will be amortized over the remaining lease term (June 30, 2012).

The second item reported was a lease modification for PR-4723, Energy and Environment Cabinet (EEC). The Division of Waste Management has requested electrical improvements to its leased facility to accommodate a recently acquired new dust collection system. The cost of the improvements, \$3,209, will be amortized over the remaining lease term (June 30, 2010).

The last item reported was a quarterly report of leased square footage modifications for six state agencies. The six modifications resulted in a total net increase of 192.5 square feet and net increase of \$12,859.44 annually in leasing costs.

Representative Denham thanked Ms. Brownlee and called on John Covington, Executive Director of Kentucky Infrastructure Authority (KIA), and Sandy Williams, Fiscal Analyst, KIA.

Ms. Williams first discussed a KIA Fund A loan for the City of Williamstown, Grant County. She indicated that earlier in the year, the KIA Board approved a \$17,848,000 Fund A loan to build a new two million gallons per day wastewater treatment plant and construct sewer lines connecting the old and new treatment plants. The new plant is needed to meet the upcoming federal Environmental Protection Agency (EPA) requirements. She said summary information on this project was submitted to the Committee at its June meeting. At that time, the proposed loan was not approved due to a lack of a motion. The Committee deferred a vote on the project in order to allow KIA staff to gather additional information regarding the public notification process surrounding the substantial customer rate increase required to meet the debt service requirements of the loan.

Ms. Williams said that at the request of the KIA staff, and prior to the KIA Board meeting, the Williamstown City Council met on April 21, 2008, to discuss the impact of the rate increase. The council approved the project with the rate increase and instructed the mayor to request KIA funding for the new plant. On July 7, 2008, the Williamstown City

Council had its first reading of the ordinance to pass the rate increase. On July 15, 2008, the Williamstown City Council unanimously voted to pass the rate increase.

Mr. Covington addressed the previous concerns of the Committee that the Williamstown community had been apprised of the rate increase. He reiterated that the city council has had two regular scheduled meetings to pass the rate increase and a special meeting to gather additional input. He said that KIA was concerned that the project was not approved because the Williamstown project was on the State Revolving Fund (SRF) priority list and the project has an environmental impact. He said the project will have to be completed to comply with EPA requirements.

Senator Seum asked how the Williamstown City Council notified citizens that the rates were going to increase. Mr. Covington responded that the meeting was advertised in the newspaper. Senator Seum asked if the city was under a federal mandate for a new wastewater treatment plant. Ms. Williams said that the city was hoping to avoid the federal mandate and was trying to be pro-active and meet the upcoming requirements.

Senator Seum said that his original objection to the project was the major rate increases. He asked KIA to confirm that the citizenship were in fact aware of the rate increases.

Representative Wayne asked what was the median debt per customer in the state for wastewater treatment. Mr. Covington responded that he did not know. Representative Wayne asked how the debt per customer is incurred compared to other systems of the state. Mr. Covington said that other cities have had similar situations where the treatment plants are dated and need to be replaced. He said that the Williamstown project is not a unique situation with significant rate increases. As aging infrastructure is replaced, additional customers are not added and the only way to pay for new infrastructure is to pass the costs to the existing citizenry.

Representative Wayne said he understood that the KIA Board did not receive the June letter that the Committee sent to the Finance Secretary explaining the rejection of the project. Representative Wayne asked that any future correspondence with the Finance Secretary on KIA proj-

ects be shared with the KIA Board. Mr. Covington said that in future instances the KIA Board will be notified.

Representative Denham clarified that Mr. Covington did receive the June letter. Mr. Covington responded that they did receive a copy.

Senator Seum asked if the mayor and the city council had been invited to the Committee meeting. Mr. Covington said that the city was aware that KIA was presenting the project again to the Committee.

Representative Damron made a motion to approve the Fund A loan for the City of Williamstown, Grant County. The motion was seconded by Senator Rhoads. Four members voted affirmatively, and two members voted "No." The motion did not pass.

Representative Denham asked if any members would like to explain their votes.

Representative Wayne explained his "Yes" vote. He said he believed the citizens of Williamstown were aware of the rate increase, which was the Committee concern raised in June.

Representative Damron explained his "Yes" vote. He said that the town does not seem to have any other choice but to build the new plant and incur the rate increases and that the citizens are in support of the project.

Senator Rhoads explained his "Yes" vote. He said that all the citizens in Williamstown had an adequate opportunity to be heard, and he believed the elected local officials of Williamstown are best able to determine the local needs.

Ms. Williams next reported that the City of Berea, Madison County, is requesting a \$1 million increase to the \$4 million Fund F loan approved by the Committee in February 2008. The proceeds of the loan will be used to upgrade the city's water treatment plant and raw water intake facilities. The new loan amount would be \$5 million. The increase is due to cost overruns that happened after the project's estimated bid was reevaluated.

The Fund F loan of \$5 million will be combined with a \$500,000 line-item grant and \$4.2 million of local funds for a total project amount of \$9.7 million. The loan is 20 years with an interest rate of 1%. The increase was approved by the KIA Board at its November meeting.

Representative Wayne commented that the work the KIA does

is important. He asked if the KIA Board could in the future present to the Committee an actual bid instead of the estimate. Mr. Covington responded that the KIA policy has changed to allow due diligence to review the initial project. He said that KIA will review the process of approving projects and come up with a process where the KIA reviews projects that address the concerns of the KIA Board of having time to do adequate due diligence on the projects, and address the concerns of the Committee in having accurate numbers and an accurate budget.

Representative Wayne asked if the KIA staff would notify the KIA Board that the Committee is concerned with projects submitted for its approval for which the budgets are based upon stale engineering estimates that do not reflect current market costs. Mr. Covington responded that he would.

Representative Denham commented that he would like to see a list of each approved loan by the KIA prior to the project being bid that notes the project's status. Mr. Covington responded that the changes were made by KIA in an attempt to streamline the State Revolving Fund (SRF) process. Four years ago, KIA was receiving citations from the federal EPA because the state was not spending the money in an appropriate manner (the SRF Fund A used for sewer projects and the SRF Fund F used for drinking water projects are capitalized with federal funds). In an effort to improve the program, changes were made in the policy and, because of these changes, KIA was able to commit all available funds for the first time last year. Mr. Covington indicated that KIA pledges to look at the changes and determine which ones are working and which ones are not and this may be one of the policies needs to be tweaked. He added that KIA needs to assure potential borrowers that they have a commitment of funds before they start incurring costs along the way of designing a project.

Representative Damron made a motion to approve the Fund F loan increase of \$1 million for the City of Berea, Madison County. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

Ms. Williams next discussed a request from South Logan Water Association for a 2020 grant in the amount of \$50,000. The grant will

be combined with a HB 380 grant of \$200,000, for a total project amount of \$250,000 to replace approximately 1,700 water meters to eliminate excessive water loss.

Representative Wayne made a motion to approve the 2020 grant for the South Logan Water Association. The motion was seconded by Senator Rhoads and passed unanimously by roll call vote.

Ms. Williams next reported various coal/tobacco development grants that were funded through line-item appropriations from the General Assembly in 2006 and 2008. No further action from the Committee was required.

Mr. Covington updated the Committee on a few items of interest. He discussed an economic stimulus bill introduced in the U.S. Congress that passed in the House, but died in the Senate. Since the November election, there has been significant interest in passing an economic stimulus bill. KIA has heard from Washington that this bill may include \$7.5 billion for water and wastewater infrastructure. Kentucky will receive approximately \$75 million should the legislation pass in its current form. The original bill would not require state match and would have broader, non-traditional type SRF projects. Once the state receives the funds, KIA would have to commit the funds within 120 days. KIA will have a conference call with EPA regarding what is anticipated and how the funds will be dispersed and administered. KIA will be working with the state Division of Water to make plans.

Mr. Covington also noted that the current state budget authorizes KIA to issue \$200 million in leverage bonds for the Clean Water Program and \$30 million for the Drinking Water Program. KIA has started conversations with the State Budget Director's Office, Office of Financial Management, and the management consultant First Southwest (Dallas, TX), on how to issue the bonds if the opportunity arises. He indicated that it would be late spring or summer 2009 before these bonds could be issued. He commented that several other states have discussed issuing leverage bonds and KIA will be monitoring to see if any of those states come to market. He said rating agencies have typically given SRF leverage bonds a high rating. KIA would also monitor how the rating agencies see new issues in the current market. Additionally, KIA has started looking

at the loan pool to determine which loans would be eligible for the leverage bonds.

Representative Denham thanked Mr. Covington and Ms. Williams for their report. He then called Mr. Antle to the table to discuss other projects submitted by the Office of Financial Management.

Mr. Antle presented two new bond issues for the Kentucky Economic Development Finance Authority (KEDFA). The first bond issue, KEDFA Hospital Revenue Bonds, Series A and Variable Rate Demand Hospital Revenue Bonds, 2008B (Baptist Healthcare System Obligated Group), had gross proceeds not to exceed \$600 million. The proceeds will be used to refinance and finance hospital facilities at five hospitals and Baptist Healthcare System support services in St. Matthews, Lexington, Paducah, Corbin, and LaGrange. The new money portion is in the amount of \$145.3 million for capital improvements and equipment. The refunding portion of the transaction is to refund the interim bank loan in the amount of \$280.9 million that was used to redeem previously outstanding auction rate KEDFA bonds and to redeem \$115.3 million of outstanding auction rate KEDFA bonds.

Representative Denham asked for further information on Baptist Healthcare Systems. Carle Herde, Chief Financial Officer, Baptist Healthcare System, said that Baptist Healthcare System serves the most patients of any healthcare system in the state.

Representative Wayne made a motion to approve the KEDFA bond issue. The motion was seconded by Senator Seum and passed by unanimous roll call vote.

Representative Damron noted that although this is a conduit bond issue and has no impact on the state's debt, the associated projected interest rate, 5.6%, is high. Representative Denham agreed that the bond issue carried a high interest rate.

Next Mr. Antle presented a new bond issue on KEDFA Industrial Building Revenue Bonds, Series 2008, Catholic Healthcare Initiatives. The proceeds will be used to reimburse previously incurred capital expenditures related to health facilities projects in Mt. Sterling, London, Lexington, Nicholasville, and Bardstown. The estimated gross proceeds are \$438,920,000.

In response to questions from Representative Denham, Greg Giles,

Senior Financial Analyst, St. Joseph Health System, a subsidiary of Catholic Healthcare Initiatives (CHI), responded that CHI has locations in Lexington, Bardstown, London, Berea, Martin, and Mt. Sterling.

Representative Denham asked why the projected interest rate (7.5%) for this bond issue was high. Chauncey Lever, Bond Counsel from Foley and Lardner, bond counsel, introduced himself to the Committee and responded that this portion of the overall financing plan was contemplated to be variable rate bonds. Because of the market turmoil, the liquidity facilities that were anticipated to be available ended up not being available. Therefore, the bond issue is not pricing today, it is going to wait until January or thereafter in order to be priced because of the current market situation.

Mr. Lever said the projects are in various stages and, because of the market situation; there is a slowdown in some of the projects. He said St. Joseph Health System and Catholic Health Initiatives want to proceed with the bond issue, but cannot say when bonds will actually be sold. He said the final rate structure has not been determined. The structure may include fixed or variable rate financing or term bonds.

Senator Seum asked if the Commonwealth serves as a conduit and if the borrower is not getting a lower interest rate, then what is the advantage of using the Commonwealth as a conduit. Mr. Lever responded that this is a relatively lower rate, although interest rates are currently higher and advantageous for the health system.

Representative Wayne made a motion to approve the KEDFA Industrial Building Revenue Bonds, Series 2008 (Catholic Health Initiatives). The motion was seconded by Senator Rhoads and passed unanimously by roll call vote.

Representative Damron explained his "Yes" vote. He indicated that the reason for using the Commonwealth as a conduit is because health facilities are currently having a hard time getting financed. He commented that the problem with these types of interest rates is that the costs are going to come back to everyone. Although the state might not be paying today, the state will be paying for the next 30 years because of Medicare and Medicaid costs. He said it raises the question of who is really managing the costs of health

care.

Mr. Antle next presented five follow-up reports for previously approved bond issues: State Property and Buildings Commission (SPBC) Revenue and Revenue Refunding Bonds, Project No. 90, \$375,991,464; SPBC Revenue and Revenue Refunding Bonds, Project No. 91, \$15,870,816; SPBC Revenue and Revenue Refunding Bonds, Project No. 92 Department of Military Affairs, Bluegrass Station, \$4,975,000; Kentucky Housing Corporation (KHC) Revenue Bonds, 2008 Series E and Series F, \$49,270,000; and KEDFA Variable/Fixed Rate Demand Solid Waste Disposal Revenue Bonds (Republic Services, Inc. project) Series 2008, \$18,025,000. Each of these bond issues were approved at previous Committee meetings, and no further action was required.

Representative Denham asked if KHC was still having problems selling bonds because of the market situation. Mr. Antle responded that the marketplace for housing bonds has opened back up, and the yields are higher.

Mr. Antle next reported on an amendment to previously approved financing for KHC Multifamily Housing Revenue Bonds, Series 2008 (Grand Oaks Apartments Project). A change was made in the structure of the transaction. Rather than proceed with a negotiated sale as anticipated, the bond issue will be a private placement with Red Capital Markets, Inc. The bonds' term is now 20 months. No Committee action was required for this amendment. The scope of the project remains the same.

Mr. Antle said also included in members' folders was an update on the 2008 Private Activity Bond Cap allocated by the Kentucky Private Activity Bond Allocation Committee. The Committee met on November 6, 2008 to allocate the balance of the local issue report for this year. At the meeting, the Committee also allocated its entire Housing Assistance Tax Act volume cap of \$132,810,201 to KHC. No Committee action was required.

Mr. Antle reported six new bond issues with School Facilities Construction Commission (SFCC) debt service participation: Anderson County, Bourbon County, Garrard County, Grayson County, LaRue County, and Wolfe County.

Senator Rhoads made a motion to approve the new bond issues for



SFCC. The motion was seconded by Representative Wayne and passed by unanimous roll call vote.

Ms. Osborne reported one locally-funded school district bond issue for LaRue County. No further action was needed by the Committee.

Ms. Osborne said the Committee's next meeting is scheduled for December 16 at 1:00 p.m. in Room 169 of the Capital Annex.

With there being no further business, Senator Seum made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 3:00 p.m.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the December Meeting of the 2008 Interim December 9, 2008**

The December meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 9, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Dick Roeding, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Dick Roeding, Co-Chair; Representative Robert R. Damron, Co-Chair; Senators Alice Forgy Kerr, Joey Pendleton, and Gary Tapp; Representatives Danny Ford, Jimmie Lee, and Ron Weston.

Guests: Dave Nicholas, Donna Little, Sarah Amburgey, Emily Harkenrider, Karen Howard, Emily Caudill, Jennifer Beeler, and Laura Napier.

LRC Staff: Jeffrey Acob, Kentucky Department of Veteran's Affairs; Joe Cowles, Jenny Goins, Fred Nelson, Personnel Cabinet; Jennifer Steele, Mary Beth Braitman, Terry Mumford, Jennifer Jones, Kentucky Retirement Systems; Mark Brengleman, Pam Ison, Barbara Rucker, Frances Short, Michael West, Kentucky Board of Speech-Language Pathology and Audiology; Larry Disney, Kentucky Real Estate Appraisers Board; Karen Alexy, Steven Dobey, Margret Everson, Robert Fraley, Richard Fowler, Jonathan Gassett, Chet Hayes, John Phillips, Michael Roberts, Pam Rogers, Catherine York, Kentucky Department of Fish and Wildlife Resources; Tom Bloemer, Mark Farrow, Edward (Rusty) Ford, Dr. Robert Stout, Kentucky Department of Agriculture; Amy Barker, Lee VanHoose, Lisa Howard, Todd Woodward, Justice and Public Safety Cabinet; Ann

Dangelo, Bobby Russell, Rick Taylor, Transportation Cabinet; Kevin Brown Christine Powell, Faith Thompson, Kentucky Department of Education; Sharon Clark, Treva Donnell, William Nold, DJ Wasson, Kentucky Department of Insurance; William Owsley, James Strode, Carmen Bishop, Colleen Keefe, Department of Financial Institutions; Patti Cooksey, Marc Guilfoil, John Forgy, Kentucky Horse Racing Commission; Carrie Banahan, Chandra Venettozzi, Cabinet for Health and Family Services; Stephanie Brammer-Barnes, Dave Sallengs, Office of Inspector General; Rick Christman, Richard P. Covert, Patty Dempsey, Kerry Harvey, Barbara Henchey, Darla Baily, Elizabeth Johnson, Stuart Owen, Heidi Schussler, Ronnie Zimmerman, Department for Medicaid Services; Virginia Carington, Elizabeth Caywood, Mike Grimes, Department for Community Based Services.

The Administrative Regulation Review Subcommittee met on Tuesday, December 9, 2008, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GOVERNOR'S OFFICE: Department of Veterans Affairs: Office of the Commissioner

17 KAR 4:020. Indigent veterans' burial program. Jeffrey Acob, Cemeteries Branch Manager, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to insert a federal citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Office of the Secretary

101 KAR 2:210 & E. 2009 Plan yearbook for the public employee health insurance program. Joe R. Cowles, general counsel, and Fred Nelson, commissioner, represented the cabinet.

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:140 & E. Contribution reporting. Mary Beth Braitman, attorney; Jennifer Jones, acting gen-

eral counsel; Terry Mumford, attorney; and Jennifer Steele, staff attorney, represented the systems.

In response to a question by Co-Chair Roeding, Ms. Mumford stated that the compensation limit for the amount of contributions was established by the Internal Revenue Service as part of the Internal Revenue Code, which was updated periodically with cost of living adjustments. She also stated that the Kentucky Retirement Systems was unable to consider compensation above that limit established by the Internal Revenue Service.

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

105 KAR 1:345 & E. Rollovers and transfers of contributions to other plans.

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

105 KAR 1:380 & E. Minimum distribution.

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

105 KAR 1:390 & E. Employment after retirement.

In response to a question by Co-Chair Roeding, Ms. Jones stated that retirement systems members were able to get information regarding the amendments from the relevant statutes, administrative regulations, the agency's Web site, and the agency's counselors.

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

105 KAR 1:400 & E. Federal taxation limitation year.

In response to a question by Co-Chair Roeding, Ms. Mumford stated that the "administrative scheme" referenced in the summary was comprised of comprehensive procedures to comply with federal protocols for retirement systems payments.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 16 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

105 KAR 1:420 & E. Account established under 26 U.S.C.

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

105 KAR 1:430 & E. General Compliance with federal tax laws.

In response to a question by Co-Chair Roeding, Ms. Jones stated that the Kentucky Retirement Systems administered a certain type of pension plan and that this administrative regulation did not impact other types of plans.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the neces-

sity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 through 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Speech-Language Pathology and Audiology: Board

201 KAR 17:014. Temporary licenses for speech-language pathologist, speech-language pathology assistant, and audiologist. Pam Ison, board chair; Frances S. Short, Executive Director of the Division of Occupations and Professions; and Michael West, assistant attorney general, represented the board.

In response to a question by Senator Kerr, Ms. Ison stated that the purpose of temporary licensure was to allow audiologists and speech-language pathologists to begin work while waiting on the board to meet since the board didn't meet every month. The board was required to meet to approve the licensure requests.

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

201 KAR 17:030. License fees and requirements for inactive status.

In response to a question by Co-Chair Roeding, Ms. Ison stated that the administrative regulation did not establish new fees, but divided license renewals over a two (2) year period.

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

Real Estate Appraisers Board: Board

201 KAR 30:010. Definitions for 201 KAR Chapter 30. Mark Brengelman, assistant attorney general, and Larry Disney, executive director, represented the board.

resented the board.

201 KAR 30:030. Types of appraisers required in federally-related transactions; certification and licensure.

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

DEPARTMENT OF AGRICULTURE: Livestock Sanitation: Livestock Sanitation

302 KAR 20:110. Treatment of imported mares. Edward "Rusty" Ford, program manager; Dr. Robert Stout, state veterinarian; and Tom Bloemer, branch manager, represented the department.

A motion was made and seconded to approve the following amendments to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 and 5 to: (1) correct citations; and (2) comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 20:120. Treatment of imported stallions.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2(5) to update the Web site containing the list of laboratories approved to conduct the required testing; and (2) to amend the RELATES TO paragraph and Sections 1 to 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Regulation and Inspection; Motor Fuel

302 KAR 79:010. Testing and Inspection Program.

In response to a question by Co-Chair Roeding, Mr. Bloemer stated that ethanol raised octane levels and lowered mileage.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 9 to cite to the governing federal regulation rather than incorporating it by reference, in accordance with KRS 13A.2261; and (2) to amend Sections 3, 5, and

9 to require use of the current ASTM standards in accordance with KRS 363.902(2). Without objection, and with agreement of the agency, the amendments were approved.

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

501 KAR 6:270. Probation and parole policies and procedures. Amy Barker, assistant general counsel; Lee Van Hoose, director; Lisa Howard, program administrator; and Todd Woodward, program administrator, represented the department.

A motion was made and seconded to approve the following amendments to: (1) amend Section 1 to correct the edition dates of the material incorporated by reference; and (2) amend policies and procedures for clarity and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division

601 KAR 1:040 & E. Application for operating authority and registration of motor carriers. Rick Taylor, deputy commissioner, represented the department.

In response to a question by Co-Chair Roeding, Mr. Taylor stated that this administrative regulation prohibited intrastate bus contracts, but not charter busses.

Co-Chair Roeding stated that it was important to make it easier for charter buses to return to Kentucky.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 4 and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Board

704 KAR 3:390. Extended school services. Kevin Brown, general counsel; Christine Powell, director; and Faith Thompson, branch manager, represented the board.

In response to questions by Co-Chair Roeding, Mr. Brown stated that extended school services would not be available for private school

students or homeschoolers unless those students joined the public school system. He also stated that the formula for flexible ESS funding was governed by Section 4 of this administrative regulation and that the local school district determined how the funds would be used. The program was currently underfunded because of the budget crisis, but it was a mandated expense.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjusters

806 KAR 9:340. Forms. Treva Donnell, director of agent licensing, and William J. Nold, director of health insurance policy and managed care, represented the department.

806 KAR 9:350. Recognition of financial planning certification and designation for receipt of fees and commissions.

Health Insurance Contracts

806 KAR 17:081. Minimum standards for long-term care insurance policies.

In response to a question by Co-Chair Roeding, Mr. Nold stated that the proposed amendments were in response to HB 259 and that the waiver was approved.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, 6, 8, 10, 11, 12, 15, 16, 17, 19, 20, 21, 23, 25, 26, 28, and 30 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:300. Provider agreement and risk sharing agreement filing requirements.

Department of Financial Institutions: Division of Securities: Securities

808 KAR 10:041. Repeal of 808 KAR 10:040. Colleen Keefe, attorney; William Owsley, attorney; and James Strode, director, represented the division.

808 KAR 10:042. Use of senior certifications and designations.

In response to a question by Co-Chair Roeding, Mr. Strode stated that these requirements were based



on national model rules and were intended to keep Kentucky consistent with other states.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add the definition of "Financial Services Regulatory Agency"; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 10:440. Examples of dishonest or unethical practice for broker-dealers and agents.

In response to a question by Co-Chair Roeding, Ms. Keefe stated that a CEO would be required to comply with this administrative regulation if the CEO was the designated responsible control person.

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

808 KAR 10:450. Examples of dishonest or unethical practice for investment advisers and investment adviser representatives.

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

808 KAR 10:460. Request for approval of change in control.

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

Kentucky Horse Racing Com-

mission: Thoroughbred Racing

810 KAR 1:012. Horses. Patti Cooksey, director of public relations; John Forgy, general counsel; and Marc A. Guilfoil, executive director, represented the commission.

Senator Tapp stated appreciation for the commission's work on contentious issues.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to include EO 2008-668, which established the commission and transferred all authority, functions, and responsibilities of the Kentucky Horse Racing Authority to the commission; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5, and 8 through 10 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:018 & E. Medication; testing procedures; prohibited practices.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION AND CONFORMITY paragraphs to include EO 2008-668, which established the commission and transferred all authority, functions, and responsibilities of the Kentucky Horse Racing Authority to the commission; (2) to amend Sections 1, 2, 8, 9, 15, 19, and 22 to use consistent terminology; and (3) to amend Sections 1 through 9, 12 through 17, and 19 through 23 for clarification and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:028 & E. Disciplinary measures and penalties.

Co-Chair Roeding stated that, an agency that increased penalties by reclassification of a felony class, should take into consideration how this change may affect prison population and the Department of Correction's budgets.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION AND CONFORMITY paragraphs to include EO 2008-668, which established

the commission and transferred all authority, functions, and responsibilities of the Kentucky Horse Racing Authority to the commission; (2) to amend Sections 1 and 11 and the material incorporated by reference to reflect the current edition of the Withdrawal Guidelines; and (3) to amend Sections 1, 2, 3, 5, 6, 7, 8, 11, and 12 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Harness Racing

811 KAR 1:090 & E. Medication; testing procedures; prohibited practices.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION AND CONFORMITY paragraphs to include EO 2008-668, which established the commission and transferred all authority, functions, and responsibilities of the Kentucky Horse Racing Authority to the commission; (2) to amend Sections 1, 2, 8, 9, 15, 19, and 22 to use consistent terminology; and (3) to amend Sections 1, 2, 5, 6, 8, 9, 12, 13, 15, 16, 17, 19, 20, 21, 22, and 23 for clarification and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:095 & E. Disciplinary measures and penalties.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION AND CONFORMITY paragraphs to include EO 2008-668, which established the commission and transferred all authority, functions, and responsibilities of the Kentucky Horse Racing Authority to the commission; and (2) to amend Sections 1 through 3 and 5 through 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Health Provider Surveillance Data

902 KAR 19:030. Release of public data sets for health care discharge data. Carrie Banahan, executive director, and Chandra Venetozzi, health data administrator,

represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to delete a superfluous statutory citation; and (2) to amend Section 2 to correct a technical error. Without objection, and with agreement of the agency, the amendments were approved.

Office of Inspector General: Division

906 KAR 1:160. Monitoring system for products containing ephedrine, pseudoephedrine, or phenylpropanolamine. Stephanie Brammer-Barnes, regulation coordinator, and Dave Sallengs, manager, represented the division.

Department for Medicaid Services: Medicaid Services

907 KAR 1:835 & E. Michelle P. Waiver services and reimbursement. Kerry Harvey, general counsel; Elizabeth Johnson, commissioner; and Stuart Owen, regulation coordinator, represented the department. Rick Christman, CEO of Employment Solutions; Richard P. Covery; and Darla Bailey and Barbara Henchey, Kentucky Association of Private Providers, appeared in opposition to this administrative regulation. Patty Dempsey, Executive Director of The Arc of Kentucky, appeared in support of this administrative regulation.

Representative Lee thanked the department and Protection and Advocacy for working hard to resolve the issues pertaining to this administrative regulation.

Mr. Christman stated that this administrative regulation was being modified to remove the requirement for independent case management by a provider in cases with an issue of continuity or insufficient numbers of case managers in the area. He also stated that, pursuant to the Mercer Report, there was a conflict of interest if a provider was also the case manager. He further stated disapproval of the proposed two (2) year continuation of case management performance by providers.

Ms. Dempsey thanked the department for amending this administrative regulation to provide for additional respite.

Mr. Covery stated that he was the father of a daughter with multiple disabilities and that her former case manager tended to place the needs of his daughter secondary to the interests of the parent company. He stated that he believed it was acceptable for a case manager to be

affiliated with a provider company only if the two (2) operated at arm's length and were able to prove that the provider company has used some non-sister agency services.

Representative Lee stated that, in less-populated areas, there were not enough independent case managers, and some clients would be denied services under the Michelle P. program.

Ms. Johnson stated that the department had extended services despite its inability to afford the additional expense. She also stated that the department had compromised to include a transition period for those who may be unduly burdened by the independent case manager requirement. Additionally, the waiver would be effective only if CMS approved the request to amend the policy decision and allow grandfathering and a cut-off date for continued case management with provider interests.

Co-Chair Roeding stated that the administrative regulation provided for independent case management unless and until CMS agreed to amend the waiver. He also encouraged the department to continue to work with stakeholders as budget predicaments allow.

Ms. Henchey thanked those who have worked on the Michelle P. program and respite issues. She also stated that only one (1) issue remained that she felt to be contentious, the reimbursement rate for adult day care service units. The cost to restore the reimbursement rate would be neutral and that stakeholders interested in this issue were not present during the administrative regulation negotiations.

Ms. Bailey stated that the administrative regulation defined "adult day care level II", but cut the reimbursement rate on units of service. She also stated that this was a very small program with approximately 200 clients and that she supported a restoration of the reimbursement rate.

In response to a question by Senator Tapp, Ms. Johnson stated that overall there was an expansion of services even though the reimbursement rate for adult day care level II was reduced. She also stated that the overall expansion expense was a sixty-six (66) million dollar increase.

Ms. Bailey requested that the following written comments be included in the record of the meeting:

Adult Day Health Centers, li-

censed by the OIG office, emerged in the mid to late 1990s to deal with the growing medical needs of the aging population. These programs proved invaluable by allowing the frail and elderly to remain in the community and to reserve nursing level of care. As a result of the developmentally disabled population aging, a crisis emerged in which young adults with complex medical issues and needs required a day program that would be able to meet these complex needs while allowing the individual to continue to be served in the community. Many families, upon completion of the individual high school tenure, had no program for the child with special needs to attend. Social programs, we now call Adult Day Trainings, existed but were unable to accommodate particular needs such as nursing services, personal care needs, and the functioning level of some of the individuals.

By the late 1990s, several programs across the Commonwealth began to specialize in services to this specific group: young adults with special medical needs. In 2000, the Commonwealth recognized those programs as Adult Day Level IIs, a higher level of acuity, which warranted a higher rate from the more traditional senior adult day health programs. These programs participated by providing a sampling (snap shot) of an assigned day and proved to be serving 80% or more intellectually disabled and developmentally disabled young adults with the Home and Community Based waiver (HCBS). This allowed for a higher rate differential to be applied to these particular sites. To participate, any enrolled provider requests the date quarterly from DMS and follows the process.

Also, in April 2002, as a direct result of the passage of HB 144, a Commission on Services and Supports for People with Mental Retardation and Developmental Disabilities "Plan to Plan" for the 10 years began to address the extensive Supports for Community Living (SCL) waiting list and the SCL waiver began to expand "slots". Consumers, who had literally waited for years, were now being offered and receiving services. Several of these consumers required more intensive, medical-type services. As a result, Adult Day Level IIs began to accept the SCL waiver. Individuals that were not being served through traditional nonmedical day services were now able to receive day services

that included nursing care and ancillary services.

In 2006, the Supports for Community Living (SCL) waiver made changes to Adult Day Training services. Services became classified as on-site and off-site. Due to the medical complexity of the consumers served in the SCL waiver, MH/MR and DMS agreed to add a \$.50 add-on rate to on-site and off-site reimbursement rates to the ADH Level II's providers. In this agreement, Level IIs agreed to eliminate the Snap-5 intensity rate payment (20% enhanced rate).

Also, in 2006 and 2007, the Adult Day Health Level IIs met with numerous Medicaid officials to address the complexity of being a provider accepting multiple waivers and worked toward a definition of Adult Day Health Level II and toward streamlining provider requirements.

In August 2001, the HB 144 Commission recommended developing an alternative low cost waiver to serve individuals with less costly needs. (Kentucky's Plan from Dreams to Realities for Quality and Choice for all Individuals with Mental Retardation and other Developmental Disabilities, p. 12) The staff of the Department of Mental Health, advocates, consumers, and providers worked diligently to create a proposed waiver that some referred to as "SCL Lite" or the "KEI waiver." The ultimate goal of the proposed waiver was to provide person-centered, nonresidential services to individuals who were on the SCL waiting list (1769 individuals, per 9/17/01 report "HB 144"). After much discussion, the Cabinet for Health Services declined to submit the waiver.

In 2002, with the assistance of Protection and Advocacy, a class action lawsuit was filed on behalf of Michelle P. and nine others. In August 2006, the suit was settled and the hopes of the person-centered, nonresidential services reemerged. For individuals with intellectual disabilities and developmental disabilities living with their families, hope emerged that they could receive enhanced home and community-based services to assist them to remain in their homes as independently as possible.

The Michelle P. waiver has been viewed by some as a way to maximize our state general fund dollars that serve individuals. Currently, these dollars given through the Comprehensive Care Centers support individuals and families with services

such as respite and companion services. It has been one of the goals of the Michelle P. waiver to provide a mechanism to bring services currently funded out of our state general funds into a waiver to maximize our federal match (70/30). Today, consumers are receiving multiple funding streams to package together the services they need in order to remain in the community with natural supports.

Whereas the Michelle P. program still does not address the waiting list for residential supports for individuals with intellectual disabilities and developmental disabilities (ID/DD), it has been viewed as an alternative for family members and individuals waiting with little or no services. These services will allow for the flexibility to maximize community-based options.

Providers of Medicaid waivers who serve individuals with ID/DD have advocated for such an alternative as the original SCL Lite or now the Michelle P. waiver to allow consumers who are receiving the Home and Community Based (HCBS) waiver (designed for the elderly and disabled) a more viable person-centered option.

The current Michelle P. administrative regulation defines ADH II, yet cuts the reimbursement rates from \$3.00 or \$3.50 a unit to \$2.75 a unit. The HCBS rate is \$3.12 per unit. ADH Level IIs are vital to the initial roll out of the Michelle P. waiver and to initiate state general fund cost-savings. In addition, it will allow a medical model day program to meet the needs of the more medically fragile individuals that are now homebound, many with aging caregivers. The Supports for Community Living waiver requires that staff complete a basic medication administration course or curriculum, whereas a licensed provider is required to provide at least one nurse on site at all times.

I am requesting that the Cabinet for Health and Family Services reconsider its rate elimination or reduction to the current Adult Day Health Level IIs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend Section 6 to create a new subsection to establish the enrollment caps for the next three (3) fiscal years of 3,000, 4,500, and 6,000 individuals; (3) to amend Section 7 to: (a) pro-



vide that, contingent upon approval by the Centers for Medicare and Medicaid Services and ending January 1, 2011, case management may be provided by an agency providing other Michelle P. waiver services if specified requirements are met; and (b) delete the requirement that respite services only be provided in the recipient's residence or an ADHC center during posted hours of operation; (4) to amend Section 8 to: (a) clarify that respite provided as part of CDO (consumer-directed option) services may be provided in excess of the established cap on respite services provided in non-CDO settings; and (b) specify that a consumer's twelve (12) month budget may encompass a service or combination of services if each service is in the consumer's plan of care and approved by the department; (5) to amend Section 14 to incorporate by reference three documents mentioned in the administrative regulation; and (6) to amend Sections 1 to 10, 12, and 14 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Family Support: Division

921 KAR 2:016. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP). Virginia Carrington, branch manager; Elizabeth Caywood, policy analyst; and Mike Grimes, Adoption Services Branch Manager, represented the division.

Food Stamp Program

921 KAR 3:020 & E. Financial requirements.

In response to a question by Representative Ford, Ms. Caywood stated that the federal government would allow biweekly, rather than monthly, card disbursement, but to do so would require a systems' change.

Senator Tapp stated that, while the division was investigating moving to a biweekly, rather than monthly, card disbursement, please also investigate added costs of making this change.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 3 to correct a federal cross-reference citation; (2) to amend the NESSECITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 and 7 to make technical corrections

and to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to amend Section 3 to clarify that money withheld from certain income sources shall not be counted if the money is withheld to repay an overpayment. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 3:045 & E. Issuance procedures.

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

Day Care

922 KAR 1:031. Repeal of 922 KAR 1:030. Selection and approval of adoptive parents.

922 KAR 1:050. State-funded adoption assistance.

922 KAR 1:060. Federal Title IV-E adoption assistance.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 5 to correct statutory citations and internal references; and (2) to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 1:100. Public agency adoptions.

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

922 KAR 1:140. Foster care and adoption permanency services.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 2 to correct statutory citations; and (2) to amend Sections 1, 3, 9, 10, and 11 for clarification and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the January 13, 2009, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:066 & E. Certification and selection of eligibles for appointment.

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

301 KAR 2:083 & E. Holding and intrastate transportation of captive cervids.

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers.

301 KAR 2:300. Black bears. Dr. Karen Alexy, wildlife director; Steven Dobey, wildlife program coordinator; Jonathan Gassett, commissioner; and Catherine York, deputy general counsel, represented the department. Chet Hayes, Executive Director of United Trappers of Kentucky; John Phillips, Executive Director of Kentucky Hunters for the Hungry, Inc.; Michael Roberts, Vice President of United Bowhunters of Kentucky; and Representative Robin Webb appeared in support of this administrative regulation. Pam Rogers, State Director of the Humane Society of the United States, appeared in opposition to this administrative regulation.

Mr. Gassett stated that the department wished to defer this administrative regulation to the January 2009 meeting in order to address the firearms constitutionality issues. He stated that the department still wished to discuss the policy issues of black bear hunting in Kentucky at this meeting. He gave a brief history of black bear hunting in Kentucky, including that, in the past, hunting caused extirpation of the species and that, in recent years, the black bear population has stabilized, especially in the southeastern part of the state. Mr. Gassett stated that this administrative regulation did not allow hunting black bears with dogs, baiting bears, or selling harvested bear parts. He further stated that Pine Mountain had a no-hunting refuge area for the bears. He stated that, by having the hunt in December, female bears should be more protected since most of them would be in their dens in December. He also stated that this bear hunt did not serve the purpose of dealing with nuisance bears. He stated that the hunt would take place only in Pike, Letcher, and Har-

lan Counties.

Co-Chair Roeding thanked the department for its commitment to protecting bears.

In response to questions by Co-Chair Damron, Mr. Gassett stated that, in order to enforce the take limit for black bears, each hunter would be required to check by telephone at the end of each hunt day to determine how many bears had been taken thus far in the hunt. He also stated that a sportsman would not be cited if over ten (10) bears were taken during a day of the open season, and that the hunt would be ended on a day in which the limit had been reached or exceeded.

In response to a question by Senator Kerr, Mr. Gassett stated that Kentucky allows baiting, but not for black bears at this time. He also stated that baiting was not usually detrimental to a bear population but that the department was not considering allowing it anytime soon.

Representative Webb stated that she was unaware of any outcry from sportsmen for permission to bait black bears.

In response to a question by Senator Tapp, Mr. Gassett stated that a black bear permit would probably cost approximately twenty (20) dollars, but that the fee would have to be established in another administrative regulation.

In response to questions by Representative Weston, Mr. Gassett stated that it was not currently possible to determine the number of bears necessary for a huntable population, but that models and trend data show drastic increasing in spotting, illegal harvesting, and nuisance reports. He estimated 350 bears in the area of the proposed hunt. He also stated that the bears were primarily in Pike, Letcher, and Harlan Counties, but that hunting would not take place at the Pine Mountain bear refuge area.

Mr. Gassett stated the department's perspective on constitutional second amendment issues pertaining to this administrative regulation. He stated that surrounding states have comparable laws in place.

Mr. Phillips stated that it was essential for the department to regulate weapons in order to maintain resources. He also stated that Hunters for the Hungry provided venison for approximately 300,000 Kentuckians. He stated his opinion that this administrative regulation did not violate the second amendment of the United States Constitution.

Mr. Roberts stated that the United Bear Hunters of Kentucky wanted to hunt bear and did not want the department stymied in its enforcement of this administrative regulation.

In response to a question by Co-Chair Damron, Mr. Phillips stated that it was necessary for the department to regulate firearms during a hunt because it would otherwise be impossible to enforce administrative regulations pertaining to legal methods of taking. He also stated that, if an animal was shot with a firearm during bow-hunting season, it would likely not be possible to determine which hunter illegally shot the animal if firearms were permitted in the area of the hunt.

Ms. Rogers requested that the subcommittee oppose this administrative regulation because she stated that there were not enough bears to ensure that such a hunt would not destabilize the bear population. She stated that, because of the way the limit would be enforced, many more than ten (10) bears may be taken. She also stated that other states with such a low bear population did not allow hunting. She further stated that the administrative regulation did not adequately protect female bears and cubs. She stated that the department made the decision to allow the hunt prior to having complete data on black bear populations in the area.

In response to a question by Representative Ford, Ms. Rogers stated that the Humane Society did not have a specific number of bears that would indicate a population stable enough for a hunt and that Florida has a bear population of approximately 3,000, but they do not have a hunt; therefore, Kentucky would need at least more than 3,000 bears.

Representative Webb stated that she was certain a resolution would be forthcoming regarding the constitutionality of this administrative regulation. She also stated that the subcommittee should visit the Humane Society's Web site to ascertain their agenda.

Mr. Gassett stated that all states with black bears do not have hunts, not necessarily because of conservation reasons, but because of political pressure. He also stated that the department would never have "complete" data on black bear populations because the scientific research was ongoing and bear populations fluctuated. He stated that the department's

current estimate of the black bear population is a conservative one.

Co-Chair Damron stated his appreciation for the department's willingness to defer consideration of this administrative regulation in order to address the constitutionality of some of the provisions.

Senator Kerr requested that Ms. Rogers rebut previous testimony. Ms. Rogers stated that the Humane Society had been mischaracterized. She stated that she had never been dishonest and that her organization had never tried to stop other forms of hunting, but rather wished to stop certain abuses related to hunting. She also stated that she had had trouble getting the department to submit records through Freedom of Information requests. Without objection, and with agreement of the agency, this administrative regulation was deferred.

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

401 KAR 5:010. Operation of wastewater systems by certified operators.

Water Quality Standards

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

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

Certified Operators

401 KAR 11:001. Definitions for 401 KAR Chapter 11.

401 KAR 11:010. Board of certification.

401 KAR 11:020. Standards of professional conduct for certified operators.

401 KAR 11:030. Wastewater treatment and collection operators-classification and qualification.

401 KAR 11:050. Operator certification.

401 KAR 11:060. Certification fees.

**JUSTICE AND PUBLIC SAFETY CABINET:** Kentucky Law Enforcement Council: Council

503 KAR 1:170. Career Development Program.

**TRANSPORTATION CABINET:** Department of Vehicle Regulation: Motor Vehicle Commission

605 KAR 1:060. Temporary off-site sale or display event.

**LABOR CABINET:** Department

of Workplace Standards: General  
803 KAR 2:300. General.

803 KAR 2:305. Powered platforms, manlifts, and vehicle-mounted work platforms.

803 KAR 2:306. Occupational health and environmental controls.

803 KAR 2:307. Hazardous materials.

803 KAR 2:309. General environmental controls.

803 KAR 2:315. Hand and portable powered tools and other hand-held equipment.

803 KAR 2:316. Welding, cutting, and brazing.

803 KAR 2:317. Special industries.

**ENERGY AND ENVIRONMENT CABINET:** Department for Natural Resources: Office of Mine Safety and Licensing

805 KAR 8:060. Criteria for the imposition and enforcement of sanctions against licensed premises.

**PUBLIC PROTECTION CABINET:** Department of Insurance: Authorization of Insurers and General Requirements

806 KAR 3:170. Annual audited financial reports.

Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:015. Claiming races. Harness Racing

811 KAR 1:075. Racing and track rules.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:006. Technical requirements for the Kentucky Transitional Assistance Program

921 KAR 2:017. Kentucky works supportive services.

The following other business was addressed by the subcommittee:

A brief video in honor of Co-Chair Roeding's years of service to the Commonwealth was presented, and Co-Chair Roeding was issued a citation on behalf of the subcommittee in recognition of his retirement from the General Assembly.

Senator Pendleton thanked Co-Chair Roeding for his service to the Commonwealth.

Senator Tapp stated how much he had enjoyed working with Co-Chair Roeding.

Co-Chair Roeding stated that it is important to continue to do good work for the citizens of the Commonwealth as it relates specifically

to administrative regulations.

David Nicholas stated his thanks for the hard work of Co-Chair Roeding and to all members who serve or have served on the Administrative Regulation Review Subcommittee.

The Subcommittee adjourned at 12:45 p.m. until January 13, 2009.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE Minutes**

**December 9, 2008**

The Education Assessment and Accountability Review Subcommittee met on Tuesday, December 9, 2008, at 1:15 PM, in Room 131 of the Capitol Annex. Senator Jack Westwood, Co-Chair, called the meeting to order and the secretary called the roll. Representative Harry Moberly, Jr., Co-Chair, presided over the meeting upon arrival.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Harry Moberly Jr., Co-Chair; Senator Ken Winters; Representatives Tim Firkins and Mary Lou Marzian.

Guests: Representative Ted Edmonds.

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

Senator Westwood welcomed Representative Tim Firkins as the newly appointed member to the subcommittee.

Senator Westwood asked staff from the Office of Education Accountability (OEA) to present their study on education technology. Members were provided a copy of the PowerPoint presentation and a draft of the Review of Education Technology Initiatives report.

Ms. Marcia Seiler, OEA Director, said the report provides detailed information on education technology initiatives that have been funded by the legislature over the last several years. She said that her staff worked closely with Kentucky Department of Education (KDE) personnel to ensure the accuracy of the information in the report.

Ms. Brenda Landy, OEA Research Analyst, said the report represents a broad overview of how state appropriations for technology are being spent and how technology initiatives are being implemented and used statewide. She said that approximately \$140 million was expended on K-12 education technology during FY 2008 comprised of 64% state funds, 24% federal funds, and 12%



local funds. She said total expenditures could not be captured since all technology related costs, such as personnel, are not always clearly identified and district expenditure data could not be analyzed in sufficient detail because districts are not required to submit detailed technology data to KDE. OEA was able to track large appropriations for specific technology projects, such as the Education Technology Trust Fund. Ms. Landy also noted that FY 2008 may not be typical since funding fluctuates and many projects also require large sums upfront for implementation and lesser amounts for ongoing maintenance.

Ms. Landy explained that some of the expenditures in technology are used for basic infrastructure and services shared by the entire education system, including security measures, replacement of outdated hardware, email and Internet management, high speed networks, and other related services. Other funding initiatives support applications required for instruction and operation, i.e., the Student Information System (SIS), individual learning plans (ILP), the district financial system (MUNIS), and eWalk. There are also initiatives to create and maintain portals that provide students, educators, policymakers, and the general public with access to various educational data and resources, including the Kentucky Instructional Data System (KIDS), virtual schools, the Virtual Library, online assessments, and document management. Ms. Landy said that each of the initiatives is discussed in detail in the report.

Ms. Landy said that technology initiatives have created a wide variety of virtual learning opportunities available to all citizens, such as advanced placement (AP) courses, the Virtual Library, Kentucky Educational Television's Encyclomedia, adult education courses, college courses, and other online resources. She said the online student ILP helps students explore and plan for careers and allows parents and educators to track their progress. Also many classrooms have been equipped with improved technology, such as electronic whiteboards and student response systems, which has been funded in some of the poorest communities by coal severance funds. Ms. Landy explained that technology is also being used in some schools to conduct formative assessments to help identify struggling students and that the

KIDS program includes longitudinal assessment data, financial data, and other information, which can be analyzed to tailor educational services to meet student needs. Also, increased technology funding and use of technology has resulted in Kentucky being highly ranked by Education Week's "Technology Counts" publication.

Ms. Landy said other accomplishments include the continuing emphasis on equity to prevent gaps in student to computer ratios in high poverty areas; increased controls to help monitor district spending, such as the Kentucky Education Technology System (KETS) master plan and individual district technology plans, which are also used to identify the unmet needs and guide the purchases of technology; deployment of projects, such as the ILP accounts; and improved operational efficiency resulting in public recognition of KDE's Office of Education Technology by an outside consulting firm.

Ms. Landy next identified challenges related to technology, which included governance, security and privacy issues; sizeable investments required to purchase and maintain systems; and the ongoing need to evaluate whether or not the technology is generating positive results. She said with regard to governance that Kentucky's public auditor and an outside consultant found inadequate collaboration and coordination within KDE in that divisions have been allowed to make purchases, hire staff, and set standards and procedures in isolation of each other. She said in response to inadequate governance, KDE established a few committees to improve coordination within the department but that has not eliminated the lack of coordination and a shared vision, which results in security issues, ineffective use of technology, and cost overruns. She said outside consultants also found that personnel in various offices and divisions are not held accountable for the cost and performance of technology components and there is also lack of collaboration between K-12 and post-secondary education units, including the Council on Postsecondary Education (CPE) and other agencies. Ms. Landy provided the example that CPE promotes high school courses through its Virtual Campus which is in direct competition with KDE's Virtual High School. Ms. Landy said another issue was inadequate security, which should not only concern

technology personnel but the users of the systems, including teachers and students. She said it is especially important to protect students from inappropriate Internet content, online predators and cyber bullying.

Ms. Landy related that the financial investment over the past 20 years has exceeded one billion dollars, which has been in the form of large upfront funding for hardware and software, but such investment is fruitless without the ongoing funding required to maintain the systems and provide the professional development and training of personnel in the use of the systems. She also said there currently is no systematic, quantitative evaluation of how technology is used and how it is impacting student achievement, with an example being a lack of sufficient evaluation of student ILPs to ensure their effectiveness and that they are being used for intended purposes.

Ms. Landy discussed the OEA recommendations. The first was that KDE review and implement the recommendations previously provided by Kentucky's Public Auditor's Office and outside consultants, especially those relating to governance and organizational structure. The second recommendation was that security policies be formalized and consistently applied within KDE and across schools and districts. The next recommendation was that the efficiency and effectiveness of all initiatives be evaluated and monitored, including collaboration with other agencies, such as CPE, and that the method KDE uses to pull district financial data be modified to include detailed lower level financial data so it is available for analysis. The final recommendation related to evaluation of all initiatives, such as the effectiveness of the ILPs, to ensure that each component of the technology system is being utilized to its fullest potential.

Senator Westwood said he was pleased the review was completed and that some of the recommendations were past due, especially those relating to analyzing the efficiency and effectiveness of the technology systems. He said it is extremely important that agencies such as KDE and CPE cooperate and collaborate on the purchase and use of expensive, innovative technology systems, especially in the unstable economy, and that all technology be geared toward advancing the "Double the Numbers" initiative.

Representative Moberly thanked OEA staff for the report and agreed with Senator Westwood about the importance of collaboration between CPE and KDE, which he said was discussed at recent Southern Regional Education Board (SREB) meetings he had attended. He asked if OEA has a recommendation on the most effective way to ensure collaboration between agencies. Ms. Seiler responded that OEA has completed several studies resulting in recommendations pertaining to collaboration. She offered to pull those recommendations and review what actions have been taken to implement them and then seek guidance from the co-chairs on how to proceed with those on which little or no action has been taken. Representative Moberly supported Ms. Seiler's suggestion and asked her to report back at a future EAARS meeting.

Representative Moberly asked for approval of the minutes of the October 14, 2008, meeting. Upon motion by Senator Westwood, seconded by Senator Winters, the minutes were approved by voice vote.

Representative Moberly asked for approval of OEA's Special Education report, which was presented at the October 14, 2008, meeting. Upon motion by Senator Winters, seconded by Senator Westwood, OEA's Special Education Report was approved by voice vote.

Representative Moberly asked Ms. Seiler to present OEA's 2008 Annual Report. Members were provided a copy of the PowerPoint presentation used to explain the report and a hard copy of the report.

Ms. Seiler explained that pursuant to KRS 7.410, OEA is assigned an annual research agenda on specific topics and that the 2008 agenda included a review of special education; the second compendium of state education rankings; an update of the district data profiles; the review of education technology issues; and a study of fees, dues, and supplies. She explained that the compendium is a consolidation of data released in numerous reports received from various sources in a concise format that is easier to understand. She said the District Data Profiles is a report that has two pages of information on each district, such as the number of students, assessment data, funding data, tax rates, and other information. Ms. Seiler offered to provide Representative Firkins a copy of each report OEA completed in the past

year.

Ms. Seiler introduced Bryan Jones, OEA Division Manager for Investigations, who reported on the investigations aspect of the annual report. Mr. Jones said OEA has statutory authority under KRS 7.410(2)(c) to investigate any allegation of violation of education law; and authority under KRS 160.345(9)(b) to investigate complaints related to school-based decision making. He reported that OEA's 2008 caseload as of December 1, 2008, included 69 cases that were opened, 57 that were closed, and 56 cases still pending, which is consistent with previous year activity.

Mr. Jones said one particular issue which continues to be the subject of several complaints is district use of itinerant and district-wide employees. He said OEA believes a conflict exist between the statute that allows the hiring of itinerant employees and anti-nepotism laws. He explained that the statutes do not contain a definition for itinerant worker, although when such employees are utilized in a school district, the definition is usually someone who works at multiple schools and the itinerant concept is referred to in the rewards section of the statute. Mr. Jones said that having an itinerant status employee, such as a speech pathologist, is certainly an acceptable practice if that employee's services can be utilized at several schools within a district, if one school does not have enough students to require a fulltime person in the position. He said that school councils and principals generally hire employees pursuant to the authority given them under KRS 160.345(2)(h), but itinerant employees may be hired by superintendents pursuant to KRS 160.370 and 160.390, which is the authority that allows superintendents to hire other district-wide employees, such as directors of pupil personnel and transportation. He said complaints arise when personnel actions that comply with the provisions of KRS 160.370 and KRS 160.390 conflicts with the nepotism provisions set forth in KRS 160.380(2)(g) 1 and 2. Mr. Jones then provided information about two specific cases that had been investigated by OEA in which nepotism had been alleged even though the employees in each instance were hired pursuant to the district-wide enabling statutes. In both cases, the itinerant employee was a spouse of a principal in the school system and in one of the cases

the principal's brother also worked in an itinerant position. He said it was the opinion of OEA that the anti-nepotism laws specifically prohibit a relative or spouse of a principal from employment at the principal's school unless they were "grandfathered" under the provisions of the nepotism statute. Mr. Jones said that one of the cases is now at the Educational Professional Standards Board (EPSB) and EPSB has requested an Attorney General's opinion on the issue. He said the issue has created enough interest that legislators may be approached about it.

Representative Moberly thanked OEA staff for the helpful studies they had completed during 2008 and said that it appears that OEA staff and EAARS members agree on many issues.

Senator Westwood asked if any particular violation arises more frequently than others prompting OEA investigations. Mr. Jones said election cycles generally result in more complaints regarding political activity by school district employees and board member candidates. Other frequent complaints relate to hiring decisions at the school level, complaints against principals made by SBDM council members about employment decisions, school board member residency issues, and school board financial conflict issues. Senator Westwood asked if legislative action is needed to clarify any of the statutes. Ms. Seiler said OEA staff has identified some issues where clarification of statutory language may be helpful and she offered to review previous reports and bring that information back to EAARS members. She said sometimes statutory language is vague and in most instances OEA remains consistent with KDE interpretations, but they were not in agreement with KDE on the statutes relating to nepotism and district-wide employees. Ms. Seiler said another vague statutory provision that needs clarification relates to the time period for renewal of a superintendent's contract.

Representative Moberly asked if the statutes contain a good definition for itinerant. Ms. Seiler responded that itinerant is not defined in the statute and is only used in the assessment regulation with regard to dividing rewards among staff in the school including itinerant personnel. She said itinerant is strictly a practice that may be financially beneficial to a school district when the services of

a single employee, such as an art or speech teacher, may be used in several schools; however, when used inappropriately, it provides an avenue to bypass nepotism statutes. She reiterated that if any principal or other school employee works in more than one building or school, the employee could arguably be considered itinerant and be a district hire rather than hired by the school council. Representative Moberly asked if they had investigated any cases where a principal was hired as a district-wide employee. Ms. Seiler responded they did investigate one case where a principal worked at the school nine-tenths of the day but worked the remaining tenth at the district office. She said she is not sure that the Attorney General's opinion, which should be available the middle of December, will resolve each issue.

Senator Winters said it appears that a definition of itinerant is needed and asked if OEA has researched what other states have done concerning the issue. He said the definition may need to include language about the percentage of time an employee would need to spend in one school to be classified as itinerant. Ms. Seiler said that Kentucky has a unique structure and they probably would find that most states do not have school-based decision making councils that participate in hiring of employees.

Representative Moberly asked Ms. Seiler to present OEA's 2009 Study Proposal. Members were provided a copy of the Ms. Seiler's December 2, 2008, memorandum to EAARS members regarding the study proposals.

Ms. Seiler said that she had put together study topics for consideration and will develop a more detailed study plan for the committee's approval at the February 2009 meeting. She said, after observing KDE's Task Force on Assessment and Accountability, she believes a major study should be done on mathematics especially since the legislature has placed so much emphasis on the subject, including funding initiatives such as the Mathematics Achievement Fund, Teachers' Professional Growth Fund, the Center for Mathematics, and Senate Bill 130 to improve achievement in this content area. She explained that the proposed study would be conducted in three separate reviews. A review will be conducted on math assessment results at the school, district, state and

national levels; college and workforce readiness in the area of mathematics; and strategies being used by specific schools and districts that have proven to be successful in increasing math achievement. A review will be done of intervention strategies that have been or are being implemented based on assessment results at the state, district, and school levels, including the assistance being provided by KDE to failing schools. The final study will be a comprehensive review of data related to the quality and supply of mathematics teachers, including a review of PRAXIS results and certification requirements and information on the pipeline to supply math teachers needed in the future. Ms. Seiler said she also had planned to conduct a study of math curriculum and core content but KDE Commissioner Jon Draud announced that he was establishing a similar study group when the Task Force on Assessment and Accountability finishes its work. She said she plans to monitor KDE's work since it is critical to OEA's study plans.

Ms. Seiler said the second study proposal would be a review of leadership training. She said the statutes are very broad on leadership requirements for superintendents, school board members, site-based decision making councils, the state board, and other educators. A comparison of program content in relation to statutory goals and/or with the responsibilities for various leadership groups will be completed. OEA will also collect data on the effectiveness of select programs in addressing the needs of local leaders.

Ms. Seiler said OEA will continue to do the Compendium of State Education Rankings and will update the District Data Profile report.

Senator Winters said he welcomed the study on the mathematics core content and he would also like to have information not only on the number of math teachers meeting minimum practice requirements for entry level but also information on the range of PRAXIS scores across the board so it can be seen how many are merely minimally qualifying versus significant qualification. Ms. Seiler responded that OEA will be able to get that information from EPSB.

Representative Moberly commended Ms. Seiler for suggesting the math study and agreed with Senator Winters on the need to follow what the Commissioner's Task Force is do-



ing with respect to core content.

Ms. Seiler said that OEA completed a Study of Fees, Dues, and Supplies in Kentucky Schools and that Dr. Ken Chilton, Director of Research, and Ms. Sabrina Olds, Research Analyst, would discuss the study. Members were provided a copy of OEA's PowerPoint presentation and a copy of a draft of the study.

Dr. Chilton said the objective of the study was to analyze prevalent types and amounts of fees and dues assessed by districts. He said fees constitute a supplementary source of education funding that is not captured on district annual financial reports and therefore the impact of fee revenue on equity across districts is not known and cannot be studied until better reporting requirements are implemented. He said the study also includes information on sanctions for unpaid fees, provisions for fee waivers for free and reduced price lunch students, and summarizes the costs of supply requests in schools across the state.

Dr. Chilton explained that all school districts were surveyed and 82% responded. Once the data was reviewed, 15 schools were purposely selected for site visits based on three different criteria: schools that submitted quantitative information; schools that typically reported high fee amounts; and schools from different geographic areas. OEA also reviewed school supply lists from the Websites of 53 randomly chosen districts and districts were asked to provide copies of fee policies and individual school fee schedules for analysis.

Dr. Chilton explained that KRS 158.108 was the enabling legislation permitting local schools to charge student fees but the statute provides little guidance on the subject of setting fee amounts. He said guidance provided by an Attorney General's opinion is that reasonable fees could be charged but what constitutes a reasonable fee remains unanswered in terms of a quantitative amount. He explained that 702 KAR 3:220 mandates fee waivers for indigent children which are typically defined as students qualifying for free or reduced price lunches but OEA found that some schools are not following the recordkeeping requirements of the regulation.

Dr. Chilton said that federal regulations also exist pertaining to the assessment and collection of fees. The Family Educational Rights and

Privacy Act (FERPA) prohibits the withholding of student records for non-payment of fees and OEA found that a few schools were violating federal law. Dr. Chilton said that all special needs children are guaranteed a free and appropriate education and therefore fees cannot be charged for items and activities essential to the education of a special needs student, although incidental fees assessed a regular education student for things like clubs, extracurricular activities, and lockers may be charged.

Dr. Chilton said the National Center for Education Statistics (NCES) has developed guidelines for recording and reporting activity fund accounts in both school activity funds, such as a drama and pep clubs, and district activity funds, such as parking and locker fees. NCES information shows that a sharp distinction exist between student and district activity funds and accounting for all activity funds is the responsibility of a school district, but Kentucky does not follow NCES guidance. OEA contacted Virginia, Tennessee, Illinois and Missouri regarding reporting of activity funds and found that those states comply with NCES guidelines. He said this is important because Kentucky's failure to report district activity funds to NCES may contribute to lower rankings on national comparisons of education revenues and expenditures and contributes to inaccurate district comparisons within the state for revenue and expenditures.

Dr. Chilton said OEA found that fees and dues are charged in 89% of the districts in the state, accounting for 97% of the students within schools that assess fees; that 80% of districts in the lowest wealth quintile charge fees while 100% of districts in the wealthiest quintile charge fees; and as the number of students eligible for free and reduced price lunches decrease, the likelihood of charging fees increase. He said charging of dues and fees has equity implications, especially in wealthier districts where substantial funds to supplement school funding is generated through fees.

Dr. Chilton said that OEA used five categories of fees to conduct the study: general fees for school enrollment; course fees for classes; extracurricular fees for music, sports, and other activities; club and organization fees for special interest activities, such as FBLA, Beta Club, and others; and other fees for lockers, parking

and textbooks. They surveyed districts to find out how fees are set and found fees usually reflect the cost of goods or services provided and that most districts base fee amounts on precedence and rarely change them. OEA also obtained information on fee collection policies and learned that some districts impose sanctions on students to leverage payment, including suspension of parking privileges or disallowing participation in activities such as proms or graduation ceremonies, and a few districts reported they withhold student records. Dr. Chilton said that withholding of student records is a violation of FERPA. OEA also found that many districts unable to collect the fees merely waive them.

Dr. Chilton provided information on the five categories of fees and the amounts charged for the different categories in different school levels. He said they found that middle schools charge a wide range of fees from \$5 to \$500 for extracurricular activities. He said high school club fees and course fees were found to be nominal, although a few high schools assessed course fees on more than 20 different courses. Although the fees varied throughout the state, a hypothetical fee scenario based on data collected showed total fees per child to be approximately \$20 for elementary schools, \$60 for middle, and \$169 for high school, which would vary based on student involvement in clubs, number of courses, and other factors.

Dr. Chilton provided specific information on the amount of income generated from fees and dues in the fifteen schools where in-depth reviews were conducted. Yearly fee revenue ranged from a low of \$2,600 to a high of \$313,000, and some schools had carry forward balances in fee accounts as high as \$43,000. He said the total amount of fee revenue generated coupled with the unexpended balances reinforces OEA's concerns about what constitutes a reasonable fee and the effect of fees in funding equity. Dr. Chilton said that language in KDE's Accounting Procedures for Kentucky School Activity Funds, known as the Redbook, states that money generated by students should be expended on the students who paid the fees and therefore a carryover of funds from fees is a questionable practice.

Dr. Chilton said supply requests varied across grade levels with more frequent use in elementary and

middle schools and less use in high schools where supplies are usually included as part of a course fee. The median price for supplies for elementary students was \$31 and for middle school \$41, although scientific calculators, which range in price from \$25 to over \$100, were not included in the middle school cost.

Ms. Olds explained that Support Educational Excellence in Kentucky (SEEK) is the state funding mechanism for allocating funds to districts and she provided a flow chart on how districts allocate funds to schools under 702 KAR 3:246. She explained that after excluding district-wide expenditures for transportation, itinerant teachers, extended employment, extra days, and the district's budgeted contingency amount, the remaining funds, called Section 3 Funds, are allocated to School-Based Decision Making (SBDM) councils. Section 3 funds are then allocated to Section 4 for certified staff and Section 5 for classified staff based on the board approved staffing formula. Section 6 funding which is also part of the Section 3 allocation is classified as other minimum allocations. Ms. Olds said that school councils receive a minimum allocation of 3.5% of the state-wide guaranteed based funding level for SEEK based on prior year average daily attendance (ADA) and the funding level for 2008 was \$3,822. Therefore, districts were required to provide schools \$133.77 multiplied by the school's average daily attendance. Ms. Olds said that, although the regulation was changed in 2001 so that it no longer restricted the use of Section 6 funds for materials, supplies, travel, and equipment, KDE's SBDM allocation worksheets are still reflecting those use restrictions. She said after subtracting the allocation amount for Sections 4, 5, and 6 from the Section 3 funds, districts may then allocate any remaining funds under Section 7 in several ways including an amount per prior year ADA, an amount based on pupil needs identified by school councils in school improvement plans, for specific instructional purposes based on student achievement data, or a combination of all of the factors. She said OEA only concentrated on Sections 6 and 7 funds for the current study and explained that SBDM councils approve Section 6 funds that are to be used by teachers for classroom supplies and materials.

Ms. Olds then discussed the information collected during site visits

showing the allocation from Section 6 funds provided to each school, which is then divided among all the teachers within the school. She provided an example showing that one middle school was provided a 4% allocation from Section 6 funds by their SBDM Council while another SBDM Council gave their middle school teachers 42%. Ms. Olds said, in revisiting the equity issue, if the total from a teacher's Section 6 funds is combined with revenue from fees collected, huge variances in equity are reflected. She gave another example of two schools that were surveyed having approximately the same number of students with one high school having received \$63,000 in Section 6 funds and \$313,000 in fees for a total of over \$376,000 for instructional needs, but a similar size school with approximately the same number of students received \$27,000 from Section 6 funds and \$48,000 from student fees for a total of \$75,000 for instructional needs.

Ms. Olds said they also found during the site visits that not all schools received Section 7 funding as required by 702 KAR 3:246 even though the amount of district contingency funds made it questionable that no Section 7 funds would have been available. Ms. Olds reiterated that the regulation requires at least a 2% budgeted contingency amount, although the state Board of Education recommends a reserve of 5%.

Dr. Chilton said OEA recommends that KDE change its SBDM allocation worksheet instructions regarding the Section 6 funding restriction to comply with 702 KAR 3:246 which does not restrict the use of Section 6 funds. Also, the large reserves in contingency funds indicates that some districts are not properly allocating Section 7 funds and therefore KDE should review district allocations to ensure that Section 7 funds are distributed according to the regulation. OEA found that most schools are not adhering to the recordkeeping provisions of 702 KAR 3:220 which require that a fee waiver form be provided to parents of free and reduced price lunch students. Even though waivers were being provided, districts still need to keep a record of the number of fee waivers requested and granted as set out in the regulation. OEA also found that the KDE Redbook does not conform to NCES guidelines regarding activity fund reporting on annual financial reports. Dr. Chilton said that if

NCES guidelines are implemented, a more accurate national ranking of education revenues and expenditures would be available for Kentucky and a more accurate analysis of funding equity across the state could be done. Dr. Chilton said that some districts are withholding student academic records for non-payment of fees or fee debt in violation of FERPA and therefore the Redbook needs to be revised to reflect the FERPA restrictions.

Dr. Chilton said some school leaders and administrators voiced concern about the reporting requirements of outside organizations such as booster clubs. He said that although OEA did not do an in-depth review of those accounts it is their recommendation that KDE review other states reporting requirements for booster clubs to determine best practices for managing them which could be incorporated into the Redbook to provide guidance for school and district leaders. With regard to carryover balances and the high amounts of fee revenue generated at some schools, OEA recommends that districts annually review all assessed fees to ensure that the fees are reasonable, are being used on the students who pay them, and are for the purpose collected. Dr. Chilton said that KDE advised them that Recommendation 3.6 in the draft report was in error and the report will be updated to reflect a change.

Representative Moberly thanked OEA staff for the very thorough report and asked if KDE has had an opportunity to respond to any of the recommendations. Mr. Frank Rasche, Legislative Liaison for KDE, responded that they have not yet had the opportunity to do a complete review and provide a formal response. Representative Moberly said he would like to receive KDE's response to the report perhaps at the next meeting of the committee.

Representative Moberly asked Kevin Brown, General Counsel, Kentucky Department of Education, to provide information on the three regulations for consideration by the committee.

Mr. Brown explained that 703 KAR 5:070 establishes procedures for the inclusion of special student population in the state assessment and accountability programs and incorporates by reference a document called the "Inclusion of Special Populations," which is the document being amended. He said the proposed amendments update terminology

consistent with No Child Left Behind, IDEA, and Section 504 of the Rehabilitation Act, and also clarify language for ease of reading by practitioners and better use of terminology. He said 703 KAR 5:080 contains the administration code for Kentucky's educational assessment program and incorporates a document by reference which provides guidance to schools for the implementation of the testing system and all the rules related thereto. He said some of the amendments to the regulation were necessitated by NCLB and also provide for easier reading. Mr. Brown said that 703 KAR 5:140 includes the requirements for school and district report cards which schools, districts, and KDE must follow for publishing school and district report cards. He said the most significant amendment to the regulation related to making the reports available on KDE and district Websites or made available to parents in hard copy upon request.

Representative Firkins made a motion that the technical and editorial changes recommended by agency staff to 703 KAR 5:070 be incorporated into the regulation. Senator Winters seconded the motion and the motion was approved by voice vote.

Representative Moberly said that the Kentucky Education Association sent a letter to the committee with an objection to provisions in 703 KAR 5:080 relating to the requirement to remove visuals used for instruction that are displayed on classroom walls during assessments. Ms. Sims said she had not seen the letter but was aware of their concern. She said visuals are posters or other types of instruction material that are posted on a classroom wall and the regulatory requirement states that materials could be posted for instruction but were not to be posted during assessment. She said the provision has been in the regulation since 1999 but enforcement has eroded somewhat over the years, so changes in the regulation simply clarify the original intent of the 1999 requirement. She said it would certainly be inappropriate for educators to display test answers on the wall rather than allowing the assessment to measure retention in the student's mind and there must be standardization throughout the school system if schools are to be held accountable for test results. Ms. Sims related that several comments both pro and con were received during the comment

period. She also said that all of the national assessments, including ACT, PLAN, EXPLORE, and NAEP, require that content material be removed or covered during testing. She explained that the regulation establishes a single set of rules for all assessments throughout the education system in Kentucky.

Ms. Seiler said that the OEA staff also believes the regulation needs to be clarified since her office had received complaints about the presence of visuals and complaints about having to remove the visuals.

Senator Winters said he had been frequently approached during the last few days about this subject. He asked if he understood correctly that the teacher is responsible for making the judgment call on what needed to be removed from the classroom wall. Ms. Sims responded that it is not only the teacher's decision but school leadership as well. She said that KDE will be providing specific guidance in a training video that can be shared statewide. She said three questions need to be asked about the material. Does the visual contain content; does it contain strategies to help a student respond; or has it been used in instruction; and if the answer is yes to any of those questions, KDE recommends that the poster/item be removed or covered. Ms. Sims said that 46 other states have requirements that instructional items be removed or covered during assessments and 2 other states had more vague language, including Florida where certain posters may remain during testing. Senator Winters asked if the visuals are commercial posters or have been prepared by school staff to which Ms. Sims responded that it varies although it appears that many are generated by students and/or teachers. Senator Winters asked if widely used items, such as the Periodic Table of Elements in a science classroom, had to be removed. Ms. Sims responded that the Periodic Table is a great example of a poster that may remain and is provided as a specific example in the regulation, based on ACT guidelines, which allow it to remain during assessments. Ms. Sims reiterated that posters are only to be removed or covered during administration of assessments, including the ACT, PLAN, EXPLORE, and Kentucky Core Content Test (KCCT). Senator Winters asked if the items referred to in the regulation are things teachers have posted just before test period. Ms.



Sims said the time of posting the materials may vary. She the regulation contains requirements to prohibit a test from being viewed prior to administration and therefore information on posters may or may not be part of the test items.

Representative Moberly suggested that the technical amendments recommended by LRC staff to 703 KAR 5:080 and agreed to by KDE be favorably considered. Senator Westwood moved that the technical changes be accepted. Senator Winters seconded the motion, which was approved by voice vote.

Representative Moberly said that LRC staff also recommended technical changes to 703 KAR 5:140. Senator Winters moved that the technical changes to the regulation be incorporated into the regulation. Representative Firkins seconded the motion and the motion carried.

Senator Winters asked for additional information on the person or persons responsible for deciding which items may remain on classroom walls during testing. Ms. Sims said the person primarily responsible for administration of assessments is the district assessment coordinator and KDE staff work closely with those coordinators and provide them in-depth training. They, in turn, are responsible for working with school leaders who schedule tests and are ultimately responsible for ensuring that all of the teaching staff maintains the integrity of the assessment system. Ms. Sims said the regulation tightens the language significantly and provides clarity and standardization. Senator Winters asked what necessitated the change and Ms. Sims said the department had received some complaints and requests for clarification so the new regulatory language is intended to strengthen the requirements and provide clarity. Also, since EPAS is now part of the CATS assessment, the national testing agency has very specific rules regarding displays.

There being no further business to discuss, Representative Moberly adjourned the meeting at 3:00 P.M.

**GOVERNMENT CONTRACT  
REVIEW COMMITTEE  
Committee Minutes  
December 15, 2008**

The Government Contract Review Committee met on Monday, December 15, 2008, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secre-

tary called the roll.

Present were: Senator Vernie McGaha, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Joe Lancaster, Janet Hartlage, Connie Lester, Kellie Wilson, Amy Barnes, Bill Cooper, Bill Harris, Michael Speaks, Renee Close, David Gayle, Paul Gannoe, Jennifer Linton, Hiren Desai, Lisa Cox, Tim Hubbard, Gene Kiser, and Ralph Coldiron.

LRC Staff: Kim Eisner, Matt Ross, B.R. Masters, Nancy Osborne, Brad Metcalfe, Russell Harper, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the November 12, 2008 meeting of the committee. Representative Keene seconded the motion, which passed without objection.

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

ENAIncorporated, 0800008887; Lake Cumberland CSO Incorporated, 0800011060.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Peercy and Gray, PSC, 0800011083.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

ARC of Kentucky Incorporated, 0800010865.

DEPARTMENT FOR NATURAL RESOURCES:

Multi, 0800011097.

DEPARTMENT OF INSURANCE:

James T. Axman, CIE, 0800010940.

FINANCE AND ADMINISTRATION CABINET:

Pinnacle Arbitrage Compliance, LLC, 0800010839.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Multi, 0800010783.

FISH & WILDLIFE, DEPARTMENT OF:

Kentucky Hunters for the Hungry, 0800010946.

INFRASTRUCTURE AUTHORITY:

Potter & Company, LLP, 0800011044.

JUSTICE CABINET:

Barbara Weakley-Jones, 0800011129.

KENTUCKY LOTTERY CORPORATION:

Automatic Data Processing Incorporated, 0908041.

KY HORSE RACING AUTHORITY:

James C. Robke, 0800010759.

KY PUBLIC SERVICE COMMISSION:

Logan and Gaines, 0800010876.

MILITARY AFFAIRS, DEPARTMENT OF:

Andre O. Daigle, 0800011138.

MURRAY STATE UNIVERSITY:

Porter Khouw Consulting Incorporated, 01009.

TRANSPORTATION CABINET:

Stantec Consulting Services Incorporated, 0800011017; Stantec Consulting Services Incorporated, 0800011018; Stantec Consulting Services Incorporated, 0800011019; Stantec Consulting Services Incorporated,

0800011041; Photo Science Incorporated, 0800011113; URS Corporation, 0800011125; Palmer Engineering, 0800011179.

UNIVERSITY OF KENTUCKY:

Biagi, Chance, Cummins, London, Titzer Incorporated, A091080; Ross Tarrant Architects Incorporated, A091090; Omni Architects, A091100.

WESTERN KENTUCKY UNIVERSITY:

Digital Design Advertising, LLC, 080968.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Prevent Child Abuse Kentucky, 0800008787; ENA Incorporated, 0800008973; Kentucky Domestic Violence Association, 0800009020.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Tetra Tech Incorporated, 0600002009.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

KentuckySelf-AdvocatesforFreedom Incorporated, 0800007174.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Bender Associates Architects, 0600002356; Arrasmith Judd Rapp Chovan Incorporated, 0700003163; Omni Architects, 0700003255; Hastings & Chivetta Architects, 0700004255; JRA Incorporated, 0700005118; GRW Engineers Incorporated, 0700006167; Biohabitats Incorporated, C-04028197; Mactec Engineering and Consulting, C-04156214; Barnette Bagley Architects, C-05256613-1.

INFRASTRUCTURE AUTHORITY:

Hawkins Delafield & Wood, LLP, 0600001628.

JUSTICE CABINET:

Connie Branson, 0800010566.

MURRAY STATE UNIVERSITY:

Capitol Solutions, 00209.

TRANSPORTATION CABINET:

Jordon Jones and Goulding Incorporated, 0600001755; Strategic Value Solutions Incorporated, 0700005952; Hmb Professional Engineers Incorporated, 0700006175; BTM Engineering Incorporated, 0800006761; Gresham Smith and Partners, 0800006810; PB Americas Incorporated, 0800006818; Wilbur Smith Associates, 0800007020; PB

Americas Incorporated, 0800007021; HDR Engineering Incorporated, 0800010974; Palmer Engineering Company, C-00124800-5; HMB Professional Engineers Incorporated, C-03027697; Burgess & Niple, LTD, C-03273229-1; Entran, PLC, C-03368444; Southern and Eastern Kentucky Tourism Development Associates, C-04669145; Southern and Eastern Kentucky Tourism Development Associates, C-04670396; GRW Engineers Incorporated, C-05399089; American Engineers Incorporated, C-99005190-8; W M B Incorporated, C-99005607-6.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

EDUCATION, DEPARTMENT OF: Leslie County Board of Education, 0800010444; Green River Regional Education Cooperative, 0800010801; KET Foundation, 0800010944.

FISH & WILDLIFE, DEPARTMENT OF:

EPPC Division of Conservation, 0800007828; Attorney General, 0800011037.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:

Kentucky Higher Education Student Loan Corporation, 0800008821.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Johnson County Fiscal Court, 0800010456; Gallatin County Fiscal Court, 0800010559; Perry County Fiscal Court, 0800010963; Perry County Fiscal Court, 0800010964; Perry County Fiscal Court, 0800010968; Perry County Fiscal Court, 0800010969; Perry County Fiscal Court, 0800010970; City of Hazard, 0800010973; Pike County Fiscal Court, 0800011031; Lincoln County Fiscal Court, 0800011035; Leslie County Fiscal Court, 0800011048; Leslie County Fiscal Court, 0800011052; Leslie County Fiscal Court, 0800011075; Leslie County Fiscal Court, 0800011076; Leslie County Fiscal Court, 0800011077; Leslie County Fiscal Court, 0800011078.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Breckinridge County Jail, 0800010424; Pike County Deten-

tion Center, 0800010429; Christian County Jail, 0800010431; Three Forks Regional Jail, 0800010432; Daviess County Detention Center, 0800010434; Hardin County Jail, 0800010436; Pike County Detention Center, 0800010439; Powell County Fiscal Court, 0800010445; Clark County Jail, 0800010446; Mason County Detention Center, 0800010447; Floyd County Jail, 0800010448; Marion County Jail, 0800010449; Kenton County Detention Center, 0800010452; Grayson County Jailer, 0800010458; Hopkins County Detention Center, 0800010459.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Lincoln Trail Area Development District, 0800007372; Green River Area Development, 0800007373; Pennyroyal Area Development District, 0800007512; Bluegrass Area Development District Title Iii, 0800007514; Buffalo Trace Area Development District, 0800007515; Cumberland Valley Area Development District, 0800007516; Lake Cumberland Area Development District, 0800007518; Kentuckiana Regional Planning, 0800008665; Fivco Area Development District, 0800008688; Northern Kentucky Area Development District, 0800008689.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Community Action Kentucky Incorporated, 0800008411; Central Kentucky CAC Incorporated, 0800008691.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Barren County Board of Education, 0800006793.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Pennyroyal Mental Health, 0800006845.

EDUCATION, DEPARTMENT OF:

Jefferson County Board of Education, 0800007111; Jefferson County Board of Education, 0800007136; Jefferson County Board of Education, 0800007181; Jefferson County Board of Education, 0800007182; Jefferson County Board of Education, 0800007208; Jefferson County Board of Education, 0800007599; Jefferson County Board of Education, 0800007600; Fayette County Board of Education, 0800007623; Jefferson County Board of Education, 0800007624; Casey County Board of Education, 0800007954;

Allen County Board of Education, 0800008061; Bracken County Board of Education, 0800008071; Caldwell County Board of Education, 0800008086; Clay County Board of Education, 0800008091; Covington Independent Board of Education, 0800008094; Knox County Board of Education, 0800008126; Letcher County Board of Education, 0800008136; Lewis County Board of Education, 0800008137; Lincoln County Board of Education, 0800008138; Mercer County Board of Education, 0800008419; Morgan County Board of Education, 0800008420; Owen County Board of Education, 0800008421; Pike County Board of Education, 0800008423; Robertson County Board of Education, 0800008427.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Johnson County Fiscal Court, 0700003527; Taylor County Fiscal Court, 0700003683; Union County Fiscal Court, 0700004329; Butler County Fiscal Court, 0700005690; Perry County Fiscal Court, 0700006178; Knox County Fiscal Court, 0700006259; City of Hodgenville, 0700006459; City of Maysville, 0700006595; Bell County Fiscal Court, 0700006676; City of Campbellsville, 0800007141; Pike County Fiscal Court, 0800007281; Powell County Fiscal Court, 0800007766; Knott County Youth Foundation, 0800007949; KIPDA, 0800008735; Knox County Fiscal Court, 0800010871; Webster County Fiscal Court, M-04197611-2.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Peercy and Gray, PSC0800011083. Lisa Cox and Tim Hubbard discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed with Senator McGaha electing to abstain (pass).

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Multi, 0800010783. Hurin Desai discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Crenshaw

seconded the motion, which passed unanimously.

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

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Prevent Child Abuse Kentucky, 0800008787. Renee Close and David Gayle discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Hastings & Chivetta Architects, 0700004255. Paul Gannoe and Jennifer Linton discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR \$10,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

UNIVERSITY OF KENTUCKY:

MI/dtw, LLC, 4500029758. Bill Harris and Michael Speaks discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Lincoln Trail Area Development District, 0800007372; Green River Area Development, 0800007373; Pennyroyal Area Development District, 0800007512; Bluegrass Area Development District Title Iii, 0800007514; Buffalo Trace Area Development District, 0800007515; Cumberland Valley Area Development District, 0800007516; Lake Cumberland Area Development District, 0800007518; Kentuckiana Regional Planning, 0800008665; Fivco Area Development District, 0800008688; Northern Kentucky Area Development District, 0800008689. Bill Cooper



discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Montell seconded the motions, which passed unanimously.

EDUCATION, DEPARTMENT OF: Jefferson County Board of Education, 0800007111; Jefferson County Board of Education, 0800007136; Jefferson County Board of Education, 0800007181; Jefferson County Board of Education, 0800007182; Jefferson County Board of Education, 0800007208; Jefferson County Board of Education, 0800007599; Jefferson County Board of Education, 0800007600. Connie Lester and Janet Hartlage discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed with Senator Gibson, Senator Tori, Representative Montell, and Senator McGaha voting NO.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Knox County Fiscal Court, 0800010871. Kellie Wilson and Amy Barnes discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Keene seconded the motion, which passed with Senator Tori and Representative Crenshaw voting NO.

UNIVERSITY OF LOUISVILLE: Louisville Area Council on Peacemaking, Incorporated d/b/a Just Solutions, 09067. A motion was made Representative Yonts to defer the contract to the January meeting of the committee. Representative Keene seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF: Menifee County Board of Education, 0800010884. A motion was made Representative Yonts to defer the contract to the January meeting of the committee. Representative Keene seconded the motion, which passed unanimously.

OFFICE OF HOMELAND SECURITY:

Gene Kiser came before the committee to discuss an exemption request regarding all agreements issued as instruments of obligation for funds under State and Federal Homeland Security Grant Programs was reviewed. A motion was made by Representative Yonts to approve the

request to December 31, 2009. Senator Tori seconded the motion, which passed unanimously.

Ralph Coldiron came before the committee to discuss the Commercial Mobile Radio Service Emergency Telecommunications Board's (CMRS) exemption request regarding all Purchase Orders (Master Agreements) issued as instruments of obligation for grant funds awarded by the CMRS Board was reviewed. A motion was made by Senator Carroll to approve the request to December 31, 2009. Representative Crenshaw seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:45 a.m.

### **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE November 12, 2008**

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, November 12, 2008, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Jimmie Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Dick Roeding, Co-Chair; Representative Jimmie Lee, Co-Chair; Senators Walter Blevins Jr., Tom Buford, and Dan Seum; and Representative Bob M. DeWeese,

LRC Staff: Miriam Fordham, and Cindy Smith.

The minutes of the October 22, 2007 and August 18, 2008 meetings were approved without objection.

First on the agenda was an update on Medicaid reform by Elizabeth Johnson, Commissioner; Reina Diaz-Dempsey, Deputy Commissioner; and, Carol Muldoon, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services. Commissioner Johnson began by discussing the Deficit Reduction Act (DRA) of 2005. She said there is a concern over the rising federal deficit. The deficit needs to be cut and tax cuts need to be extended. The DRA promise is to reduce the growth in Medicaid spending by \$5 billion over 5 years. She reported that the diabetes disease management pilot program has been fully implemented in targeted counties under the contract with First Health. Effective July 1, 2009, the diabetes disease management program will begin to be delivered through a partnership with the Diabetes Centers of

Excellence in counties with the largest concentration of high-risk diabetes patients. Effective January 1, 2010, the final phase of the diabetes disease management program will be implemented, expanding it to other geographic areas where the program will be cost-effective. Commissioner Johnson reported that Kentucky is in the highest tier for the number of diabetes deaths per 100,000. Kentucky ranks 40th in the nation in the number of diabetes deaths. Kentucky Medicaid has more than 65,000 members with diabetes. Diabetes disease management should be a high priority for Kentucky Medicaid. She also reported that Kentucky ranks 35th in the nation in the percentage of adults who have been told they have asthma; and, more than 60,000 Medicaid members have an asthma diagnosis. Kentucky ranks 39th in the nation in the number of preterm births. Medicaid pays for approximately 40 percent of all births in Kentucky (nearly 50 percent when Passport numbers are included).

Representative Lee asked about the mechanics from the first visit to the provider and on to the Center of Excellence and how reporting is done. Commissioner Johnson said that there was no baseline with First Health; and, they will be pushing baselines. Medicaid will be partnering with the provider community and will give them tools to refer people to the Diabetes Excellence Centers. Electronic report cards will also be done. She also said they would have a true partnership with the Department for Public Health and will share data.

Senator Roeding asked about the partnership between providers, nurse practitioners, physician assistants, pharmacists and health departments. Commissioner Johnson said without the buy-in there would be no success. The provider community has seen an increase in reimbursement. There has to be a true partnership between all the parties involved to improve the overall health of Medicaid individuals.

Representative DeWeese asked if the Diabetes Center of Excellence will replace caseworkers. Deputy Commissioner Muldoon said everyone will be involved and that the Diabetes Center of Excellence will have a new program that will have registered nurses that will do telephone calls. They will also have nurse practitioners.

Representative Lee asked if the

65,000 members with diabetes are in the 20 percent of enrollees that are costing 80 percent of the money. Commissioner Johnson said that is correct.

Representative Lee asked about the University of Kentucky and University of Louisville grant for diabetes research, and if the state will be able to incorporate those universities' expertise. Commissioner Johnson said that information is not in the model yet, but they recognize that the universities have the expertise to help.

Representative Lee asked if the state would furnish the necessary software to the universities and be able to get the same feedback as from the private providers. Commissioner Johnson replied yes.

Commissioner Johnson spoke about Medicaid modernization. The DRA promise for the Health Insurance Premium Program (HIPP) was to enroll 1,000 individuals by the end of three years. Currently, only 6 have been enrolled. Medicaid has identified barriers. The barriers include lack of true wrap around coverage; insufficient focus on high cost individuals; inadequate cost effectiveness methodology; and, required regulation change and state plan amendment needs revision.

In regard to expanded access to community based programs, Commissioner Johnson reported that the Michelle P. waiver was implemented August 1, 2008, the Money Follows the Person grant received was operational on August 13, 2008; and, the Acquired Brain Injury Waiver for those who have reached a plateau in rehabilitation was effective November 1, 2008.

Representative Lee encouraged that there not be a plateau for Acquired Brain Injury services. Commissioner Johnson said that the purpose of the waiver is to be able to provide more comprehensive services.

Senator Seum asked about the outcome of the Michelle P. Lawsuit. Commissioner Johnson said that there was a settlement in 2006; and, they are in full compliance with that settlement.

Commissioner Johnson also discussed program integrity. She said that effective June 16, 2008, the new Division for Program Integrity, formerly under the Office of Inspector General, was operational in the Department for Medicaid Services. She also said that the SURS vendor was obtained; the first set of HCE algo-

rithms were identified; and, the TPL Vendor (HMS) recovered monies.

Deputy Commissioner Muldoon discussed the pharmacy management program. She said that reviews of new classes generating additional rebate savings has been completed in the Enhanced Preferred Drugs List Management Program; the generic utilization rate has improved to 72.18%; on-site pharmacy audits began in the first quarter of calendar 2008; enhanced program integrity coordination has begun; and academic detailing and educational programs to educate providers on the appropriate use of prescription drugs (CNS program) have been implemented.

Senator Roeding asked what prompted the on-site pharmacy audits. Deputy Commissioner Muldoon said they are a standard minimal audit. Notice is given beforehand to the pharmacies, and they are the least disruptive as possible.

In regard to the KENPAC Partnership Program development, Commissioner Johnson reported that modernization of the KenPAC Program will focus on emphasizing the importance of a medical home; engaging primary care providers effectively; designing program components that align incentives; sharing appropriate data to maximize clinical outcomes; and, establishing program baseline data and goals and routinely monitoring and reporting on progress.

Representative Lee said that it is vital that all components are discussed and that everyone remains active. He asked if Kentucky can expect the cost avoidance programs to be in place and be effective with the funding that is available. Commissioner Johnson said no; they can't fill the hole on cost avoidance by 2010.

Senator Buford asked if more of the state could be covered by Passport. Commissioner Johnson said that she has not been in talks with Passport about that and currently they are trying to manage the state-wide Medicaid program as well as possible.

Last on the agenda was a discussion on the activities of EDS and the Medicaid Management Information System (MMIS) by Glenn Jennings, Account Executive, EDS Information Services.

Representative Lee began by asking Mr. Jennings whether EDS can provide data on all services recipients are receiving that are in the 20 percent that are costing 80 percent of the money. Mr. Jennings said yes, it

is called the 1115 Report. The federal government requires that EDS produce this report for Medicaid. This report can include all expenditures and all services in one report.

Representative Lee commented that with technology that is available, any given eligible could be looked at; by whom they are managed; and, the complete picture would be there of a particular eligible. Mr. Jennings said yes; everything can be done. He said a report could be done on the top 200 enrollees who are costing the state the most money, and a complete history on their health care could be in the report.

Representative Lee said there needs to be a simple way to look at eligibles and to keep the committee members current as to how the focus is being narrowed, so there is not disconnect between the programs.

Representative DeWeese asked when getting the information if there is other information available, such as their lifestyle, whether they smoke or are overweight. Mr. Jennings said that diagnosis codes are available; but, lifestyle issues are different.

Mr. Jennings said that good progress is being made at EDS. He said that over 19 million claims have been paid to date, and the average check written each week is about \$70 million.

Representative Lee asked if EDS is maintaining on time payments of claims. Mr. Jennings said yes; most are being processed in a 21 day window.

The meeting was adjourned at 2:30 p.m.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE December 8, 2008**

The Medicaid Oversight and Advisory Committee meeting was held on Monday, December 8, 2008, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Dick Roeding, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Dick Roeding, Co-Chair; Representative Jimmie Lee, Co-Chair; Senators Walter Blevins Jr., Tom Buford, Julie Denton, and Dan Seum; Representatives Bob M. DeWeese.

Guests: Eric Clark and Wayne Johnson for the Kentucky Association of Health Care Facilities; Bill Doll for the Kentucky Medical Association; Sarah Nicholson for the Kentucky Hospital Association; and Jan Gould

for the Kentucky Retail Federation.

LRC Staff: Miriam Fordham and Cindy Smith.

The minutes of the November 12, 2008 meeting were approved without objection.

First, Representative Lee presented a Resolution from the committee in honor of Senator Roeding's retirement. The members spoke about Senator Roeding and his accomplishments.

Next on the agenda was a discussion of the Passport Advantage Plan by Shannon R. Turner, JD, Executive Vice President, University Health Care, Inc., Ruth Atkins, Executive Director, Passport Health Plan; and Jill Bell, Executive Vice President, Passport Health Plan. Ms. Turner said that the mission of Passport is to improve the health and quality of life of its members. She reviewed the organizational structure and governance of Passport. She said that as a Medicare Advantage Special Needs Plan, Passport Advantage is able to manage both Medicare and Medicaid benefits, thereby providing better coordinated care for that vulnerable population. Absent a CMS contract, Passport Health Plan would have lost the ability to manage pharmacy benefits and ultimately, quality and continuity of care for these dual eligible members. Ms. Adkins spoke about eligibility. She said that in order to be eligible, members must have Medicaid Part A and Part B and be enrolled in Passport Health Plan (Medicaid). All members have a special election period and can enroll or disenroll each month. Passport Advantage members are full benefit dual eligibles and more members are eligible due to disability rather than age. Currently there are 170 ESRD members. The total disenrollment rate for Passport Advantage is 1.73 percent. The Plan uses a team approach for delivery of quality care and services. It addresses the needs and challenges of members with chronic illnesses and disabilities. It provides member assessments and interventions prior to major high-impact events and it minimizes problems that occur when care systems are fragmented by using a comprehensive coordinated care system. In addition to Medicare Advantage requirements, special needs plans must also provide a model of care and undergo selected standard review by NCQA. Key factors to its success are: a provider sponsored model; a partnership model; extensive physician and clinician involve-

ment in developing, implementing and managing the plan; a proactive care coordination model; member satisfaction and involvement; collaboration with community agencies and health departments; and an extensive provider network and enhanced reimbursement.

Senator Denton asked who pays for dialysis reimbursement. Ms. Atkins said that Passport Advantage pays like a Medicare plan, and anything else is considered by Passport for payment.

Senator Roeding asked how dental services are covered. Ms. Atkins said they are covered under the traditional Medicaid Passport plan.

Senator Buford asked if there has been any talk with the Cabinet about Passport expanding to cover more of the state. Ms. Turner said there have been no talks yet, but the Passport program has been given an additional three year extension in the region they currently cover.

Senator Blevins asked how many new recipients per month there have been under the Passport plan. Ms. Turner said the eligibles have been steady, but from July through August the numbers increased dramatically. For calendar year 2008, there have been about 4,000 to 5,000 more recipients than anticipated.

The next item on the agenda was a discussion on the use of atypical anti-psychotic drugs for children by Dr. Thomas Badgett, Medical Director, and Elizabeth Johnson, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services. Dr. Badgett began by showing a map of the 104 counties that participate in the Behavioral Pharmacy Management Program (BPMP). The counties covered by Passport do not participate. Dr. Badgett discussed data on drug classes for children 18 and under from April, 2005 through June, 2005. Of the drug classes discussed, stimulants were the highest prescribed at 19,108 for children with a cost of almost \$4 million dollars for three month usage. There were almost 9,000 patients on atypicals for the same three month period, which cost over \$4 million dollars for three months. He reported that the number of pediatric recipients, as well as drug costs have increased since 2005. He said the BPMP analyzes six additional behavioral drug classes: ADHD non-stimulants; mood stabilizers; insomnia agents; benzodiazepine; antidyskinetics; and any substance abuse drug. He also said that seven



of 23 quality indicators are designed for pediatric data analysis.

Senator Roeding asked how pharmacists are used. Dr. Badgett said they put data into the system.

Senator Roeding asked if there has been a trend in possible over prescribing of ADHD drugs for children. Dr. Badgett said the pediatric area has not been launched yet. But, they expect it to be in the coming weeks, and they will watch for that.

The last item on the agenda was a discussion on Medicaid budget issues by Elizabeth Johnson, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services. Commissioner Johnson reported that there is a \$183 million anticipated deficit in Medicaid for 2009 and she said that figure may worsen in the future. The Cabinet is diligently working towards efforts to maintain Kentucky Medicaid for the long term. She said that even if all the new programs were implemented immediately, a cost savings would not be seen by the end of the fiscal year, but regardless, all systems need to be implemented. She also reported that Kentucky is seeing the highest unemployment rate in 30 years, with a 6.8 percent rate for October, 2008. A rising unemployment rate means there are higher numbers enrolling in Medicaid and CHIP. They have seen a 3,000 per month increase in enrollees, while their budget is only figured for a 1,000 per month increase.

Senator Roeding asked if they are working on a plan to balance the budget. Commissioner Johnson said the Cabinet is working with GOPM and the Governor's Office, but there are not definite plans thus far.

Senator Roeding noted that Kentucky was frugal with its spending in the CHIP program, and the state needs to look into additional ways to pay for it. He also noted that Passport would be interested in entering into an agreement to look at ways to possibly save the state money.

The meeting was adjourned at 2:15 p.m.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes**

**November 13, 2008**

The Program Review and Investigations Committee met on Thursday, November 13, 2008, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Reginald Meeks, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Reginald Meeks, Co-Chair; Senators Vernie McGaha, Joey Pendleton, Dan Seum, Brandon Smith, and Katie Stine; Representatives Dwight D. Butler, Leslie Combs, Rick G. Nelson, Ruth Ann Palumbo, Rick Rand, and Ken Upchurch.

Guests: LaDonna Thompson, Commissioner; Jim van Nort, Assistant Director, Division of Mental Health; Department of Corrections. Van Ingram, Acting Executive Director; Heather Wainscott, Branch Manager; Office of Drug Control Policy. Amy Andrews, Kentucky Agency for Substance Abuse Policy Coordinator.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Jim Guinn; Christopher Hall; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Rkia Rhrib; Tara Rose; Cindy Upton; Stella Mountain, Committee Assistant.

Upon motion made by Senator Pendleton and seconded by Senator Harris, the minutes of the October 9, 2008 meeting were approved by voice vote, without objection.

Representative Meeks asked that representatives from the Department of Corrections give a follow-up response to the report on felony reentry, which was approved at the October meeting. A request had been made by the committee that someone from the department explain why KRS197.420 (6) did not seem to be met.

Commissioner LaDonna Thompson described the reentry program. She agreed that tracking of recidivism could be improved.

Jim van Nort presented results from three studies of participants in the Sex Offender Treatment Program compared to a control group. The first study was conducted in 1997, the second in 2002, and the third in 2003. The second and third studies were follow-ups of the participants in 1997. For each study, recidivism rates were lower for those who participated in the treatment program.

Senator Harris said that according to KRS197.420 (6), "The department shall establish a system of data collection and program evaluation so as to allow study of participating sexual offenders and their offenses and to measure the impact of the program on recidivism." He noted that a system had been established but he was concerned about how often they do evaluation and how often they re-

port recidivism. He suggested that reporting should be done yearly to the General Assembly, likely to the Judiciary Committee.

Commissioner Thompson said that when their new electronic system is implemented, they will be able to report annually.

Representative Palumbo asked about the 'Non-Sexual Violent Re-offenses' to which Mr. van Nort referred.

Mr. van Nort said a 'non-sexual violent' reoffense is defined as the sex offender committing a new violent crime that is not a sex offense.

Representative Palumbo said it would be important to know what the sex offender's second crime was.

Senator Stine said that it appeared that the same 259 people were studied since 1997. She asked whether the behavior of other offenders coming into the system is also examined.

Mr. van Nort said this type of research is to start with a group and then follow them over time.

Senator Stine asked whether they only have one treatment methodology that they are studying.

Mr. van Nort said yes, it is the same sex offender treatment program that is in place and is consistent across all institutions.

Senator Stine asked whether Kentucky is doing any analysis to examine what other states might be doing that might be more effective.

Mr. van Nort said that he keeps up with the research.

Senator Stine asked whether these other methodologies would be applied to a different category or different group of individuals, or would it be the same group.

Mr. van Nort said the treatment components themselves are the same. He said that current program is effective and consistent with national trends and what national research shows to be effective.

Senator Stine asked whether Mr. van Nort is comfortable that what is done in Kentucky is as effective as or more so than what other states are doing.

Mr. van Nort replied that Kentucky's program is very effective.

Senator Smith said that from the data provided, it seems as if the treatment is effective in dealing with sexual offenses, but not as effective for other offenses. He asked if that would be something to look at and address in the recovery process.

Mr. van Nort agreed.

Senator Harris said that he and Co-Chair Meeks had three recommendations so far for studies to initiate: 1) Medicaid information systems; 2) the Highly Skilled Educators Program; and 3) procedures of the Kentucky High School Athletic Association.

The motion by Senator Harris to initiate these three studies, seconded by Senator Stine, was approved by roll call vote.

Representative Meeks re-emphasized that it is not too late if any member has topic suggestions, and that more topics could be selected at the December meeting.

Van Knowles presented the report A Review of the Kentucky Agency for Substance Abuse Policy and the Office of Drug Control Policy.

Mr. Knowles said that staff had been instructed to review Kentucky-ASAP. Because the Office of Drug Control Policy (ODCP) is now jointly responsible with and oversees KY-ASAP, both agencies were included in this review. The study's primary focus was program coordination, policy development, and strategic planning related to prevention and treatment of substance use and abuse. ODCP consists of ODCP and its KY-ASAP branch; the KY-ASAP state board; and the network of 75 local boards covering 113 counties; all reporting to the governor and General Assembly and interacting with numerous other agencies and organizations. Mr. Knowles gave a brief history of the agency.

Program Review staff identified five fundamental principles that should guide Kentucky's response to alcohol, tobacco, and other drugs. 1) Efforts to fight substance use and abuse must be ongoing and constantly refined. 2) Because substance issues involve many, if not all, agencies, the state's response needs to be planned and coordinated. 3) Policies and programs related to substance use and abuse are applied at the local level and should be guided by local observations and experience. 4) Research-based prevention and treatment approaches should be used when possible. 5) As noted in statute, tobacco is a gateway drug "that leads to later and escalated drug and alcohol abuse".

Mr. Knowles said the report contains six major conclusions. 1) Alcohol, tobacco, and other drugs cause or contribute to problems and costs associated with physical and mental illness, crime, social welfare, unem-

ployment, lost productivity, and other social issues. 2) Kentucky's prevention, treatment, and enforcement efforts are scattered over numerous agencies and have insufficient funds. A planned and coordinated approach is needed urgently to make the most efficient and effective use of limited resources. 3) Local wisdom is of vital importance in helping to set policy and to guide prevention, treatment and enforcement. Kentucky's local board infrastructure of volunteers may be unique and is worth sustaining and supporting. 4) Many of the ways that ODCP and KY-ASAP have not fulfilled their statutory duties can be attributed to changes inherent in creating a new agency, to turnover in agency staff and leadership, and to inadequate numbers of staff. 5) During its first four years, KY-ASAP established 54 local boards covering 98 counties, created a statewide strategic plan, established good working relationships with many agencies, and was progressing towards more accountability of substance abuse programs and their administering agencies. 6) Since 2004, ODCP and its KY-ASAP branch have not progressed toward a comprehensive formalized system for planning and coordinating Kentucky's policies and services. However, the agency has performed well in several areas.

He said that ODCP has worked with other agencies to support several legislative initiatives and has assisted with projects such as Recovery Kentucky and the Strategic Prevention Framework. The local board system now covers 113 counties.

The Office of Drug Control Policy currently has 4 full-time personnel and is unable to carry out all statutory responsibilities with current staff. Recommendation 2.1 is that ODCP report on how it plans to prioritize its tasks and indicate what could be accomplished with different levels of staffing and resources.

He said that turnover and reorganization have been significant challenges for ODCP and KY-ASAP. However, the agency has not maintained adequate procedures and records of its activities to ensure continuity. The agency also has not taken advantage of available tools to increase its efficiency in the complex tasks of strategic planning and coordination of state programs and services. Recommendation 2.2 is that the agency maintain written procedures and records adequate to ensure continuity in leadership and staff and

employ automated tools to manage its tasks.

Mr. Knowles said after the General Assembly confirmed the transition from KY-ASAP to ODCP, the definition of KY-ASAP was ambiguous and ODCP and KY-ASAP were jointly responsible for 20 distinct tasks, creating overlap in statute and practice. Recommendation 2.3 is that the General Assembly consider amending the statute to clarify what KY-ASAP is, to define its relationship with ODCP, and to distinguish their duties.

He said that Recommendations 2.4 and 2.5 address the scope of the state board. Recommendation 2.4 is that the General Assembly consider whether the KY-ASAP state board should be responsible for oversight of ODCP or the KY-ASAP branch only and whether the board should oversee all agency funding. Recommendation 2.5 is that, in the meantime, ODCP grant the state board oversight of all its activities and employ the state board to assist with all its responsibilities.

Mr. Knowles presented several options for placement of ODCP. Recommendation 2.6 is that the governor consider placing ODCP and KY-ASAP in the Office of the Governor.

Mr. Knowles said there are strong opinions among some agencies and service providers that ODCP and KY-ASAP are redundant and unnecessary because of overlaps with entities at the state and local level. Recommendation 2.7 is that ODCP and KY-ASAP work with other entities to divide their responsibilities and actions and avoid duplication. If necessary, ODCP can recommend statutory changes to reduce duplication and improve coordination.

Mr. Knowles said ODCP was given explicit responsibility to coordinate and oversee all matters related to enforcement along with prevention and treatment, but in the 2007 statute no mention was made of enforcement. Recommendation 2.8 is that the General Assembly consider whether to include enforcement and criminal justice in the mandate of the agency, the local boards, and the state board.

Mr. Knowles mentioned issues regarding funding for local boards and other purposes. Recommendation 2.9 is that the agency determine the most effective means of applying KY-ASAP and other available funds in implementing its strategic plan. The agency should provide funds neces-

sary to support the continuing operation of KY-ASAP local boards, and the agency should seek stable, long-term funding for successful projects funded by the boards.

He said that Chapter 3 describes the agency's responsibilities in gathering and disseminating information, which includes gathering information from local communities and managing the KY-ASAP local boards.

Mr. Knowles discussed the responsibilities of local boards. Recommendation 3.1 is that KY-ASAP require local boards to fulfill their planning and reporting responsibilities, keep their plans up-to-date and submit the most recent versions to the agency, work toward reasonable evaluations of local programs, and ensure financial accountability for their funds.

Mr. Knowles said that during its first 4 years, KY-ASAP provided extensive support to local boards through field consultants and regional networks of boards. A formalized system collected feedback from local boards. Recommendation 3.2 is that KY-ASAP provide responsive training and support and consider re-instituting field consultants, regional networks, and a formal feedback process.

Mr. Knowles said that core indicators were recommended in 2002 for measuring alcohol, tobacco, and other drug use. A data warehouse, part of the Strategic Prevention Framework project, is in its early stages but does not address core indicators. He added that the Kentucky Incentives for Prevention survey of students is important for tracking youth substance use but it is not conducted in all school districts. ODCP and KY-ASAP should encourage all school districts to administer the survey.

Mr. Knowles said local boards reported that it can be difficult to ensure that all relevant community leaders are involved and fully engaged. Recommendation 4.1 is that KY-ASAP and ODCP take steps to encourage participation with local boards.

Mr. Knowles said ODCP is responsible for coordinating state and nongovernmental efforts against substance use and abuse. ODCP has assisted with coordination in significant ways but not in a systematic manner. Much interagency collaboration has happened without ODCP involvement. He said KY-ASAP originally and ODCP later had certain statutory tools to influence other

state agencies, but both have avoided using these tools in order to maintain good relations with other agencies. Recommendation 4.2 is that the agency use a detailed action plan for coordination. The agency should use incentives and negotiation to the extent possible and should exercise its statutory authority prudently. The agency should include relevant nongovernmental organizations in its coordination plan.

Mr. Knowles said the statute gives ODCP and KY-ASAP additional coordination tasks, namely to coordinate media campaigns that focus primarily on tobacco, and school-based programs using a federal model to prevent tobacco use. ODCP has worked with the Partnership for a Drug-Free America on anti-drug media campaigns but has not focused on tobacco. Another task is to oversee a school-based tobacco use prevention initiative, but it appears that ODCP and the Kentucky Department of Education were not aware of the federal model on which it was based and it does not appear to be in use in Kentucky.

Mr. Knowles discussed the agency's responsibility to guide Kentucky's response to substance use and abuse. He outlined the foundations of a strategic plan and said that this report found that KY-ASAP had not completed the necessary tasks by the time ODCP was formed in 2004 and that ODCP has made little progress on these tasks since then. Recommendation 5.1 is that the agency develop and maintain a statewide needs assessment and a statewide map of prevention, treatment, and enforcement resources. Recommendation 5.2 is that the agency compile and maintain a description of Kentucky policies related to substance use and abuse and a description of recommended policies.

Mr. Knowles said the current strategic plan differs little from the 2002 plan and has several shortcomings. Recommendation 5.3 is that the agency develop and carry out a comprehensive strategic plan that meets strategic planning standards and that the agency perform implementation planning and develop written understandings with each relevant agency or organization. The plan should be part of a continuous improvement process.

KY-ASAP local strategic plans vary in their comprehensiveness and adherence to standards. Recommendation 5.4 is that local boards



attempt to follow the same procedures and guidelines recommended for ODCP.

Mr. Knowles concluded by saying that ODCP and KY-ASAP are required by statute to certify during the budget process how each agency has cooperated with them and to make recommendations to the General Assembly and the governor. The agency also is required to report on the status of its own activities. None of the official reports produced under the statute have fully satisfied the needs of the General Assembly and the governor. Recommendation 5.5 is that the agency fulfill its annual reporting duties by making recommendations and providing adequate information to assess them. For its semiannual status reports, the agency should describe its performance on the strategic plan and on each of the agency's statutory duties.

Senator Harris asked about the number of people who have worked for the agencies.

Mr. Knowles said there were 18 positions in the organization chart in 2004. Only 14 were filled at any given time and now there are 4.

Senator Harris said that he is concerned about the overlap with KY-ASAP and ODCP and the state board's oversight role.

Representative Rand asked about the funding sources for these programs.

Mr. Knowles said the primary source of funds for KY-ASAP local boards, which is the largest expenditure, comes from the Tobacco Master Settlement Agreement. The funding has been just under \$2 million per year recently.

Representative Rand asked whether the program's primary focus was preventing tobacco use among young people.

Mr. Knowles said local boards are not limited to using it for tobacco or prevention; they can use it for treatment, tobacco cessation, for alcohol, other drugs, or other needs of their area.

Senator Seum asked whether "other drugs" that the report is focusing on are illegal drugs.

Mr. Knowles replied yes.

Representative Meeks asked Van Ingram, Acting Executive Director of the Office of Drug Control Policy, to respond to the report. Heather Wain-scott and Amy Andrews joined him.

Mr. Ingram said ODCP concurs with Recommendation 2.1 and further recommends the General Assem-

bly consider revising KRS 15A.342 (20) to consolidate reporting requirements to one combined annual report for KY-ASAP and ODCP.

Mr. Ingram said they concur with Recommendation 2.2. As funding and resources become available, the ODCP and KY-ASAP will attempt to implement the system suggested by the recommendation.

ODCP and KY-ASAP concur with Recommendation 2.3. However, with a small co-mingled staff, ODCP and KY-ASAP staff share the responsibility of statewide policy and coordination tasks.

In response to Recommendation 2.4, Mr. Ingram said KY-ASAP is responsible to the State Board as its advising entity. The ODCP receives oversight and funding from the Secretary of the Justice and Public Safety Cabinet and its executive staff.

Responding to Recommendation 2.5, Mr. Ingram said ODCP currently uses the State Board for program advice on issues related to KY-ASAP only. ODCP will seek advice and counsel of the state board on matters of public policy on substance abuse issues.

In response to Recommendation 2.6, Mr. Ingram said that ODCP has performed well and its mission has been served adequately in the Justice and Public Safety Cabinet, but that the recommendation may merit further study.

In response to Recommendation 2.7, he said that ODCP will continue to seek out situations where redundancies occur and strive to remove them, but few such conflicts have arisen over the past four years.

In response to Recommendation 2.8, Mr. Ingram said they agree that law enforcement representation on the state board would enhance the state board membership. ODCP has remained involved with law enforcement in that most agencies in the Commonwealth involved in proactive drug enforcement receive grant funding from the Justice and Public Safety Cabinet.

Responding to Recommendation 2.9, Mr. Ingram said ODCP has no discretionary funds budgeted. ODCP has interpreted the main purpose of KY-ASAP funds as providing resources for local boards to help fund prevention, treatment and enforcement efforts at the community level.

Mr. Ingram said in its direction to local boards, KY-ASAP will reiterate the necessity of the items included in Recommendation 3.1. He noted that

volunteers serve on the local boards and they do not want to place too many responsibilities on them.

In response to Recommendation 3.2, Mr. Ingram said KY-ASAP currently responds to all local boards' needs and has provided training and support when asked. ODCP supports the concept of a system of field consultants but current resources do not allow for this.

He said ODCP and KY-ASAP concur with Recommendation 4.1, but current resources and staffing limit the ability to reach out to community leaders in the manner recommended. ODCP will continue to strive to improve its performance in this area.

In response to Recommendation 4.2, he said that ODCP has not found it necessary to use its statutory authority in order to coordinate and collaborate with other agencies.

Responding to Recommendation 5.1, he said that ODCP has consistently maintained maps of law enforcement activities and search for underserved areas. ODCP concurs that a prevention map would be useful.

He said that ODCP has discussed with the Long-Term Policy Research Center (LTPRC) the possibility of a yearlong study to help determine a 5- to 10-year legislative plan to address substance abuse. This recommendation is supported by the Justice and Public Safety Cabinet and has been recommended as a possible study topic for LTPRC.

In response to Recommendation 5.3, he said it is hoped that the partnership with LTPRC can occur to conduct a long-term study that will address this recommendation.

Responding to Recommendation 5.4, Mr. Ingram said each KY-ASAP local board is required to submit a needs assessment and a strategic plan before receiving initial funding. Although they are encouraged to update their local plans, it is complicated by the fact that local boards are almost entirely comprised of community volunteers.

He concluded by saying in response to Recommendation 5.5 that recommendations for policy, programming and funding at the state level are made to the executive staff of the Justice and Public Safety Cabinet. When funds existed to create reports to the General Assembly, they were created. They are going to work to fulfill their reporting requirements in the future.

Representative Rand asked whether it was correct that ODCP and KY-ASAP have been forced together, yet they have competing interests, the ODCP's interest being primarily drug abuse, and KY-ASAP's primarily smoking.

Mr. Ingram said ODCP staff have spent more time addressing illegal substances; the meth lab initiatives were done by KY-ASAP; and the state board focused more on tobacco cessation.

Representative Rand questioned how effective the local boards are because they are staffed primarily by volunteers.

Mr. Ingram said boards vary in their effectiveness from county to county and board to board. He said that if funding, at the least, gets decision makers in the local community together to talk about substance abuse issues, it is worth getting that kind of coordination. He said that for the amount of money, it is effective.

Representative Rand asked what is done to help local boards that are struggling.

Mr. Ingram said they have tried having strong boards mentor weaker boards, which seems to be helping.

Ms. Andrews said there is a strong group in western Kentucky where coordinators of boards come together once a month outside of their normal board meetings and network and see how they can work together. They are hoping to share this motivation with groups in other areas.

Senator Harris said he hopes that the agency will come with a legislative agenda regarding required reports. He agrees with placing money locally because that is where it can best be used. He said it is important to plan and look ahead to see what other problems are showing up in areas and could spread to other areas.

Mr. Ingram agreed. He said that prescription drugs will be epidemic in Kentucky and in the nation. They have regular dialogue with the Office of National Drug Control Policy on these kinds of issues and are looking for those trends and future problems.

Senator Harris asked whether they are going to come to the legislature in February with an agenda to help them do their job better.

Mr. Ingram replied yes.

Senator Harris said he appreciates the response from the agency and that they are willing to work

with the General Assembly.

The report A Review of the Kentucky Agency for Substance Abuse Policy and the Office of Drug Control Policy was accepted by roll call vote upon motion made by Representative Rand and seconded by Senator Pendleton.

The next meeting is scheduled for December 11.

The meeting was adjourned at 11:35am.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes**

**December 11, 2008**

The Program Review and Investigations Committee met on Thursday, December 11, 2008, at 10:00 AM, in Room 131 of the Capitol Annex. In the absence of the House and Senate co-chairs and it being the Senate co-chair's turn to preside, Senator McGaha presided over the meeting. He called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Charlie Borders, Vernie McGaha, R.J. Palmer II, Joey Pendleton, and Brandon Smith; Representatives Dwight D. Butler, Leslie Combs, Rick G. Nelson, Ruth Ann Palumbo, Rick Rand, Arnold Simpson, and Ken Upchurch.

Guests: Kay Kennedy, Director of the Division of District Operations, Office of District Support Services; Greg Finkbonner, Branch Manager of Humanities, Division of Curriculum Development, Office of Teaching and Learning; Shelda Hale, Academic Program Consultant for Title III Program; Kentucky Department of Education. LaDonna Thompson, Commissioner; Mary Thompson, Office of Research and Grants; Department of Corrections.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Stella Mountain, Committee Assistant; Program Review and Investigations Committee staff. Jon Roenker, LRC Staff Economist.

Upon motion made by Senator Pendleton and seconded by Senator Palmer, the minutes of the November 13, 2008 meeting were approved by voice vote, without objection.

Representative Palumbo introduced Kerby Neill, a guest in the audience.

Senator McGaha asked Rick Graycarek to present the report

Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs but Overall Costs and Benefits Are Unknown. Senator McGaha noted that Colleen Kennedy and Jon Roenker also worked on the report.

Mr. Graycarek said that the study had three objectives: describe the legal and constitutional framework related to unauthorized aliens; review the literature on the fiscal impact of unauthorized aliens; and estimate, if possible, the net fiscal impact related to state and local government programs accessed by unauthorized aliens in Kentucky.

He said immigration law is a federal prerogative, and immigration policies are established by the federal government. For example, the federal government and federal laws determine who can enter the United States, the legal rights of immigrants, and the process by which immigrants can become U.S. citizens. State and local governments can affect public policy related to immigration only if there is no conflict with the U.S. Constitution or federal laws. Enforcement of immigration laws is done primarily by the Immigration and Customs Enforcement (ICE) agency, which investigates, identifies and apprehends unauthorized aliens.

He said that unauthorized aliens typically do not want to be identified, so it is impossible to develop a precise figure for how many unauthorized aliens live in the U.S. As of 2008, there are an estimated 11.4 million to 12.4 million unauthorized aliens in the U.S., which represents approximately 4 percent of the total population. At least since 2000, the trend has been an increase in the number of unauthorized aliens each year. The exception was a possible decrease from 2007 to 2008.

He said there were an estimated 30,000 to 60,000 unauthorized aliens in Kentucky as of 2005. Kentucky had a similar number of unauthorized aliens as the neighboring states of Missouri and Indiana. Compared to most states, however, the estimated population of authorized aliens in Kentucky is small.

He said the study has five major conclusions. 1) Unauthorized aliens generally do not want to be identified, so the number of unauthorized aliens cannot be determined with reasonable accuracy. 2) Unauthorized aliens can access relatively few government programs. 3) For three of the four public programs examined

for this study, service providers may be prohibited from checking or inquiring about a person's immigration status. 4) Kentucky correctional facilities check immigration status inconsistently. 5) The net fiscal impact of unauthorized aliens in Kentucky cannot be determined with reasonable accuracy.

He noted that the report makes two recommendations but they do not involve changing the legal requirements for what information should be collected when services are provided or whether unauthorized aliens should receive certain services. Such decisions would be policy judgments of the General Assembly.

He noted that staff reviewed 28 studies conducted by governmental and nongovernmental agencies at the state and national level. None of the studies considered the full sum of the costs and benefits related to all programs accessed by unauthorized aliens. By necessity, the studies generally focused on the short-term costs of providing services to unauthorized aliens for a limited number of programs. He said the Program Review study took a similar approach by examining four programs: primary and secondary public education, emergency medical assistance, public health, and correctional facilities.

Before going into details, he summarized the direct short-term costs for the programs. Staff estimated that the annual short-term costs for providing services for unauthorized aliens were approximately \$25 million for primary and secondary education, up to \$2.3 million for emergency medical assistance, \$300,000 for state correctional facilities, and \$1.4 to \$2.5 million for local jails. Costs for public health could not be estimated due to lack of appropriate data.

He said the first program considered was primary and secondary education. A 1982 U.S. Supreme Court ruling established that children are eligible to attend school regardless of their immigration status or the immigration status of their parents. An effect of the ruling is that only minimal information can be required to enroll a student in school. Immigration status cannot be requested. A Social Security number can be requested but cannot be required by schools.

He noted that the documents required to enroll a student in school are established in Kentucky statute: a certified copy of the birth certifi-

cate or other reliable proof of age and identity, an immunization certificate, a school medical examination form, and an eye examination form. The state does not mandate a specific enrollment form that school districts must use. Districts have developed their own enrollment forms, which vary in style and the types of required information. Some forms require a Social Security number, which is contrary to federal case law. Some enrollment forms say that a birth certificate is required but fail to note that other documents may also be acceptable.

Recommendation 3.1 is that the Kentucky Department of Education should identify the information public schools may legally require or request of first-time enrollees. The department should facilitate and monitor compliance by all Kentucky school districts.

As noted, the immigration status of students in Kentucky schools is unknown. Staff estimated the number of students in Kentucky schools who may be unauthorized aliens based on student-level data provided by the Kentucky Department of Education. LRC staff identified 2,534 students who were not U.S. citizens, who were born in a foreign country, and who did not have Social Security numbers. Approximately 0.4 percent of students statewide met these criteria. The percentages varied by district with a high of 2.7 percent in Shelby County. To estimate spending, staff multiplied the number of students in each district who may be unauthorized aliens by the district's average per-pupil expenditure. This resulted in a statewide estimated total of \$24.6 million in state and local expenditures that may be attributable to unauthorized alien students. Due to limitations of the research methods, the actual number of students who are unauthorized aliens may be higher or lower than this estimate.

He said the second program considered in the report is emergency medical assistance. Unauthorized aliens are not eligible for full Medicaid benefits, but under federal law and state regulation, they may be eligible for a Medicaid program that pays certain emergency medical costs. Federal law defines an emergency medical condition as an acute symptom that could seriously jeopardize a person's health or bodily functions. Unauthorized aliens access emergency medical assistance by going to a hospital or primary care facility or visit-



ing a physician. Eligible unauthorized aliens may receive benefits for up to 2 consecutive months.

The number of enrollees in the emergency medical assistance program includes, but is not limited to, unauthorized aliens. Participants in the emergency medical assistance program do not provide their immigration status, so the Department for Medicaid Services does not know the actual number of unauthorized aliens who are accessing services. Since 2001, the number of enrollees in the program and the costs related to providing emergency medical assistance have steadily increased. Approximately 70 percent of these expenditures are for inpatient hospital care.

He said that the third program reviewed is public health. After providing a brief overview of public health services in Kentucky, he noted that the report focused on clinical services, which include prenatal care, immunizations, tuberculosis screening, and well-child pediatrics. In general, it appears that public health departments are not able to inquire about a patient's immigration status based on federal policy or law, and/or state policy. Public health departments must follow policies established by their funding sources. Public health departments collect information related to provision of services, but that information was insufficient for LRC staff to estimate with reasonable accuracy the number or costs of recipients who may be unauthorized aliens.

He said the final program considered was correctional facilities, which include state prisons and local jails. In contrast to the three program areas previously considered, correctional facilities are not prohibited from asking inmates about their immigration status. Local jails in particular use different criteria to identify suspected unauthorized alien inmates and use different methods to check inmates' immigration status. Even if they go through this process of checking an inmate's immigration status, they may not document whether or not an inmate actually is an unauthorized alien. They would only document it, if, for example, federal authorities placed a detainer on an inmate. A detainer means that the local jail must hold the inmate for up to 48 hours after the scheduled release in order to allow federal authorities to take custody of the inmate. Local correctional facilities

maintain separate inmate databases. There is no state-level method to access specific information about all the inmates in Kentucky jails. Due to these limitations, the actual number of inmates in Kentucky jails who are unauthorized aliens is unknown.

He said that some existing information helps in estimating the number and costs of unauthorized alien inmates. The federal government operates the State Criminal Alien Assistance Program (SCAAP), which reimburses correctional facilities for a portion of their salary costs related to housing unauthorized alien inmates. In fiscal year 2008, only five Kentucky facilities applied for reimbursement, one of them being the State Department for Corrections. LRC staff used information about these five correctional facilities as a basis for estimating the number of unauthorized alien inmates statewide.

He said that based on the information provided to the federal government, there were 635 unauthorized alien inmates in the five facilities that received SCAAP funding in FY 2008. The facilities received federal reimbursements totaling \$162,000. LRC staff estimated that the total annual cost of housing those inmates was \$1 million. LRC staff estimated the number of unauthorized alien inmates separately for Louisville and for all other correctional facilities in Kentucky that did not receive SCAAP funding. In FY 2008, 985 to 1,545 inmates may have been unauthorized aliens and imposed total costs of \$1.7 to \$2.8 million. Staff also estimated that potential federal reimbursements would have been \$148,000 to \$385,000 for facilities that did not apply for SCAAP funding.

Recommendation 6.1 is that the Kentucky Department of Corrections should support local correctional facilities that want to apply for funding from the federal State Criminal Alien Assistance Program.

Mr. Graycarek summarized the presentation by saying that compared to most states Kentucky has relatively few unauthorized aliens. For three of four programs that were considered in this study, federal and state provisions generally prohibit asking a person about immigration status before service is provided. Staff were not able to estimate a net fiscal impact: the sum of all costs and benefits. Staff were able to estimate costs for three program areas.

Representative Rand asked what

sort of credentials an authorized alien would have.

Mr. Graycarek said that there are dozens of different types of visas that the U.S. grants, so a number of different documents could be provided.

Regarding federal reimbursement for corrections, Senator McGaha noted that the report said that many local jails said they did not have sufficient manpower or time to go through the process. He asked what the process is to apply.

Mr. Graycarek said that staff asked some correctional facilities that apply how long it takes to complete the process. They did not provide specific answers but indicated the amount of time to complete the application process depends on the skills of a facility's database manager. Correctional facilities that apply for the program must review information on all their inmates throughout the year and identify on some basis who they suspect may be unauthorized aliens.

Senator McGaha asked whether this is an annual program.

Mr. Graycarek replied that it is an annual reimbursement program, and that in 2008 the total federal government appropriation for it was approximately \$250 million.

Representative Palumbo asked for clarification of a figure in the report which indicated that the number of unauthorized aliens nationally decreased from 2007 to 2008.

Mr. Graycarek replied that the numbers for 2007 and 2008 were estimates and the margins of error were large enough that it is possible that there was no actual decrease. If there was an actual decrease, it could be related to the economic downturn in the U.S.

Senator McGaha asked that officials from the Department of Education respond.

Mr. Finkbonner said that they had reviewed the report and the recommendation directed to the department.

Ms. Hale read the following response: "KDE is having discussions about creating a document that combines the federal case laws and Kentucky law regarding information schools may/may not require for enrollment. Some examples of 'other reliable proof' would be included in order to assist schools with compliance. This document will be considered a 'clarification' provided to superintendents in the usual ways, so it can be distributed to schools for all

staff that complete the forms. It will also be shared with KDE personnel in appropriate offices to distribute in the field since several federal programs work with populations related to the issues identified by the LRC study, which include Migrant Education, Title III, McKinney-Vento Education for Homeless and others."

Senator McGaha asked Commissioner Thompson of the Department of Corrections to respond to the report.

Commissioner Thompson responded to the recommendation that the department should support local correctional facilities that want to apply for funding from the federal State Criminal Alien Assistance Program. She said that it is routine for the department to assist the jailers and provide training for staff. She said training relevant to the recommendation would be provided at jailers' conferences, which occur once to twice per year. She said the department would be willing to provide training for the staff who complete and submit the paperwork for the grant. The department would provide training using a computer-based module, and could put together a training program that jail staff could access at any time.

Regarding the jail databases, she said that state inmates in county jails are included in the department's numbers. Having separate county jail databases is a barrier, but all the local jails use a system developed by Appriss. With Appriss's system, a local jail can query the name of an inmate, where the inmate is held, and when the inmate leaves jail. It may be possible for local jails to use information from Appriss to help with identifying inmates as part of the application process for federal reimbursement for housing inmates who may be unauthorized aliens.

Senator McGaha asked for clarification as to whether state inmates are automatically processed by the Department of Corrections and at what point the department becomes responsible for them.

Commissioner Thompson responded that state inmates are processed by the department and that state custody begins when they are sentenced.

Senator McGaha asked whether the department relays information to local jails when the state receives federal reimbursement for housing an inmate. The local jail could have housed the inmate for months.

Commissioner Thompson said that she did not know whether such information is provided but that she would find out.

Senator McGaha said that he appreciated what she had said about training. If local facilities are made aware and if they choose not to apply for funding, that is their choice.

Senator McGaha said that in the absence of the regular co-chairs, voting to approve the report and to select additional study topics would be deferred. He said that further suggestions for study topics were welcome.

The meeting was adjourned at 11:10 am.

## **SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS**

### **Minutes of the 2nd Meeting of the 2008 Interim November 6, 2008**

The 2nd meeting of the Special Advisory Commission of Senior Citizens (the Advisory Commission) was held on Thursday, November 6, 2008, at 1:00 PM, in the Assembly Ballrooms 1 & 2 of the Capital Plaza Hotel, Frankfort, Kentucky. Lillian Rice, Chair, called the meeting to order.

#### **Present were:**

Members: Lillian Rice, Chair; Frances Baccus, Rebecca Baird, Mary Barlow, Cluster Belcher, J. T. Boling, Leon Boyd, Joyce Bruce, Ruth Bryant, Aaron Cardwell, Velma Childers, Douglas Cole, Bertha Daniels, Leon Dodge, Marsha Dufek, Bob Elliott, Carol Fausz, Finnell Fields, Verlin Flaherty, Ed Flanagan, Jane Fugate, Rufus Fugate, Larry Gatewood, Barbara Germain, Margaret Gilland, Dell Hall, Gloria Hall, Bill Harned, Edna Hawkins, Bobby Hazen, Faye Hensley, Marty Herbert, Jim Heth, Eleanor Holbrook, Betty Huff, James Huff, Argene Jones, Gayle King, Lee King, Ray Kremer, Gayle Lawson, Gina Loxley, Phillip Martin, Pete McNeill, Denver Moore, Larry Morrow, Jerry Moser, Jack Niece, Vivian Niece, Betty Olson, Elmer Olson, Norman Pallarito, Joy Payne, Jean Phelps, Nancy Purvis, Clarence Richardson, Jeane Robertson, John Schreiber, John Searcy, Clayton Shannon, Dennis Shaw, Martha Shircliffe, Berton Sisk, Fred Smith, Martha Smith, Ted Smith, Paul Steenbergen, Donald Stethen, Pat Sutton, Ernest Taylor, Claude Tiller, Mary Trimble, Laurel True, Joan Veazey, Joe Wahlen, Joe Westerfield, Lillian Weston, Alban Wheeler, Lil-

lian Wheeler, and Ken Willis.

Guests: Robert Vance, Secretary, Public Protection Cabinet; Charles Vice, Commissioner, Department of Financial Institutions, Public Protection Cabinet; Jay Thompson, Department of Insurance, Public Protection Cabinet; Representative Derrick Graham; Representative Carl Rollins; Dr. Renard Murray, Centers for Medicare and Medicaid Services; Marnie Mountjoy, Department for Aging and Independent Living, Cabinet for Health and Family Services; Debbie Anderson, Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services; Chris Thompson, Department of Financial Institutions, Public Protection Cabinet; Lori Farris, Attorney General's Office; Paul Wingate, Attorney General's Office; Heather Clarey, Better Business Bureau; John Heltzel, Kentucky Division of Emergency Management; Pat Dressman, Campbell County Fiscal Court; Barbara Gordon, KIPDA Area Development District; Nancy Addington, Lincoln Trail Area Development District; D.J. Wasson, Department of Insurance, Public Protection Cabinet; Angela Zeek, Legal Aid of the Bluegrass; Amanda Enochs, Department of Aging and Independent Living, Cabinet for Health and Family Services; Mike Skaggs, Lincoln Trail Area Development District; Bill Cooper, Deputy Commissioner, Department of Aging and Independent Living, Cabinet for Health and Family Services; Jeremy Thompson, Office of Transportation Delivery; and Eric Perez, Office of Transportation Delivery.

LRC Staff: Sheila Mason, Kenny Bishop, Katie Carney, Adanna Hydes, Miriam Fordham, Rhonda Franklin, Chad Collins, Charlotte Quarles, Jim Roberts, Brandon White, Betsy Bailey, Cindy Smith, Jamie Griffin, Sheri Mahan, Linda Hughes, Janice Clark, Sally Everman, Rick Devers, Bud Kraft, Karen Lile, and Richard Rigney.

Chairwoman Rice welcomed everyone to the Advisory Commission's second semiannual meeting for 2008 and introduced the head table. Chairwoman Rice advised that one new member has been appointed to the Advisory Commission since the May 2008 meeting. Chairwoman Rice advised that the member, Norietta Dickerson from Sandy Hook, appointed by the FIVCO Area Development District was not able to attend this meeting, but is planning on being at the May 2009 meeting.

Chairwoman Rice informed

members that the minutes from the Advisory Commission's May 8-9, 2008, meeting had been mailed earlier and were in their folders. She asked for any proposed additions or deletions. Chairwoman Rice asked for a motion to adopt the minutes as presented. A motion was made and seconded, and the minutes were adopted.

Chairwoman Rice introduced Robert Vance, Secretary, Public Protection Cabinet and Charles Vice, Commissioner, Department of Financial Institutions, Public Protection Cabinet. Chairwoman Rice informed the members that the two gentlemen would speak on "The Impact of the State of the Economy on Kentucky's Seniors." Chairwoman Rice informed members that Representative Tommy Thompson and Senator Tom Buford, co-chairs of the LRC's Interim Joint Committee on Banking and Insurance, had been invited to join the panel but were not able to attend.

Secretary Vance thanked the Advisory Commission for the invitation to speak and began his presentation with some background information on the Public Protection Cabinet, and discussed his role as Cabinet Secretary. He explained that the Cabinet serves the state as an umbrella for a wide variety of regulatory agencies within state government, including the Department of Insurance and the Department of Financial Institutions. Sharon Clark is the Commissioner for which regulates insurance activities in Kentucky. As part of that mission, the department carries out several programs dedicated to consumer education, including the Kentucky Insurance Program for Seniors (KIPS). The KIPS program offers educational seminars, free publications and consumer guides. Secretary Vance informed the Advisory Commission that the Department of Insurance has created a special section on its web site to address specific concerns of older Kentuckians.

Secretary Vance described the responsibilities of the Department of Financial Institutions, and highlighted the department's role as an overseer of all of state chartered financial institutions and all securities sold in Kentucky. He commended the work of Charles Vice as the Commissioner of the Department, and stressed that Kentucky banks are more stable with capital and have fewer problem loans.

Secretary Vance reported the formation of the Governor's Eco-

nomic Action Team composed of himself and several other government officials. The group is charged with assessing and reporting to the governor on the economy and its effects on the banks, housing markets, and the healthcare sector. He also mentioned a web site that has been created to be a one-stop-shop for Kentuckians, including seniors, who are struggling with the current economic downturn. The web address is [www.assistance.ky.gov](http://www.assistance.ky.gov).

Secretary Vance then introduced Commissioner Vice, who spoke to the Advisory Commission about the state's economic conditions, retirement and pension plans, savings and investment accounts, payday lending practices, and initiatives of the Department for Financial Institutions. Commissioner Vice mentioned that brochures and additional information would be available at the registration table for those who wish to know more. He stated that senior citizens are generally regarded as a very influential socio-economic group. He stated that in 2008, 79 million baby-boomers in the US would reach the age of 62. That group's control of roughly \$15 trillion in retirement accounts makes them a very important part of today's economy.

One of the major concerns of the Department of Financial Institutions is fraud being perpetrated on senior citizens. Commissioner Vice used "free lunch seminars" as an example. Organizers of these events invite seniors to a free lunch or another enticement, and then offer an investment opportunity that promises big returns and little risk. Often, the actual risk and potential return at most of these events is misrepresented. The department is also concerned about the stock market and the volatility of interest rates. These have a potential to significantly impact income that is related to bonds, savings accounts and investment accounts.

Commissioner Vice stated that although economists are hesitant to refer to the current economic condition as a recession, the negative growth in the GDP in the 3rd and the estimated negative growth in the 4th quarter of 2008 points toward one. The length of the downturn is dependent upon several factors including the housing market, the auto industry, unemployment and interest rates. Commissioner Vice stated that although current economic conditions have created budget concerns,



Kentucky is taking adequate steps to provide guidance and assistance for those who are facing mortgage foreclosure. One resource cited is a web site, [www.protectmykyhome.org](http://www.protectmykyhome.org).

Commissioner Vice stated that Kentucky's unemployment rate is currently following the same course as the rest of the nation, meaning there has been an increase in unemployment. However, there are a couple of positive forces around the state anticipated to help curb the increase, the including retooling of some existing manufacturing plants and announcements of new facilities around the state. He mentioned that Kentucky is in a positive place as an energy producing state.

Commissioner Vice stated that Kentucky is feeling the effects of the stock market's recent volatility and dramatic swings. This has caused retirement and pension plans to suffer significant losses. However, the Treasury Department has guaranteed funds in money market mutual accounts for a period of time hoping to stabilize the markets and discourage investors from pulling their money out. Another concern is that mortgage driven products that are driving the current market are creating the liquidity crisis, even though less five percent of the mortgages and sub-prime loans in the US are experiencing problems. The common perception is that the market is less stable than it actually is, causing consumers to avoid borrowing, decreasing liquidity in the market.

Commissioner Vice addressed savings and investment accounts, encouraging investors to know their investment advisor well and to choose an investment firm with a good reputation. He also encouraged investors to develop an individual investment plan based on their specific needs, with the assistance of their investment advisor. The plan should address the investor's investment horizon, risk tolerance, and whether the investor is interested in income or capital appreciation goals. He also suggested avoiding making dramatic changes in the investment mix, meaning stocks, bonds, or cash.

Commissioner Vice addressed Kentucky law related to payday lending practices. Currently a person can have only two loans outstanding at one time. The loans can total only \$500, and the fee is limited to a maximum \$15 per \$100 outstanding. Payday loans in Kentucky have a term of no less than 14 days and

no more than 60 days. Rollovers and renewals are prohibited in Kentucky as well.

Commissioner Vice stated that the Emergency Economic Stabilization Act of 2008 recently made some changes in FDIC insurance by temporarily increasing the basic insured amount from \$100,000 to \$250,000, per deposit, per insured bank. This change will only be in effect until December 31, 2009. The Commissioner stated that it is his belief that the temporary increases may actually become permanent, even if not at the current level, before they expire at the end of 2009. Another change in non-interest bearing deposit insurance, relating to personal and business accounts, is the ability to purchase unlimited insurance. One thing to remember is that banks have been given the option of opting out of the program. Commissioner Vice suggested that you contact your bank to verify their participation. The web site, [www.fdic.gov](http://www.fdic.gov) contains a list of banks that do or do not participate in the program.

Commissioner Vice encouraged members to contact his office if they have any questions about investments or deposit accounts. He stressed that they cannot answer questions about specific banks; however they can provide direction on general banking and investment matters. He also encouraged members to visit the agency's web site at [www.kfi.ky.gov](http://www.kfi.ky.gov) for more information on financial institutions, investment advisors and security firms. Commissioner Vice advised members of the Advisory Commission to contact Kelly May at [kelly.may@ky.gov](mailto:kelly.may@ky.gov) or call the toll free number (800-223-2579) to obtain a free copy of a newsletter that is produced by the Agency. Another resource is the Senior Scam Jam which is an event featuring booths with information and materials that speak to issues specific to senior citizen's concerns. In addition, speakers from the agency are also available to visit and speak to groups across the state about a variety of topics related to the specific group.

Mr. Bill Harned asked, in light of the current economic climate and its impact on retirees and senior citizens in Kentucky, what is the expected impact on programs and services provided by the Department for Aging and Independent Living? Commissioner Debbie Anderson responded that the Department has seen an increase in interest and in its programs

and is working hard to prepare for the influx of new enrollees, but she also expects a reduction in funding. Commissioner Anderson plans to provide more details of the Department's progress on Friday morning.

Vice Chairman Norm Pallarito asked what the difference is with state banks and other banks. Commissioner Vice responded that the Department for Financial Institutions has oversight over all state chartered banks in Kentucky. However, the Department does not provide any oversight on federally chartered banks operating in Kentucky.

Commissioner Vice informed the Advisory Commission that there were 20 or so banks in Kentucky that participated in Fanny Mae and Freddy Mac. One bank used about 30% of their capital investing in these two programs and the other banks used a smaller percentage of capital. Hence, the impact of the financial difficulties of the two programs was not as severe in Kentucky as it was in other states.

Vice Chairman Pallarito asked what rights a client has of banks that have been bought out. Commissioner Vice responded that most of the time there is not a disruption of service to the client. He added that the client should be offered the same deposit insurance with the new bank ownership.

Mr. Bob Elliott asked how a citizen can find a listing of state chartered banks versus nationally chartered banks. Commissioner Vice responded that either the word "National," or the abbreviations 'NA' must be in the name of a nationally chartered bank. Otherwise it is a state chartered bank.

An Advisory Commission member mentioned that he had heard talk of a temporary change in the required minimum age to withdraw funds from retirement accounts until the current difficult economic conditions get better. The current minimum age to withdraw funds without a penalty is 70½. Commissioner Vice responded that there was talk being circulated that retirees may be allowed to withdraw a portion of their retirement, possibly up to \$10,000, without penalty or a tax before 70½, but he has not received word on a final decision.

Mr. Laurel True informed Secretary Vance that the Advisory Commission has been in contact with the Attorney General regarding long-term care insurance premium regula-

tion rate increases. Mr. True asked if public hearings could be announced when rate increases are reviewed. Mr. True also asked if the Public Protection Cabinet could work with the Attorney General's Office regarding long-term care rate increases.

An advisory commission member commented that some long-term care policies have doubled in cost and there is worry that some companies are initially selling the policies way under cost and increasing the premiums over the years. Secretary Vance responded that the Cabinet will look at providers in addition to insurance companies raising the rates.

Chairwoman Rice introduced Mr. Jay Thompson with the Department of Insurance to address some of the questions regarding long-term care policy and rate increases reviewed by the Department. Mr. Thompson told the Advisory Commission that his department monitors insurance companies and advised that Kentucky is pretty much in the middle range nationally in regards to insurance rate increases. He addressed block plan openings, closings and switching, and indicated that his department has not noticed a reason for concern in this area.

Chairwoman Rice recognized Ms. Sheila Mason for a few announcements. After the announcements Chairwoman Rice made a few concluding remarks and adjourned the opening general session to allow the Advisory Commission subcommittees to convene.

Chairwoman Rice convened the dinner session and welcomed everyone and their guests. She recognized Mr. Pete McNeill to give the invocation. Following the invocation, Chairwoman Rice introduced those seated at the head table.

After dinner, Chairwoman Rice recognized Ms. Mason for introduction of the legislative hosts for the evening. Ms. Mason recognized Representative Derrick Graham and Representative Carl Rollins. Ms. Mason also recognized guests from the Department for Aging and Independent Living and guests from the Center for Medicare and Medicaid Services from Atlanta, Georgia.

Chairwoman Rice introduced Dr. Renard Murray as the speaker for the evening's session. Dr. Murray is the Acting Bi-Regional Administrator for the Centers for Medicare and Medicaid Services in the Atlanta and Dallas regions.

Dr. Murray thanked the Advi-

sory Commission for the invitation to speak and also the Department for Aging and Independent Living for their assistance during his trip to Kentucky. He discussed the Centers for Medicare and Medicaid Services (CMS) and their responsibility in providing health care services for about 80 million people nationwide through their combined programs, including SCHIP (State Children's Health Insurance Program). This makes the agency the largest health insurance provider in the nation.

Dr. Murray informed the Advisory Commission that he is in Kentucky to raise senior's awareness of the open enrollment season for the CMS prescription drug benefit program which begins on November 15, 2008. He discussed the history of the program and its different parts and coverages through the years, as well as the variety of plans available for subscribers today.

Dr. Murray informed the Advisory Commission that currently about 45 different prescription drug benefit plans are available to choose from. If a member does nothing at all to change their plan, their coverage remains the same as the previous year. All changes become effective in January 2009. He stressed the importance of comparing the plans and making adjustments based on need, finances and lifestyle.

Dr. Murray mentioned the Extra Help Program that is provided through the Social Security Administration. Assistance under this program is provided by paying for prescription drug premiums and for some of the deductibles and co-insurances that would be available through the CMS prescription drug plan. A member qualifying for this program can make changes to their plans at any time – not just during the enrollment period. It is estimated that around 45,000 people in Kentucky qualify for the subsidy. He asked the Advisory Commission to help identify individuals who may qualify and point them toward the SSA office.

Dr. Murray advised all of the Advisory Commission members to look at the Medicare Handbook they received earlier in the year to learn about all of the prescription drug plans available in Kentucky. He advised of a 24-hours a day, seven days a week number, 800-633-4227, that Medicare provides for assistance for members. He also encouraged the Advisory Commission members to visit the Medicare web site at [www.medicare.gov](http://www.medicare.gov) for more information, and to talk with their doctors about generic versus name brand drugs in their circumstance.

Dr. Murray advised that Medicare is making flu shots available to its beneficiaries. He advised members to contact their doctors to get the vaccination.

Finally, Dr. Murray discussed the new electronic prescribing technology which allows the doctor to send your prescription directly to the pharmacist electronically. This will allow the pharmacist to have your prescription ready when you arrive to pick it up. It will also eliminate the possibility of losing prescriptions, and will reduce the likelihood of errors occurring in reading and fulfilling prescriptions.

Chairwoman Rice thanked Dr. Murray for his remarks and assistance and adjourned the dinner session with a few remarks and announcements.

Following the conclusion of the subcommittee meetings on Friday, November 7, 2008, Chairwoman Rice convened the closing general session at 10:30 a.m. Chairwoman Rice welcomed members and guests to the closing session and introduced those seated at the head table. Chairwoman Rice informed members that a suggestion has been made to begin the closing general session at 10 a.m. instead of 10:30 a.m. She stated that she will discuss this possibility with staff. She then introduced Commissioner Debbie Anderson to provide an update on the Department for Aging and Independent Living.

Commissioner Anderson thanked members of the Advisory Commission for their service and the opportunity to speak with them again. Commissioner Anderson gave a PowerPoint presentation on various programs the Department has been involved with. She advised that several new programs have been added to the Department for Aging and Independent Living since July 1. Because of the magnitude of legal guardianship, one of the new programs is the Guardianship Program which includes two branches, fiduciary services and field services. Currently over 2,600 people in Kentucky are being served by the Guardianship Program.

Commissioner Anderson announced that DAIL has assumed responsibility of the Long Term Care Ombudsman Program and introduced Kimberly Baker as the new State Long Term Care Ombudsman. Ms. Baker spoke briefly of her prior work on elder abuse issues and her excitement in serving as the ombudsman for the program.

Commissioner Anderson informed the Advisory Commission that the Brain Injury Trust Fund Program is also managed by DAIL. Funding for the program comes from state general funds. She also announced that a Prescription Assistance Program will start up in March 2009 and will coordinate the many programs already in place that assists persons needing help with prescriptions.

Commissioner Anderson announced a significant increase in funding, mostly federal, for the Low Income Heating Emergency Assistance Program – up from \$30.6 million last year to \$75 million this year. She attributed much of the increase to the efforts of Congressman Ben Chandler. This additional funding will allow the monthly allowance to increase to \$400. Regular enrollment into the program will be from November 3 to December 12, with actual funds being available from January 5 through March 31, or until the money is gone. Commissioner Anderson also mentioned the Weatherization Program which provides for long term energy efficiency measures. Both programs are administered through the Community Action Agencies.

Commissioner Anderson reminded the Advisory Commission that Medicare open enrollment starts on November 15 and runs through December 31. She encouraged everyone to start looking at their information early.

Commissioner Anderson informed the Advisory Commission of an effort to push new regulations related to the personal emergency response system. A letter is being mailed to legislators asking them to support legislation that will allow clients to designate 911 as their first call when using an emergency response system, or indicate that 911 should be called if a client's first designated call is not reached. If the legislation passes, letters will be mailed to clients of the service that will allow them to designate 911 as their first or second call in case of an emergency.

Commissioner Anderson stated that an internal study was done within the Department for Aging and Independent Living. As a result, several changes have been made, including eliminating many of the unnecessary regulations that prevented the Department from operating on more efficient and effective level. Other changes include improved training in the overall monitoring process, allowing more flexibility with specific funding allocations, and developing levels of case management based on the need for more or less detailed management.

Commissioner Anderson stated that the Meals on Wheels Program is being restructured to stretch resources. This includes allowing different levels of face-to-face visits and waivers to allow for frozen meals, "mom's meals" and shelf stable meals. Other changes within the Department are designed to stretch resources, including looking at a consumer directed options for the home care programs, eliminating the number of case managers each client utilizes, and a variety of other possible changes to be implemented within the next several months. The Department is also looking at eliminating duplication of services among programs. This may prove to be controversial with regard to the decisions recipients will be forced to make as they choose the programs they participate in.

Commissioner Anderson reminded the advisory commission that several programs within the Department for Aging and Independent Living had to be cut back this past year due to a decrease in funding. She indicated that several steps to re-evaluate functions and programs and additional funding are being studied and hopes to have more information for the Advisory Commission at its Spring 2009 meeting. If more cuts are necessary all programs will be on the table for discussion.

Mr. Doug Cole asked oversight is in place within the Guardianship Program to guard against misappropriation of funds. Commissioner Anderson responded that the Department has numerous steps in place regarding guardianship funds oversight. She stated that two people are present in an open, visible area when program checks arrive. All checks are verified, logged in and double-checked for accuracy. She stressed that the Department has a strict safeguard process in place. She added that the Department had a recent audit performed by the state auditor, Crit Luallen, and according to the report, the only thing of concern was understaffing.

Ms. Jeane Robertson asked what qualifications local guardians have. Commissioner Anderson responded



that all guardians across the state are government employees through the Department for Aging and Independent Living.

Ms. Robertson asked if a person could have more than one guardian. Commissioner Anderson responded that not enough guardians are presently employed to allow anyone to have more than one guardian. She mentioned that the current average caseload for guardians is approximately 60 cases.

Ms. Robertson asked how a person is placed under guardianship. Commissioner Anderson responded that all guardianship cases received by the Department are determined through a very judicious process that requires more than a simple request to be placed in the Program.

An advisory commission member asked if there are other guardianship programs. Commissioner Anderson responded that there are private guardianship programs and one of them is Guardia Care.

Vice Chairman Pallarito asked how the Department would be affected if a Special Session is called to address budget cuts and new revenue generating options. Commissioner Anderson responded that she doesn't know how the Department would be affected, but she does know that currently every program would be on the table for budget cut review. Mr. Bert Sisk commented on how imperative it is for funding to senior citizen centers not to be cut.

Mr. True commented that he is concerned that people are disillusioned to join a waiting list for in-home services due to the size of the list. Commissioner Anderson responded that could be one reason the waiting list numbers are lower for that time frame, however, historically April and summer months are lower for in-home services.

An Advisory Commission member asked if the department accepts waiver requests for certain services. Commissioner Anderson responded that the department does accept waivers for certain services, however, all questions must be answered thoroughly on the form or else it will be returned.

An Advisory Commission member asked if frozen meals are allowed to be used in the in-home delivery service. Commissioner Anderson responded that every year KIPDA submits a waiver to distribute frozen meals.

Chairwoman Rice thanked Com-

missioner Anderson for her time and insightful information. Chairwoman Rice and Commissioner Anderson informed the Advisory Commission that a copy of the PowerPoint presentation would be e-mailed to all members with an e-mail address on file.

Chairwoman Rice introduced each of the subcommittee spokespersons, who, in turn, presented their subcommittee's report for adoption by the full membership. The advisory commission adopted the following subcommittee reports.

Subcommittee on Consumer Affairs

(Reported by Claude Tiller, Subcommittee Chair)

On Thursday afternoon, Commissioner Charles Vice of the Department of Financial Institutions (DFI) and Chris Thompson, Compliance Branch Manager (DFI) provided a briefing and follow-up on the current financial market situations. Commissioner Vice presented DFI initiatives to increase consumer protection.

Following Commissioner Vice's comments, the subcommittee had presentations from Lori Farris and Paul Wingate of the Attorney General's Office, Consumer Protection Division; Heather Clarey of the Better Business Bureau and General John Heltzel of the Kentucky Division of Emergency Management. They spoke on services provided to seniors and consumers after natural disasters. After the presentations there was a panel discussion on proactive measures that could be taken to inform and protect senior consumers in natural disaster aftermath.

On Friday morning the Subcommittee reconvened to establish and finalize recommendations to bring before the Special Advisory Commission of Seniors Citizens for approval and submission to the 2009 General Assembly.

1)The Kentucky General Assembly should increase state funding by at least 20 percent for each year of the 2010-2012 biennium for the Area Agencies on Aging to support senior programs and by joint resolution to endorse as a goal an equal or greater increase for each year of the 2012-2014 biennium.

2)The 2009 Kentucky General Assembly should significantly increase taxes on tobacco products as an additional source of revenue for services to Kentuckians. It is further recommended that a minimum of \$.05 of increased tax revenue be

dedicated to senior services.

3)That the 2009 Kentucky General Assembly enact the comprehensive legislative proposal regarding identity theft (same as 2008 House Bill 553) to be submitted by the Consumer Protection Division of the Attorney General's Office.

4)The 2009 Kentucky General Assembly should enact legislation to require the Department of Financial Institutions to develop a state wide data collection system funded by lender fees. The system shall be utilized by lenders to ensure no borrower can exceed maximum borrowing limits as provided by state law.

A motion to adopt the report and recommendations was made and seconded, and passed on a voice vote.

Subcommittee on Health and Human Services

(Reported by Ms. Edna Hawkins, Subcommittee Chair)

The Health and Human Services Subcommittee received a presentation from Pat Dressman, Director of Human Services for the Campbell County Fiscal Court; Barbara Gordon, Social Services Director for KIPDA; and Nancy Addington from Lincoln County ADD. The three focused on the Meals on Wheels Program. The Title III home delivered meals program is federally funded while the Homecare Meals Program is state funded. The programs are facing a number of issues including increasing food and transportation costs, a decrease in volunteers to deliver meals, regulatory and policy barriers, and decreased and stagnant funding. According to the presenters, the meals program is experiencing an increase in need and rising costs overall.

The subcommittee then heard from Commissioner Deborah Anderson from the Department of Aging and Independent Living who discussed housing options for seniors and the factors that should be considered in making housing decisions. In order to make informed decisions, seniors should consider the likelihood of moving more than once as they age and their needs change; the types of housing options available; personal factors; legal issues; and, the financial resources available. The level of care needed by a senior may determine what type of housing is most appropriate. Options for housing include home care; independent living and retirement communities; assisted living; personal care homes; family care homes; and, intermediate

care facilities and nursing homes.

During the session on Friday, the subcommittee discussed and formulated the slate of legislative recommendations. The subcommittee's legislative recommendations are as follows:

(1)Urge the 2009 General Assembly to increase funding by 20% to the Department for Aging and Independent Living to provide services to seniors and continue to look for additional revenue sources.

(2)Urge support of the Area Agencies on Aging and Independent Living in the development of non-traditional service delivery systems for meals and other services.

(3)Support legislation to establish a certification process for personal care services agencies.

(4)Urge the 2009 General Assembly to significantly increase the tax on tobacco products to maintain current levels of coverage of the Medicaid program and to improve the availability and accessibility of health services to Kentuckians.

A motion to adopt the report and recommendations was made and seconded, and passed on a voice vote.

Subcommittee on Insurance

(Reported by Barbara Germain, Subcommittee Chair)

The Subcommittee on Insurance discussed long-term care insurance policies and the impact of a "return of premium policy" and the services provided by the Kentucky State Health Insurance Assistance Program (SHIP).

D J Wasson and Jay Thompson, Department of Insurance, discussed long-term care insurance and the impact of requiring insurers to offer return of premium on long term care policies.

Angela Zeek, Legal Aid of the Bluegrass; Marnie Mountjoy, Branch Manager and Amanda Enochs, Division of Quality Living, Department of Aging and Independent Living discussed SHIP which provides all Medicare eligible individuals information, counseling and assistance on health insurance matters. It also provides a system of referrals to appropriate Federal and State departments or agencies that provide assistance with problems related to health insurance coverage.

The Subcommittee adopted the following recommendations:

Urge the General Assembly to provide continuation funding at the current level for Area Agencies on

Aging to support Senior Programs due to the current economic climate, but urge the General Assembly to increase much needed funding to at least 5% when the economy improves.

Request the General Assembly require long-term care insurance carriers to submit rate increases to the Attorney General, as well as the Office of Insurance, to allow intervention by the Attorney General as needed.

Urge the General Assembly to continue to address the state employee and other state supported retirement system funding including insurance benefits.

Urge the General Assembly to fund marketing efforts to advertise the toll-free numbers for Kentucky Resource Market.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

#### Subcommittee on Taxation

(Reported by James Huff, Subcommittee Chair)

On Thursday Charlotte Quarles, taxation subcommittee staff person went over the 2007 version of Representative Carolyn Belcher's Elder Care Credit bill with the subcommittee. The bill was not introduced during the 2008 regular session.

It was decided that the bill previously drafted was hard to understand and to explain. Ms. Quarles offered some suggestions as to how the draft could be amended to make it more straight forward. Several changes were made to the draft during the meeting to expand the credit to those persons who care for a chronically ill person regardless of the person's age. The credit shall be equal to 10% of the amount of qualified expenses incurred with an annual cap of \$500.

Mr. Huff reported that he had been in contact with Representative Tommy Thompson and is hopeful that he will agree to sponsor the legislation.

Ms. Quarles also gave a power point presentation on the state income tax credits that will be available to consumers beginning January 1, 2009 for purchases of energy efficient equipment such as geothermal heat pumps, additional insulation, and energy efficient windows and doors.

The taxation subcommittee has the following recommendations:

That the General Assembly in-

crease state funding for Area Agencies on Aging to support senior programs at least 20% by looking for new funding sources.

That the General Assembly enact legislation to increase the cigarette tax and earmark 2 cents per pack senior services.

That the General Assembly enact legislation to provide a caregiver income tax credit to those who care for a chronically ill individual in that person's home, or in the caregiver's home.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

#### Subcommittee on Transportation

(Reported by Joe Wahlen, Subcommittee Vice Chair)

The Subcommittee on Transportation began its meeting by hearing testimony from Mr. Mike Skaggs, Transportation Planner, from the Lincoln Trail Area Development District on its overview of the transportation delivery. Mr. Skaggs discussed the demographics of the Lincoln Trail Area Development District and cited that 37% of the population is 85 or older, which is about the national average. Mr. Skaggs said that all 8 counties in the Lincoln Trail have some form of public transportation.

The Transit Authority of Central Kentucky (TACK) is the main provider of public transportation services. In areas where other types of public transportation exist the TACK services are limited to senior and handicapped individuals.

In closing Mr. Skaggs said discussed proposed transportation services within the district which included an east-west route between Elizabethtown and Fort Knox and the possibility of a passenger rail system between Louisville and Elizabethtown.

Next, Deputy Commissioner Bill Cooper from the Department of Aging and Independent Living, discussed the new organizational changes to the Department and gave a general overview of the Department's services. Thirty-four percent of the aging services' expenses are transportation related. The funding for those costs is limited to monies provided by the Older Americans Act Title III. Many of the programs funded by the Older Americans Act have specific guidelines for the expenditure of transportation activities which may limit the ability to provide some services.

On Friday morning Jeremy Thompson and Eric Perez from the Office of Transportation Delivery discussed recent appropriations and changes in the Kentucky's Human Transportation Delivery System. Mr. Perez reviewed the public transportation programs which currently operate in Kentucky and discussed the New Freedom program recently enacted by Congress for some additional assistance to public transportation.

Mr. Thompson discussed the Medicaid broker program and provided information on the bid system for the brokers. He reviewed the Medicaid transportation program for each region of the Commonwealth and pointed out the regions which were going to use new brokers. The brokers have contracts for one year which are renewable by the Transportation Cabinet for an additional year up to a total of five years.

In closing the Subcommittee reviewed and updated its recommendations and dropped the recommendation on prohibiting the use of cell phones. Our recommendations are as follows:

- 1.Strongly recommend the General Assembly to increase state funding for Area Agencies on Aging to support Senior Programs by at least 20% for each year of the 2008-10 biennium.

- 2.Recommend that the General Assembly appropriate sufficient funds to ensure available federal matching funds for the use in the state's public transportation programs. And,

- 3.Recommend a procedure be developed to register all-terrain vehicles to provide law enforcement and property owners the opportunity to identify ATVs being operated in violation of the law. The registration system should continue to prohibit use of ATVs on public roadways.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Vice Chairman Pallarito made a motion to combine all of the subcommittees' recommendations relating to the Area Agencies on Aging funding into one recommendation. He suggested using the recommendation from Consumer Affairs and rewriting it. He added that the reason for the motion was that since every subcommittee wants to make the recommendation, if it was consolidated as one recommendation from the advisory commission it might

have more of an affect. Mr. Elliott seconded the motion, however, commented that he believes the General Assembly will dismiss the 20% increase request. Mr. Elliott added that he is ok with the recommendation still having a request for an increase in funds and with consolidating it into one recommendation; however, he believes a lower number or percentage would be a more reasonable amount. Mr. Elliott also commented that the recommendation should involve a phrase that there should not be any further reduction in funds to the Area Agencies on Aging.

Mr. Douglas Cole asked how the General Assembly would get the raised revenue.

An advisory commission member asked if the recommendation could be deferred to the Executive Committee to write a proposal for presentation to the full membership at the May meeting.

Vice Chairman Pallarito withdrew the motion to combine the recommendation and the second was also withdrawn.

Vice Chairman Pallarito made a motion to request the Executive Committee draft a recommendation relating to the funding for Area Agencies on Aging to submit to the full advisory commission to approve to send to the General Assembly. The motion was seconded by Mr. Pete McNeill.

Mr. Bill Harned commented that if the advisory commission waited to adopt this proposed recommendation from the Executive Committee then the transmittal of the recommendation wouldn't be received by the General Assembly in time. He added that he would rather not hold up transmittal of the recommendation to the General Assembly.

Mr. True commented that the cigarette tax could be an avenue the advisory commission could use to supply the Area Agencies on Aging with the funds the recommendation is requesting. He urged that the advisory commission decide on a plan of action regarding the recommendation today or as soon as possible.

Mr. Harned suggested the advisory commission's Chair and Vice Chair finalize a recommendation incorporating the funding increase for Area Agencies on Aging. Ms. Robertson stated that she supports this recommendation.

Ms. Robertson commented that by asking for a 20% increase in funding would be to cover existing the



shortfall within Area Agencies on Aging and also to bring the funding back up to par from cuts experienced in budgets past.

Vice Chairman Pallarito withdrew the motion to have the Executive Committee review and draft a recommendation for consideration by the advisory commission. The second was also withdrawn.

Mr. Harned made a motion to allow the advisory commission's Chair and Vice Chair to draft a recommendation for inclusion in the final report submitted to the General Assembly. The motion was seconded and passed.

\*The discussion on the final recommendation of the advisory commission was intermittent and the speakers were not identified by name.

Chairwoman Rice made a few announcements and thanked all for taking the time to attend the November meeting. She announced that the next semiannual meeting was tentatively scheduled for May 7-8, 2009. There being no further business, the meeting was adjourned.

## **SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS**

### **Minutes of the 2nd Meeting of the 2008 Interim November 6, 2008**

The 2nd meeting of the Special Advisory Commission of Senior Citizens (the Advisory Commission) was held on Thursday, November 6, 2008, at 1:00 PM, in the Assembly Ballrooms 1 & 2 of the Capital Plaza Hotel, Frankfort, Kentucky. Lillian Rice, Chair, called the meeting to order.

Present were:

Members: Lillian Rice, Chair; Frances Baccus, Rebecca Baird, Mary Barlow, Cluster Belcher, J. T. Boling, Leon Boyd, Joyce Bruce, Ruth Bryant, Aaron Cardwell, Velma Childers, Douglas Cole, Bertha Daniels, Leon Dodge, Marsha Dufek, Bob Elliott, Carol Fausz, Finnell Fields, Verlin Flaherty, Ed Flanagan, Jane Fugate, Rufus Fugate, Larry Gatewood, Barbara Germain, Margaret Gilland, Dell Hall, Gloria Hall, Bill Harned, Edna Hawkins, Bobby Hazen, Faye Hensley, Marty Herbert, Jim Heth, Eleanor Holbrook, Betty Huff, James Huff, Argene Jones, Gayle King, Lee King, Ray Kremer, Gayle Lawson, Gina Loxley, Phillip Martin, Pete McNeill, Denver Moore, Larry Morrow, Jerry Moser, Jack Niece, Vivian Niece, Betty Olson, Elmer Olson, Norman Pallarito,

Joy Payne, Jean Phelps, Nancy Purvis, Clarence Richardson, Jeane Robertson, John Schreiber, John Searcy, Clayton Shannon, Dennis Shaw, Martha Shircliffe, Berton Sisk, Fred Smith, Martha Smith, Ted Smith, Paul Steenbergen, Donald Stethen, Pat Sutton, Ernest Taylor, Claude Tiller, Mary Trimble, Laurel True, Joan Veazey, Joe Wahlen, Joe Westerfield, Lillian Weston, Alban Wheeler, Lillian Wheeler, and Ken Willis.

Guests: Robert Vance, Secretary, Public Protection Cabinet; Charles Vice, Commissioner, Department of Financial Institutions, Public Protection Cabinet; Jay Thompson, Department of Insurance, Public Protection Cabinet; Representative Derrick Graham; Representative Carl Rollins; Dr. Renard Murray, Centers for Medicare and Medicaid Services; Marnie Mountjoy, Department for Aging and Independent Living, Cabinet for Health and Family Services; Debbie Anderson, Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services; Chris Thompson, Department of Financial Institutions, Public Protection Cabinet; Lori Farris, Attorney General's Office; Paul Wingate, Attorney General's Office; Heather Clarey, Better Business Bureau; John Heltzel, Kentucky Division of Emergency Management; Pat Dressman, Campbell County Fiscal Court; Barbara Gordon, KIPDA Area Development District; Nancy Addington, Lincoln Trail Area Development District; D.J. Wasson, Department of Insurance, Public Protection Cabinet; Angela Zeek, Legal Aid of the Bluegrass; Amanda Enochs, Department of Aging and Independent Living, Cabinet for Health and Family Services; Mike Skaggs, Lincoln Trail Area Development District; Bill Cooper, Deputy Commissioner, Department of Aging and Independent Living, Cabinet for Health and Family Services; Jeremy Thompson, Office of Transportation Delivery; and Eric Perez, Office of Transportation Delivery.

LRC Staff: Sheila Mason, Kenny Bishop, Katie Carney, Adanna Hydes, Miriam Fordham, Rhonda Franklin, Chad Collins, Charlotte Quarles, Jim Roberts, Brandon White, Betsy Bailey, Cindy Smith, Jamie Griffin, Sheri Mahan, Linda Hughes, Janice Clark, Sally Everman, Rick Devers, Bud Kraft, Karen Lile, and Richard Rigney.

Chairwoman Rice welcomed everyone to the Advisory Commission's second semiannual meeting for 2008 and introduced the head

table. Chairwoman Rice advised that one new member has been appointed to the Advisory Commission since the May 2008 meeting. Chairwoman Rice advised that the member, Norietta Dickerson from Sandy Hook, appointed by the FIVCO Area Development District was not able to attend this meeting, but is planning on being at the May 2009 meeting.

Chairwoman Rice informed members that the minutes from the Advisory Commission's May 8-9, 2008, meeting had been mailed earlier and were in their folders. She asked for any proposed additions or deletions. Chairwoman Rice asked for a motion to adopt the minutes as presented. A motion was made and seconded, and the minutes were adopted.

Chairwoman Rice introduced Robert Vance, Secretary, Public Protection Cabinet and Charles Vice, Commissioner, Department of Financial Institutions, Public Protection Cabinet. Chairwoman Rice informed the members that the two gentlemen would speak on "The Impact of the State of the Economy on Kentucky's Seniors." Chairwoman Rice informed members that Representative Tommy Thompson and Senator Tom Buford, co-chairs of the LRC's Interim Joint Committee on Banking and Insurance, had been invited to join the panel but were not able to attend.

Secretary Vance thanked the Advisory Commission for the invitation to speak and began his presentation with some background information on the Public Protection Cabinet, and discussed his role as Cabinet Secretary. He explained that the Cabinet serves the state as an umbrella for a wide variety of regulatory agencies within state government, including the Department of Insurance and the Department of Financial Institutions. Sharon Clark is the Commissioner for which regulates insurance activities in Kentucky. As part of that mission, the department carries out several programs dedicated to consumer education, including the Kentucky Insurance Program for Seniors (KIPS). The KIPS program offers educational seminars, free publications and consumer guides. Secretary Vance informed the Advisory Commission that the Department of Insurance has created a special section on its web site to address specific concerns of older Kentuckians.

Secretary Vance described the responsibilities of the Department of Financial Institutions, and highlight-

ed the department's role as an overseer of all of state chartered financial institutions and all securities sold in Kentucky. He commended the work of Charles Vice as the Commissioner of the Department, and stressed that Kentucky banks are more stable with capital and have fewer problem loans.

Secretary Vance reported the formation of the Governor's Economic Action Team composed of himself and several other government officials. The group is charged with assessing and reporting to the governor on the economy and its effects on the banks, housing markets, and the healthcare sector. He also mentioned a web site that has been created to be a one-stop-shop for Kentuckians, including seniors, who are struggling with the current economic downturn. The web address is [www.assistance.ky.gov](http://www.assistance.ky.gov).

Secretary Vance then introduced Commissioner Vice, who spoke to the Advisory Commission about the state's economic conditions, retirement and pension plans, savings and investment accounts, payday lending practices, and initiatives of the Department for Financial Institutions. Commissioner Vice mentioned that brochures and additional information would be available at the registration table for those who wish to know more. He stated that senior citizens are generally regarded as a very influential socio-economic group. He stated that in 2008, 79 million baby-boomers in the US would reach the age of 62. That group's control of roughly \$15 trillion in retirement accounts makes them a very important part of today's economy.

One of the major concerns of the Department of Financial Institutions is fraud being perpetrated on senior citizens. Commissioner Vice used "free lunch seminars" as an example. Organizers of these events invite seniors to a free lunch or another enticement, and then offer an investment opportunity that promises big returns and little risk. Often, the actual risk and potential return at most of these events is misrepresented. The department is also concerned about the stock market and the volatility of interest rates. These have a potential to significantly impact income that is related to bonds, savings accounts and investment accounts.

Commissioner Vice stated that although economists are hesitant to refer to the current economic con-

dition as a recession, the negative growth in the GDP in the 3rd and the estimated negative growth in the 4th quarter of 2008 points toward one. The length of the downturn is dependent upon several factors including the housing market, the auto industry, unemployment and interest rates. Commissioner Vice stated that although current economic conditions have created budget concerns, Kentucky is taking adequate steps to provide guidance and assistance for those who are facing mortgage foreclosure. One resource cited is a web site, [www.protectmykyhome.org](http://www.protectmykyhome.org).

Commissioner Vice stated that Kentucky's unemployment rate is currently following the same course as the rest of the nation, meaning there has been an increase in unemployment. However, there are a couple of positive forces around the state anticipated to help curb the increase, the including retooling of some existing manufacturing plants and announcements of new facilities around the state. He mentioned that Kentucky is in a positive place as an energy producing state.

Commissioner Vice stated that Kentucky is feeling the effects of the stock market's recent volatility and dramatic swings. This has caused retirement and pension plans to suffer significant losses. However, the Treasury Department has guaranteed funds in money market mutual accounts for a period of time hoping to stabilize the markets and discourage investors from pulling their money out. Another concern is that mortgage driven products that are driving the current market are creating the liquidity crisis, even though less five percent of the mortgages and sub-prime loans in the US are experiencing problems. The common perception is that the market is less stable than it actually is, causing consumers to avoid borrowing, decreasing liquidity in the market.

Commissioner Vice addressed savings and investment accounts, encouraging investors to know their investment advisor well and to choose an investment firm with a good reputation. He also encouraged investors to develop an individual investment plan based on their specific needs, with the assistance of their investment advisor. The plan should address the investor's investment horizon, risk tolerance, and whether the investor is interested in income or capital appreciation goals. He also suggested avoiding making dramat-

ic changes in the investment mix, meaning stocks, bonds, or cash.

Commissioner Vice addressed Kentucky law related to payday lending practices. Currently a person can have only two loans outstanding at one time. The loans can total only \$500, and the fee is limited to a maximum \$15 per \$100 outstanding. Payday loans in Kentucky have a term of no less than 14 days and no more than 60 days. Rollovers and renewals are prohibited in Kentucky as well.

Commissioner Vice stated that the Emergency Economic Stabilization Act of 2008 recently made some changes in FDIC insurance by temporarily increasing the basic insured amount from \$100,000 to \$250,000, per deposit, per insured bank. This change will only be in effect until December 31, 2009. The Commissioner stated that it is his belief that the temporary increases may actually become permanent, even if not at the current level, before they expire at the end of 2009. Another change in non-interest bearing deposit insurance, relating to personal and business accounts, is the ability to purchase unlimited insurance. One thing to remember is that banks have been given the option of opting out of the program. Commissioner Vice suggested that you contact your bank to verify their participation. The web site, [www.fdic.gov](http://www.fdic.gov) contains a list of banks that do or do not participate in the program.

Commissioner Vice encouraged members to contact his office if they have any questions about investments or deposit accounts. He stressed that they cannot answer questions about specific banks; however they can provide direction on general banking and investment matters. He also encouraged members to visit the agency's web site at [www.kfi.ky.gov](http://www.kfi.ky.gov) for more information on financial institutions, investment advisors and security firms. Commissioner Vice advised members of the Advisory Commission to contact Kelly May at [kelly.may@ky.gov](mailto:kelly.may@ky.gov) or call the toll free number (800-223-2579) to obtain a free copy of a newsletter that is produced by the Agency. Another resource is the Senior Scam Jam which is an event featuring booths with information and materials that speak to issues specific to senior citizen's concerns. In addition, speakers from the agency are also available to visit and speak to groups across the state about a variety of topics related

to the specific group.

Mr. Bill Harned asked, in light of the current economic climate and its impact on retirees and senior citizens in Kentucky, what is the expected impact on programs and services provided by the Department for Aging and Independent Living? Commissioner Debbie Anderson responded that the Department has seen an increase in interest and in its programs and is working hard to prepare for the influx of new enrollees, but she also expects a reduction in funding. Commissioner Anderson plans to provide more details of the Department's progress on Friday morning.

Vice Chairman Norm Pallarito asked what the difference is with state banks and other banks. Commissioner Vice responded that the Department for Financial Institutions has oversight over all state chartered banks in Kentucky. However, the Department does not provide any oversight on federally chartered banks operating in Kentucky.

Commissioner Vice informed the Advisory Commission that there were 20 or so banks in Kentucky that participated in Fanny Mae and Freddy Mac. One bank used about 30% of their capital investing in these two programs and the other banks used a smaller percentage of capital. Hence, the impact of the financial difficulties of the two programs was not as severe in Kentucky as it was in other states.

Vice Chairman Pallarito asked what rights a client has of banks that have been bought out. Commissioner Vice responded that most of the time there is not a disruption of service to the client. He added that the client should be offered the same deposit insurance with the new bank ownership.

Mr. Bob Elliott asked how a citizen can find a listing of state chartered banks versus nationally chartered banks. Commissioner Vice responded that either the word "National," or the abbreviations 'NA' must be in the name of a nationally chartered bank. Otherwise it is a state chartered bank.

An Advisory Commission member mentioned that he had heard talk of a temporary change in the required minimum age to withdraw funds from retirement accounts until the current difficult economic conditions get better. The current minimum age to withdraw funds without a penalty is 70½. Commissioner Vice responded that there was talk being

circulated that retirees may be allowed to withdraw a portion of their retirement, possibly up to \$10,000, without penalty or a tax before 70½, but he has not received word on a final decision.

Mr. Laurel True informed Secretary Vance that the Advisory Commission has been in contact with the Attorney General regarding long-term care insurance premium regulation rate increases. Mr. True asked if public hearings could be announced when rate increases are reviewed. Mr. True also asked if the Public Protection Cabinet could work with the Attorney General's Office regarding long-term care rate increases.

An advisory commission member commented that some long-term care policies have doubled in cost and there is worry that some companies are initially selling the policies way under cost and increasing the premiums over the years. Secretary Vance responded that the Cabinet will look at providers in addition to insurance companies raising the rates.

Chairwoman Rice introduced Mr. Jay Thompson with the Department of Insurance to address some of the questions regarding long-term care policy and rate increases reviewed by the Department. Mr. Thompson told the Advisory Commission that his department monitors insurance companies and advised that Kentucky is pretty much in the middle range nationally in regards to insurance rate increases. He addressed block plan openings, closings and switching, and indicated that his department has not noticed a reason for concern in this area.

Chairwoman Rice recognized Ms. Sheila Mason for a few announcements. After the announcements Chairwoman Rice made a few concluding remarks and adjourned the opening general session to allow the Advisory Commission subcommittees to convene.

Chairwoman Rice convened the dinner session and welcomed everyone and their guests. She recognized Mr. Pete McNeill to give the invocation. Following the invocation, Chairwoman Rice introduced those seated at the head table.

After dinner, Chairwoman Rice recognized Ms. Mason for introduction of the legislative hosts for the evening. Ms. Mason recognized Representative Derrick Graham and Representative Carl Rollins. Ms. Mason also recognized guests from the Department for Aging and Independent



Living and guests from the Center for Medicare and Medicaid Services from Atlanta, Georgia.

Chairwoman Rice introduced Dr. Renard Murray as the speaker for the evening's session. Dr. Murray is the Acting Bi-Regional Administrator for the Centers for Medicare and Medicaid Services in the Atlanta and Dallas regions.

Dr. Murray thanked the Advisory Commission for the invitation to speak and also the Department for Aging and Independent Living for their assistance during his trip to Kentucky. He discussed the Centers for Medicare and Medicaid Services (CMS) and their responsibility in providing health care services for about 80 million people nationwide through their combined programs, including SCHIP (State Children's Health Insurance Program). This makes the agency the largest health insurance provider in the nation.

Dr. Murray informed the Advisory Commission that he is in Kentucky to raise senior's awareness of the open enrollment season for the CMS prescription drug benefit program which begins on November 15, 2008. He discussed the history of the program and its different parts and coverages through the years, as well as the variety of plans available for subscribers today.

Dr. Murray informed the Advisory Commission that currently about 45 different prescription drug benefit plans are available to choose from. If a member does nothing at all to change their plan, their coverage remains the same as the previous year. All changes become effective in January 2009. He stressed the importance of comparing the plans and making adjustments based on need, finances and lifestyle.

Dr. Murray mentioned the Extra Help Program that is provided through the Social Security Administration. Assistance under this program is provided by paying for prescription drug premiums and for some of the deductibles and co-insurances that would be available through the CMS prescription drug plan. A member qualifying for this program can make changes to their plans at any time – not just during the enrollment period. It is estimated that around 45,000 people in Kentucky qualify for the subsidy. He asked the Advisory Commission to help identify individuals who may qualify and point them toward the SSA office.

Dr. Murray advised all of the

Advisory Commission members to look at the Medicare Handbook they received earlier in the year to learn about all of the prescription drug plans available in Kentucky. He advised of a 24-hour a day, seven days a week number, 800-633-4227, that Medicare provides for assistance for members. He also encouraged the Advisory Commission members to visit the Medicare web site at [www.medicare.gov](http://www.medicare.gov) for more information, and to talk with their doctors about generic versus name brand drugs in their circumstance.

Dr. Murray advised that Medicare is making flu shots available to its beneficiaries. He advised members to contact their doctors to get the vaccination.

Finally, Dr. Murray discussed the new electronic prescribing technology which allows the doctor to send your prescription directly to the pharmacist electronically. This will allow the pharmacist to have your prescription ready when you arrive to pick it up. It will also eliminate the possibility of losing prescriptions, and will reduce the likelihood of errors occurring in reading and fulfilling prescriptions.

Chairwoman Rice thanked Dr. Murray for his remarks and assistance and adjourned the dinner session with a few remarks and announcements.

Following the conclusion of the subcommittee meetings on Friday, November 7, 2008, Chairwoman Rice convened the closing general session at 10:30 a.m. Chairwoman Rice welcomed members and guests to the closing session and introduced those seated at the head table. Chairwoman Rice informed members that a suggestion has been made to begin the closing general session at 10 a.m. instead of 10:30 a.m. She stated that she will discuss this possibility with staff. She then introduced Commissioner Debbie Anderson to provide an update on the Department for Aging and Independent Living.

Commissioner Anderson thanked members of the Advisory Commission for their service and the opportunity to speak with them again. Commissioner Anderson gave a PowerPoint presentation on various programs the Department has been involved with. She advised that several new programs have been added to the Department for Aging and Independent Living since July 1. Because of the magnitude of legal guardianship, one of the new programs is the Guardianship Program

which includes two branches, fiduciary services and field services. Currently over 2,600 people in Kentucky are being served by the Guardianship Program.

Commissioner Anderson announced that DAIL has assumed responsibility of the Long Term Care Ombudsman Program and introduced Kimberly Baker as the new State Long Term Care Ombudsman. Ms. Baker spoke briefly of her prior work on elder abuse issues and her excitement in serving as the ombudsman for the program.

Commissioner Anderson informed the Advisory Commission that the Brain Injury Trust Fund Program is also managed by DAIL. Funding for the program comes from state general funds. She also announced that a Prescription Assistance Program will start up in March 2009 and will coordinate the many programs already in place that assists persons needing help with prescriptions.

Commissioner Anderson announced a significant increase in funding, mostly federal, for the Low Income Heating Emergency Assistance Program – up from \$30.6 million last year to \$75 million this year. She attributed much of the increase to the efforts of Congressman Ben Chandler. This additional funding will allow the monthly allowance to increase to \$400. Regular enrollment into the program will be from November 3 to December 12, with actual funds being available from January 5 through March 31, or until the money is gone. Commissioner Anderson also mentioned the Weatherization Program which provides for long term energy efficiency measures. Both programs are administered through the Community Action Agencies.

Commissioner Anderson reminded the Advisory Commission that Medicare open enrollment starts on November 15 and runs through December 31. She encouraged everyone to start looking at their information early.

Commissioner Anderson informed the Advisory Commission of an effort to push new regulations related to the personal emergency response system. A letter is being mailed to legislators asking them to support legislation that will allow clients to designate 911 as their first call when using an emergency response system, or indicate that 911 should be called if a client's first designated call is not reached. If

the legislation passes, letters will be mailed to clients of the service that will allow them to designate 911 as their first or second call in case of an emergency.

Commissioner Anderson stated that an internal study was done within the Department for Aging and Independent Living. As a result, several changes have been made, including eliminating many of the unnecessary regulations that prevented the Department from operating on more efficient and effective level. Other changes include improved training in the overall monitoring process, allowing more flexibility with specific funding allocations, and developing levels of case management based on the need for more or less detailed management.

Commissioner Anderson stated that the Meals on Wheels Program is being restructured to stretch resources. This includes allowing different levels of face-to-face visits and waivers to allow for frozen meals, "mom's meals" and shelf stable meals. Other changes within the Department are designed to stretch resources, including looking at a consumer directed options for the home care programs, eliminating the number of case managers each client utilizes, and a variety of other possible changes to be implemented within the next several months. The Department is also looking at eliminating duplication of services among programs. This may prove to be controversial with regard to the decisions recipients will be forced to make as they choose the programs they participate in.

Commissioner Anderson reminded the advisory commission that several programs within the Department for Aging and Independent Living had to be cut back this past year due to a decrease in funding. She indicated that several steps to re-evaluate functions and programs and additional funding are being studied and hopes to have more information for the Advisory Commission at its Spring 2009 meeting. If more cuts are necessary all programs will be on the table for discussion.

Mr. Doug Cole asked oversight is in place within the Guardianship Program to guard against misappropriation of funds. Commissioner Anderson responded that the Department has numerous steps in place regarding guardianship funds oversight. She stated that two people are present in an open, visible area when program checks arrive. All checks are verified,

logged in and double-checked for accuracy. She stressed that the Department has a strict safeguard process in place. She added that the Department had a recent audit performed by the state auditor, Crit Luallen, and according to the report, the only thing of concern was understaffing.

Ms. Jeane Robertson asked what qualifications local guardians have. Commissioner Anderson responded that all guardians across the state are government employees through the Department for Aging and Independent Living.

Ms. Robertson asked if a person could have more than one guardian. Commissioner Anderson responded that not enough guardians are presently employed to allow anyone to have more than one guardian. She mentioned that the current average caseload for guardians is approximately 60 cases.

Ms. Robertson asked how a person is placed under guardianship. Commissioner Anderson responded that all guardianship cases received by the Department are determined through a very judicious process that requires more than a simple request to be placed in the Program.

An advisory commission member asked if there are other guardianship programs. Commissioner Anderson responded that there are private guardianship programs and one of them is Guardia Care.

Vice Chairman Pallarito asked how the Department would be affected if a Special Session is called to address budget cuts and new revenue generating options. Commissioner Anderson responded that she doesn't know how the Department would be affected, but she does know that currently every program would be on the table for budget cut review. Mr. Bert Sisk commented on how imperative it is for funding to senior citizen centers not to be cut.

Mr. True commented that he is concerned that people are disillusioned to join a waiting list for in-home services due to the size of the list. Commissioner Anderson responded that could be one reason the waiting list numbers are lower for that time frame, however, historically April and summer months are lower for in-home services.

An Advisory Commission member asked if the department accepts waiver requests for certain services. Commissioner Anderson responded that the department does accept waivers for certain services, however,

all questions must be answered thoroughly on the form or else it will be returned.

An Advisory Commission member asked if frozen meals are allowed to be used in the in-home delivery service. Commissioner Anderson responded that every year KIPDA submits a waiver to distribute frozen meals.

Chairwoman Rice thanked Commissioner Anderson for her time and insightful information. Chairwoman Rice and Commissioner Anderson informed the Advisory Commission that a copy of the PowerPoint presentation would be e-mailed to all members with an e-mail address on file.

Chairwoman Rice introduced each of the subcommittee spokespersons, who, in turn, presented their subcommittee's report for adoption by the full membership. The advisory commission adopted the following subcommittee reports.

Subcommittee on Consumer Affairs

(Reported by Claude Tiller, Subcommittee Chair)

On Thursday afternoon, Commissioner Charles Vice of the Department of Financial Institutions (DFI) and Chris Thompson, Compliance Branch Manager (DFI) provided a briefing and follow-up on the current financial market situations. Commissioner Vice presented DFI initiatives to increase consumer protection.

Following Commissioner Vice's comments, the subcommittee had presentations from Lori Farris and Paul Wingate of the Attorney General's Office, Consumer Protection Division; Heather Clarey of the Better Business Bureau and General John Heltzel of the Kentucky Division of Emergency Management. They spoke on services provided to seniors and consumers after natural disasters. After the presentations there was a panel discussion on proactive measures that could be taken to inform and protect senior consumers in natural disaster aftermath.

On Friday morning the Subcommittee reconvened to establish and finalize recommendations to bring before the Special Advisory Commission of Seniors Citizens for approval and submission to the 2009 General Assembly.

1)The Kentucky General Assembly should increase state funding by at least 20 percent for each year of the 2010-2012 biennium for the Area Agencies on Aging to support

senior programs and by joint resolution to endorse as a goal an equal or greater increase for each year of the 2012-2014 biennium.

2)The 2009 Kentucky General Assembly should significantly increase taxes on tobacco products as an additional source of revenue for services to Kentuckians. It is further recommended that a minimum of \$.05 of increased tax revenue be dedicated to senior services.

3)That the 2009 Kentucky General Assembly enact the comprehensive legislative proposal regarding identity theft (same as 2008 House Bill 553) to be submitted by the Consumer Protection Division of the Attorney General's Office.

4)The 2009 Kentucky General Assembly should enact legislation to require the Department of Financial Institutions to develop a state wide data collection system funded by lender fees. The system shall be utilized by lenders to ensure no borrower can exceed maximum borrowing limits as provided by state law.

A motion to adopt the report and recommendations was made and seconded, and passed on a voice vote.

Subcommittee on Health and Human Services

(Reported by Ms. Edna Hawkins, Subcommittee Chair)

The Health and Human Services Subcommittee received a presentation from Pat Dressman, Director of Human Services for the Campbell County Fiscal Court; Barbara Gordon, Social Services Director for KIPDA; and Nancy Addington from Lincoln County ADD. The three focused on the Meals on Wheels Program. The Title III home delivered meals program is federally funded while the Homecare Meals Program is state funded. The programs are facing a number of issues including increasing food and transportation costs, a decrease in volunteers to deliver meals, regulatory and policy barriers, and decreased and stagnant funding. According to the presenters, the meals program is experiencing an increase in need and rising costs overall.

The subcommittee then heard from Commissioner Deborah Anderson from the Department of Aging and Independent Living who discussed housing options for seniors and the factors that should be considered in making housing decisions. In order to make informed decisions, seniors should consider the likelihood of moving more than once as

they age and their needs change; the types of housing options available; personal factors; legal issues; and, the financial resources available. The level of care needed by a senior may determine what type of housing is most appropriate. Options for housing include home care; independent living and retirement communities; assisted living; personal care homes; family care homes; and, intermediate care facilities and nursing homes.

During the session on Friday, the subcommittee discussed and formulated the slate of legislative recommendations. The subcommittee's legislative recommendations are as follows:

(1)Urge the 2009 General Assembly to increase funding by 20% to the Department for Aging and Independent Living to provide services to seniors and continue to look for additional revenue sources.

(2)Urge support of the Area Agencies on Aging and Independent Living in the development of non-traditional service delivery systems for meals and other services.

(3)Support legislation to establish a certification process for personal care services agencies.

(4)Urge the 2009 General Assembly to significantly increase the tax on tobacco products to maintain current levels of coverage of the Medicaid program and to improve the availability and accessibility of health services to Kentuckians.

A motion to adopt the report and recommendations was made and seconded, and passed on a voice vote.

Subcommittee on Insurance

(Reported by Barbara Germain, Subcommittee Chair)

The Subcommittee on Insurance discussed long-term care insurance policies and the impact of a "return of premium policy" and the services provided by the Kentucky State Health Insurance Assistance Program (SHIP).

D J Wasson and Jay Thompson, Department of Insurance, discussed long-term care insurance and the impact of requiring insurers to offer return of premium on long term care policies.

Angela Zeek, Legal Aid of the Bluegrass; Marnie Mountjoy, Branch Manager and Amanda Enochs, Division of Quality Living, Department of Aging and Independent Living discussed SHIP which provides all Medicare eligible individuals information, counseling and assistance on health



insurance matters. It also provides a system of referrals to appropriate Federal and State departments or agencies that provide assistance with problems related to health insurance coverage.

The Subcommittee adopted the following recommendations:

Urge the General Assembly to provide continuation funding at the current level for Area Agencies on Aging to support Senior Programs due to the current economic climate, but urge the General Assembly to increase much needed funding to at least 5% when the economy improves.

Request the General Assembly require long-term care insurance carriers to submit rate increases to the Attorney General, as well as the Office of Insurance, to allow intervention by the Attorney General as needed.

Urge the General Assembly to continue to address the state employee and other state supported retirement system funding including insurance benefits.

Urge the General Assembly to fund marketing efforts to advertise the toll-free numbers for Kentucky Resource Market.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

#### Subcommittee on Taxation

(Reported by James Huff, Subcommittee Chair)

On Thursday Charlotte Quarles, taxation subcommittee staff person went over the 2007 version of Representative Carolyn Belcher's Elder Care Credit bill with the subcommittee. The bill was not introduced during the 2008 regular session.

It was decided that the bill previously drafted was hard to understand and to explain. Ms. Quarles offered some suggestions as to how the draft could be amended to make it more straight forward. Several changes were made to the draft during the meeting to expand the credit to those persons who care for a chronically ill person regardless of the person's age. The credit shall be equal to 10% of the amount of qualified expenses incurred with an annual cap of \$500.

Mr. Huff reported that he had been in contact with Representative Tommy Thompson and is hopeful that he will agree to sponsor the legislation.

Ms. Quarles also gave a power

point presentation on the state income tax credits that will be available to consumers beginning January 1, 2009 for purchases of energy efficient equipment such as geothermal heat pumps, additional insulation, and energy efficient windows and doors.

The taxation subcommittee has the following recommendations:

That the General Assembly increase state funding for Area Agencies on Aging to support senior programs at least 20% by looking for new funding sources.

That the General Assembly enact legislation to increase the cigarette tax and earmark 2 cents per pack senior services.

That the General Assembly enact legislation to provide a caregiver income tax credit to those who care for a chronically ill individual in that person's home, or in the caregiver's home.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Subcommittee on Transportation

(Reported by Joe Wahlen, Subcommittee Vice Chair)

The Subcommittee on Transportation began its meeting by hearing testimony from Mr. Mike Skaggs, Transportation Planner, from the Lincoln Trail Area Development District on its overview of the transportation delivery. Mr. Skaggs discussed the demographics of the Lincoln Trail Area Development District and cited that 37% of the population is 85 or older, which is about the national average. Mr. Skaggs said that all 8 counties in the Lincoln Trail have some form of public transportation.

The Transit Authority of Central Kentucky (TACK) is the main provider of public transportation services. In areas where other types of public transportation exist the TACK services are limited to senior and handicapped individuals.

In closing Mr. Skaggs said discussed proposed transportation services within the district which included an east-west route between Elizabethtown and Fort Knox and the possibility of a passenger rail system between Louisville and Elizabethtown.

Next, Deputy Commissioner Bill Cooper from the Department of Aging and Independent Living, discussed the new organizational changes to the Department and gave a general

overview of the Department's services. Thirty-four percent of the aging services' expenses are transportation related. The funding for those costs is limited to monies provided by the Older Americans Act Title III. Many of the programs funded by the Older Americans Act have specific guidelines for the expenditure of transportation activities which may limit the ability to provide some services.

On Friday morning Jeremy Thompson and Eric Perez from the Office of Transportation Delivery discussed recent appropriations and changes in the Kentucky's Human Transportation Delivery System. Mr. Perez reviewed the public transportation programs which currently operate in Kentucky and discussed the New Freedom program recently enacted by Congress for some additional assistance to public transportation.

Mr. Thompson discussed the Medicaid broker program and provided information on the bid system for the brokers. He reviewed the Medicaid transportation program for each region of the Commonwealth and pointed out the regions which were going to use new brokers. The brokers have contracts for one year which are renewable by the Transportation Cabinet for an additional year up to a total of five years.

In closing the Subcommittee reviewed and updated its recommendations and dropped the recommendation on prohibiting the use of cell phones. Our recommendations are as follows:

1.Strongly recommend the General Assembly to increase state funding for Area Agencies on Aging to support Senior Programs by at least 20% for each year of the 2008-10 biennium.

2.Recommend that the General Assembly appropriate sufficient funds to ensure available federal matching funds for the use in the state's public transportation programs. And,

3.Recommend a procedure be developed to register all-terrain vehicles to provide law enforcement and property owners the opportunity to identify ATVs being operated in violation of the law. The registration system should continue to prohibit use of ATVs on public roadways.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Vice Chairman Pallarito made a motion to combine all of the sub-

committees' recommendations relating to the Area Agencies on Aging funding into one recommendation. He suggested using the recommendation from Consumer Affairs and rewriting it. He added that the reason for the motion was that since every subcommittee wants to make the recommendation, if it was consolidated as one recommendation from the advisory commission it might have more of an affect. Mr. Elliott seconded the motion, however, commented that he believes the General Assembly will dismiss the 20% increase request. Mr. Elliott added that he is ok with the recommendation still having a request for an increase in funds and with consolidating it into one recommendation; however, he believes a lower number or percentage would be a more reasonable amount. Mr. Elliott also commented that the recommendation should involve a phrase that there should not be any further reduction in funds to the Area Agencies on Aging.

Mr. Douglas Cole asked how the General Assembly would get the raised revenue.

An advisory commission member asked if the recommendation could be deferred to the Executive Committee to write a proposal for presentation to the full membership at the May meeting.

Vice Chairman Pallarito withdrew the motion to combine the recommendation and the second was also withdrawn.

Vice Chairman Pallarito made a motion to request the Executive Committee draft a recommendation relating to the funding for Area Agencies on Aging to submit to the full advisory commission to approve to send to the General Assembly. The motion was seconded by Mr. Pete McNeill.

Mr. Bill Harned commented that if the advisory commission waited to adopt this proposed recommendation from the Executive Committee then the transmittal of the recommendation wouldn't be received by the General Assembly in time. He added that he would rather not hold up transmittal of the recommendation to the General Assembly.

Mr. True commented that the cigarette tax could be an avenue the advisory commission could use to supply the Area Agencies on Aging with the funds the recommendation is requesting. He urged that the advisory commission decide on a plan of action regarding the recommenda-

tion today or as soon as possible.

Mr. Harned suggested the advisory commission's Chair and Vice Chair finalize a recommendation incorporating the funding increase for Area Agencies on Aging. Ms. Robertson stated that she supports this recommendation.

Ms. Robertson commented that by asking for a 20% increase in funding would be to cover existing the shortfall within Area Agencies on Aging and also to bring the funding back up to par from cuts experienced in budgets past.

Vice Chairman Pallarito withdrew the motion to have the Executive Committee review and draft a recommendation for consideration by the advisory commission. The second was also withdrawn.

Mr. Harned made a motion to allow the advisory commission's Chair and Vice Chair to draft a recommendation for inclusion in the final report submitted to the General Assembly. The motion was seconded and passed.

\*The discussion on the final recommendation of the advisory commission was intermittent and the speakers were not identified by name.

Chairwoman Rice made a few announcements and thanked all for taking the time to attend the November meeting. She announced that the next semiannual meeting was tentatively scheduled for May 7-8, 2009. There being no further business, the meeting was adjourned.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes**

**December 3, 2008**

The 12th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, December 3, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Carroll Gibson, Co-Chair; Representative Rick Rand, Co-Chair; Senators Charlie Borders and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Michael Judge, Angela Blank, Diane Fleming, Jennifer Hudnall, Todd Harp, and Mike Tobin, Governor's Office of Agricultural

Policy; Dr. Scott Smith, Dr. Will Snell, Dr. Craig Infanger, Dr. Rick Maurer, Dr. Gary Palmer, and Drew Graham, University of Kentucky College of Agriculture.

LRC Staff: Lowell Atchley, Biff Baker, and Kelly Blevins.

Minutes of the November 5, 2008 meeting were approved, without objection, by voice vote, upon a motion made by Senator Pendleton, seconded by Representative Hoffman.

Before beginning the business portion of the meeting, the committee held a moment of silence in honor of Senator Julie Denton, who recently lost a son in a traffic accident. Senator Gibson and Representative Rand also paid tribute to Senator Richie Sanders, a committee member who was retiring from the State Senate.

The presiding chair, Representative Rand, then asked Mr. Roger Thomas, Executive Director, Governor's Office of Agricultural Policy (GOAP), to report on the projects considered for funding during the November Agricultural Development Board (ADB) meeting. Accompanying him were Mr. Joel Neaveill, Chief of Staff, Mr. Mike Judge, Director of Operations, and later during the meeting, Ms. Diane Fleming, General Counsel.

A \$1 million grant to create the Kentucky Agricultural Leadership Program Endowment garnered some discussion. UK received \$150,000 to fund the next 20-member class of the Kentucky Agricultural Leadership Program and \$850,000 to set up a matching endowment to fund the program into perpetuity. The endowment funds are to be awarded in the form of a revocable grant, according to Mr. Neaveill.

Responding to Co-chair Rand, Mr. Thomas said the intent of the board and applicants was to develop a program that would be self-sustaining over time, putting UK in the position of not needing to make another request for agricultural development funds. He said the \$850,000 match will present a significant challenge for the university. UK also is expected to match the initial \$150,000. Participants in the leadership program are required to pay for some expenses, testimony revealed.

Next, Mr. Judge reviewed the particulars of a \$3,330,000 grant to the Department of Agriculture to continue the promotion of the Kentucky Proud Program. He emphasized that the Department of Agriculture

will work with the GOAP in developing promotional and marketing materials that acknowledge the ADB; a member of the board will sit on a Kentucky Proud Advisory Council; detailed quarterly progress reports will be required; and a periodic operational audit will be required.

Mr. Thomas reviewed the transfer of \$5 million in funds to the Kentucky Agricultural Finance Corporation (KAFC). Of that amount, \$4 million would be used continue existing KAFC loan programs and \$1 million would be devoted to a new large animal veterinary program. Mr. Thomas said he was excited about the funds that will be made available to the KAFC to loan to licensed veterinarians to acquire the assets needed to serve Kentucky farmers. According to Mr. Thomas, the loan program would not solve the veterinarian problem, but would "hopefully send a message especially to young large animal veterinarians in practice that Kentucky is truly concerned about the issue."

Following Mr. Thomas's remarks, Representative Comer asked what \$5 million would equate to in money available for borrowers. According to Mr. Thomas, KAFC loan funds are "partnered" with loans from private lenders. As an example, the \$27 million that the ADB has put into the KAFC program thus far would have amounted to roughly \$100 million in actual loan funds when other lenders' funds are included.

Representative McKee said he was pleased about the veterinarian loan program and mentioned legislative efforts in that regard in the 2008 session. He asked how the veterinarian loan rates would compare with regular KAFC loan rates. Mr. Thomas responded that the program charges a 2 percent interest rate on its funds. Local lenders partner on the loans, offering loans at their rates and also receiving a 1 percent processing fee, according to testimony. He said they want to limit the loans to veterinarians for start-up ventures, for buying into a practice, or expanding a practice. He said no loan funds will be approved for pharmaceuticals or vehicles.

Responding to Representative McKee, who asked about the demand for the funds, Mr. Thomas said the \$1 million "will not go far" and he would anticipate the funds would be exhausted in two years. Representative McKee said he appreciated the effort and indicated the issue is one

that will need additional attention.

Mr. Neaveill also summarized the award of \$50,000, \$380,000, and \$117,000 respectively to the Powell County Livestock Producers Association, the Nicholas County Fiscal Court, and Wolfe County Conservation District, all of which are setting up menu funds for various model programs in those counties.

On another issue, Senator Gibson asked Mr. Thomas about his vision of future uses of the agricultural development funds. Mr. Thomas said it would depend on the level of funding. He mentioned the sound investment approach of moving funds to the KAFC for loan programs. He also said more attention needs to be focused on the area of energy production.

Following that discussion, Mr. Judge briefed the committee on proposed changes to model programs that were scheduled to be acted on during the ADB's December meeting. Among general guidelines, GOAP staff recommended a tightening of procedures to hamper model program applicants from acquiring multiple cost-share fund amounts by using more than one identification number. Another suggestion was to create an "amnesty program" that would have model program funding disbursement records to begin anew to help better keep tabs on who receives the funding over a period of time. Mr. Judge said a new uniform tracking system would be set up to keep track of who has received model program funding. Mr. Judge also outlined proposed changes to individual model programs.

According to Mr. Judge, who responded to Representative McKee, they have discussed the policy regarding a tobacco production connection in order to receive the funds, but the policy would remain unchanged at this time. Representative McKee mentioned that he is aware of farmers who have purchased land for farming, but who are not tobacco farmers, and thus, are not qualified for the funds.

On another issue, Ms. Fleming responded to questions that Representative Comer posed during the last meeting regarding the status of loan repayments by the PIC USA. Ms. Fleming said they checked the records and determined that PIC USA was compliant in the amount of \$160,000, made up of forgiveness credits and actual cash payments.

Representative Comer expressed



his appreciation to Mr. Thomas for keeping him updated. The representative recalled sources told him that PIC was supposed to have used some if its loan proceeds to replace a building that burned, but actually collected an insurance payment for the structure.

Next, the committee heard a report by Dr. Craig Infanger, Dr. Richard Maurer, and Dr. Gary Palmer, all of the University of Kentucky, who reported on the evaluation of Agricultural Development Board investments on non-model projects, model programs, and KAFC loan programs for 2001-2007.

Among the points made in their presentation: the agricultural development program had resulted in \$209 million in investments; those investments had clear, quantifiable impacts through enhanced farm and business diversification, improved technology adoption in production practices, new and expanded businesses resulting in over 500 new products, and the generation of income for farmers and agribusinesses; an estimated \$1.87 in additional farm income was realized for every \$1 of ADB investment; a total of 20 of the non-model projects had accomplished all their goals, resulting in clear impacts, but 21 projects had “serious” performance issues; comprehensive approaches through programs such as the Beef Network and Horticulture Council have been effective; small projects “work” and generate \$3 in income for every \$1 invested; there is a clear need to more marketing technical assistance to small entrepreneurs; a need exists for the ADB and KAFC to collaborate on new ventures to provide a balance of grant and loan funding; as for KAFC programs, the Beginning Farmer Loan Program had the most significant impact per each dollar of ADB funding; and some of the major model programs increased net income, improved animal health and human and animal safety, increased science-based decisions, provided long-term returns, resulted in the purchase of thousands of bulls, improved herd health, and reduced hay and straw losses because of hay storage.

Responding to Co-chair Rand regarding what to focus on as the investment program has matured, Dr. Infanger said they learned a lot about which investments had worked and which had not. But, he said, times have changed in agriculture with a drop in commodity prices and rising

costs. He indicated the effort in seeking new markets needs to continue, and he expressed a hope that the board would continue to fund opportunities that may exist.

Responding to Representative Comer, who observed some counties process more requests for funds than others, Dr. Palmer said the board has placed limits on how much applicants can receive at one time and over a lifetime of applying. Also, model programs offered vary from county to county.

Dr. Maurer mentioned that they conducted site visits to 15 counties and found that, in general, county councils were well-meaning and paid attention to how they dispensed the funds, although some were more organized than others. He also reiterated the fact that guidelines and scoring procedures used in screening applications varied. He indicated a decision may be needed regarding the tobacco dependency scoring and whether to broaden the program beyond the tobacco production criteria.

Responding to Senator Gibson, Dr. Infanger said they kept in close contact with GOAP staff during the study and reported significant issues back to them. He mentioned two recommendations for the GOAP, that they attempt to interact more often with those receiving funding, and that they analyze the effectiveness of the program about once every three years.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 11:30 a.m.

efficiency in state buildings by establishing high-performance building standards and timeframes for state-funded construction. It also provides tax credits to homeowners for a percentage of the cost of energy efficiency improvements, as well as a tax credit for buyers and owner-builders of homes that meet Energy Star guidelines. Tax credits are also made available for a percentage of installation costs for solar power systems and wind turbines.

The legislation will also help school districts conserve energy and save money by requiring enrollment in the Kentucky Energy Efficiency Program.

A Senate amendment to House Bill 2 established the “Kentucky Bluegrass Turns Green” program to promote energy efficiency improvements in public and private sector buildings. The program, which was originally proposed in Senate Bill 165, sponsored by Sen. Bob Leeper, I-Paducah, will make grants available to the public sector for engineered demand-side management projects and creates a low-interest loan program will to the same for the private sector.

“Improving the energy efficiency of public buildings in Kentucky will save taxpayers millions of dollars each year by reducing energy costs,” Leeper said. “The state’s private sector will also benefit by having access to the capital they need for the building improvements that will lower their energy costs.”

House Bill 2 also directs the Public Service Commission to look into next-generation residential utility meters when reviewing utility management plans, and calls on the Governor’s Office of Energy Policy to develop a report for a “renewable and energy efficiency portfolio standard” from the state’s regulated eclectic utilities.

Private investment in the installation of hydroelectric generating units on Kentucky River dams is also promoted by HB 2 by giving the Kentucky River Authority authorization to promote such ventures.

Printed copies of the volume of “Suggested State Legislation” publication that will include House Bill 2 will be mailed to lawmakers and legislative staffers across the country next year. The publication will also be available in February for viewing online on the CSG’s website at [www.csg.org](http://www.csg.org).

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- 227** Issues Confronting the 2009 General Assembly An update of Informational Bulletin No. 224 (2008)
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- 210** Constitution of the United States of America, Constitution of the Commonwealth of Kentucky
- 209** Issues Confronting the 2003 General Assembly (2002)
- 208** Final Reports of the Interim Joint, Special and Statutory Committees (2002)
- 207** General Assembly Action, Regular Session 2002
- 206** Final Reports of the Interim Joint, Special and Statutory Committees (2001)
- 205** Issues Confronting the 2002 General Assembly, Supplement to Issues Confronting the 2002 General Assembly
- 204** General Assembly Action, Regular Session 2001



# 2009 Prefiled Bills

## **BR 12 - Senator Dorsey Ridley, Senator Jerry P. Rhoads (11/24/08)**

AN ACT relating to public infrastructure authorities.

Establish KRS Chapter 175B and create new sections thereof to provide definitions; establish the Kentucky Public Transportation Infrastructure Authority; specify membership, meeting requirements, staffing, and operations; state the purpose and powers of the authority; direct the authority to evaluate potential projects; require that projects be proposed by a local government and approved by the department; permit tolling, establish requirements for level of tolling, and direct how proceeds of tolls and other revenues shall be used; permit the authority to contract with the department for construction and operations; specify that the authority shall maintain control of projects and revenues from projects; authorize projects constructed by the authority to include interchanges with existing roadways; permit the authority to issue administrative regulations; permit public utilities to utilize rights-of-way under specific circumstances; permit agreements for use of real estate assets of the authority by the Commonwealth; authorize issuance of bonds; provide that bonds are not a debt of the Commonwealth; permit incidental use of rights-of-way for specified purposes; authorize trust relationships; authorize state agencies and localities to invest in bonds; exempt bonds from state taxation; allow the authority to contract for provision of maintenance services; direct that projects shall revert to ownership by the Commonwealth when all bonds are retired; require issuance of an annual report, require an annual audit; prohibit officers and employees from directly investing in authority bonds; indemnify board members and employees from personal liability; authorize previous planning and other work to become a part of the function of the authority; amend KRS 176.420 to require the activity of the authority to be evaluated as a part of the six-year road plan.

(Prefiled by the sponsor(s).)

## **BR 15 - Representative Jim**

## **Wayne (11/24/08)**

AN ACT relating to voting.

Amend KRS 117.085 to allow voting before election day for caretakers of voters who are scheduled to have surgery that will require hospitalization on election day.

(Prefiled by the sponsor(s).)

## **BR 18 - Representative Stan Lee (12/19/08)**

AN ACT relating to the Special Needs Alternative Education and Welfare Program.

Create new sections of KRS Chapter 157 to create the Students with Special Needs Scholarship Program; define terminology regarding participation; describe the process for the Kentucky Department of Education to receive student applications and to allocate scholarship funding; require a resident school district to provide annual notice of the scholarship program to parents, transfer school records, provide transportation, and permit a student to participate in the state assessment if requested; describe the requirements of a participating school application; describe parental, student, and local district responsibilities; clarify the requirements for a proportionate share of federal funds for parentally placed students with disabilities; amend KRS 157.196, 159.030, and 605.115 to conform with the definition of "individualized education program" in the federal Individuals with Disabilities Education Act.

(Prefiled by the sponsor(s).)

## **BR 21 - Representative Melvin B. Henley (06/19/08)**

AN ACT relating to voluntary student expression of religious viewpoints in public schools.

Amend KRS 158.183 to permit students to voluntarily express religious viewpoints in school assignments free from discrimination and organize prayer groups, religious clubs, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups; create a new

section of KRS Chapter 158 to require each board of education to adopt and implement a policy regarding voluntary student expression of religious viewpoints and to establish a limited public forum for student speakers at all school events at which a student is to publicly speak, including graduation; designate procedure for selection of student speakers; require subject of speech to be relevant to event; require district disclaimer indicating nonendorsement of the content of voluntary expressions by students.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

## **BR 24 - Representative Jimmy Higdon (08/29/08)**

AN ACT relating to primaries.

Amend KRS 116.055 to permit a registered independent to vote in the primary of one party for each primary; amend KRS 118.125 to provide that a primary candidate shall not be a registered independent; amend KRS 117.125 to provide that electronic voting machines be reprogrammed to allow a registered independent to vote for a party's candidates in a primary.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

## **BR 28 - Senator Gary Tapp, Senator Dan Seum (07/07/08)**

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define "low-speed electric vehicle" and amend the definition of "motor vehicle" to include a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 45 miles per hour or less; require low-speed electric vehicles operated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with Chapter 186A, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than

45 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

## **BR 33 - Representative Jim Wayne, Representative Charles Siler (07/28/08)**

AN ACT relating to tax credits for hiring legally blind or severely disabled individuals.

Create a new section of KRS Chapter 141 to create a community rehabilitation tax credit for the amount paid to a nonprofit agency or work center for work performed by individuals who are legally blind or severely disabled, define terms; amend KRS 141.0205 to establish the order in which the credit shall be taken.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

## **BR 34 - Senator Tom Buford (07/17/08)**

AN ACT relating to donations.

Create a new section of KRS 367.170 to 367.300 to require for profit entities that collect donated items for resale to affix a permanent sign on the collection bins that states that the collections are not charitable in nature and do not qualify for a charitable deduction, and that provide the name and contact information for the entity; provide that a violation of this section is an unlawful act under KRS 367.170; provide that the provisions may be enforced by the Attorney General or the county attorney.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

## **BR 35 - Representative Ron Crimm (11/17/08)**

AN ACT relating to the titling and registration of mopeds.

Amend KRS 186A.010 to define "motor vehicle" for KRS Chapter 186A to include mopeds; add mopeds

to the automatic motor vehicle titling and registration system; amend KRS 186.010 to include mopeds in the definition of “motor vehicle” as used in KRS 186.020 to 186.260 to provide for the registration of mopeds; specify minimum cylinder capacity within the definition of “motorcycle”; amend KRS 186A.080 to remove title and registration exemptions for mopeds; amend KRS 186.050 to set the annual registration fee for a moped; amend KRS 304-39.020 to include mopeds within the definition of “motor vehicle” for Subtitle 39 of KRS Chapter 304.

(Prefiled by the sponsor(s).)

**BR 37 - Senator Katie Stine (06/19/08)**

AN ACT relating to the promotion of physical activity in schools.

Create a new section of KRS 160 to require the Kentucky Department of Education to promulgate an administrative regulation to require all public preschool to eighth grade programs, no later than the 2009-2010 school year, to implement 30 minutes per day or 150 minutes per week of structured moderate-to-vigorous physical activity in a minimum of 10 minute intervals incorporated into the school day; permit the physical activity to include a combination of classroom-based physical activity, structured recess, or other structured physical activities; require the Kentucky Board of Education to promulgate administrative regulations to implement the physical activity requirement; amend KRS 160.345 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

**BR 38 - Senator Joey Pendleton (10/09/08)**

AN ACT relating to fuel ethanol-blended gasoline.

Create new section of KRS 363.900 to 363.908 to define terms; require that all fuel terminals that sell gasoline in Kentucky offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline; provide that terminals that only offer for sale federal reformulated gasolines shall be exempt from the requirement to offer for sale unblended gasoline; permit all fuel retail facilities, wholesalers, distributors, and

marketers to purchase ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier; permit biodiesel-blended fuel to be freely mixed or co-mingled with conventional diesel fuel and sold at retail without any penalty, fine, punishment, or regulatory impediment; and permit fuel ethanol-blended gasoline to be freely mixed or co-mingled with unblended gasoline and sold at retail without any penalty, fine, punishment, or regulatory impediment.

(Prefiled by the sponsor(s).)

**BR 41 - Representative Addia Wuchner, Representative Tom Burch (07/30/08)**

AN ACT relating to physical activity for children.

Create a new section of KRS Chapter 156 to require the Kentucky Department of education to identify and disseminate model resources for integrating physical activity during the school day; encourage schools to utilize certified physical education teachers in the development of physical activity plans; develop a reporting mechanism for schools containing grades K-5 to report on results of physical activity and wellness programs; require the Department of Education to report no later than November 1 of each year to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare; amend KRS 160.345 to require that school council wellness policies provide for at least 30 minutes of structured moderate to vigorous physical activity, 150 minutes per week or the equivalent per month; require school councils to report progress data; require that structured physical activity be considered part of the instructional day; prohibit exclusion from structured physical activity as a form of discipline; encourage schools with grades 6-8 to adopt similar policies; amend KRS 158.6453 to require inclusion of physical activity and wellness data in school report card; create the Healthy Kids Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

**BR 42 - Representative Melvin B. Henley (08/05/08)**

AN ACT relating to substance abuse screening pilot programs for public assistance recipients.

Amend KRS 205.200 to create two pilot substance abuse screening programs for recipients of public assistance.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

**BR 45 - Senator Bob Leeper (10/10/08)**

AN ACT relating to nuclear power.

Amend KRS 278.600 to require that nuclear power facilities have a plan for the storage of nuclear waste rather than a means for permanent disposal; define “storage”; amend KRS 278.610 to delete the requirement that the Public Service Commission certify the facility as having a means for disposal of high-level nuclear waste; change all references to the disposal of nuclear waste to the storage of nuclear waste; repeal KRS 278.605.

(Prefiled by the sponsor(s).)

**BR 46 - Representative Addia Wuchner (12/19/08)**

AN ACT relating to local school district funding adjustments.

Amend KRS 157.360 to provide for growth districts to request an adjustment mid-year due to growth in average daily attendance of three percent or more from the prior year; provide how the calculated state portion of the support education excellence in Kentucky is determined.

(Prefiled by the sponsor(s).)

**BR 49 - Representative Brent Yonts (07/18/08)**

AN ACT relating to clerks of the circuit court.

Amend KRS 30A.010 to require that the salary of a clerk of the circuit court be set according to the salary schedule used for local officials in KRS 64.5275; delay the salary provisions until July 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 51 - Representative Jim Wayne (12/16/08)**

AN ACT relating to bicycle and pedestrian safety.

Amend KRS 189.010 to de-

fine bicycle and to explicitly exclude bicycle in the definition of motor vehicle; create a new section of KRS Chapter 189 to establish the offense of vehicular assault of a bicyclist or pedestrian; amend KRS 189.300 to detail right side travel requirements for bicycles; amend KRS 189.990 to establish penalties for vehicular assault of a bicyclist or pedestrian; amend KRS 431.005 to provide that an officer can arrest without a warrant when the officer is not present to witness vehicular assault of a pedestrian or bicyclist; amend KRS 431.015 to allow a physical arrest under the conditions described in the amendment to KRS 431.005.

(Prefiled by the sponsor(s).)

**BR 55 - Representative Ted Edmonds (11/24/08)**

AN ACT relating to the titling of all-terrain vehicles.

Create a new section of KRS Chapter 186A to require the titling of all-terrain vehicles to be administered through the automated motor vehicle and titling registration system; establish that procedures for titling all-terrain vehicles be consistent with motor vehicle titling; establish guidelines for promulgation of regulations relating to titling of all-terrain vehicles; ensure the capability of receiving and discharging liens; amend KRS 186A.070 to require any state resident who purchases a new all-terrain vehicle or creates a security interest in an all-terrain vehicle after January 1, 2010, to apply for a certificate of title; prohibit the operation of an all-terrain vehicle on the roadway, except as provided by KRS 189.515.

(Prefiled by the sponsor(s).)

**BR 56 - Representative Steve Riggs (09/02/08)**

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define “low-speed electric vehicle” and amend the definition of “motor vehicle” to include a low-speed electric vehicle; amend definition of “motorcycle” to exclude vehicles that are 3-wheeled and meet all the requirements of a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 35 miles per hour or less; require low-speed electric vehicles op-



erated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with Chapter 186A, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than 35 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

**BR 57 - Representative Darryl T. Owens (10/08/08)**

AN ACT relating to paternity.

Amend KRS 406.011, to establish that the presumption of paternity is a rebuttable presumption, to update the evidentiary language, and permit an evidentiary showing that a man other than the husband is the father of the child to prove the child was born out of wedlock; amend KRS 406.021, to clarify how paternity may be determined, to add references to Family Court, and to permit either parent to petition the court for a parentage determination; amend KRS 406.035, relating to written paternity orders, to include references to Family Court judges; amend KRS 406.051 to include references to Family Court and clarify how an appeal is to be made; amend KRS 406.151, to include the county where the child resides as an appropriate venue in paternity cases.

(Prefiled by the sponsor(s).)

**BR 60 - Representative Ron Crimm (09/04/08)**

AN ACT relating to domestic relations and declaring an emergency.

Amend KRS 403.200, relating to temporary orders, to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; amend KRS 403.270, relating to custodial issues, to add the promotion of a healthy relationship between the child and other custodian or parent as a factor for the consideration of awarding custody of children; amend KRS 530.050, relating to nonsupport and flagrant nonsupport, to add spouse and former spouse; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 61 - Senator Ray S. Jones II (08/21/08)**

AN ACT relating to driving under the influence.

Amend KRS 189A.010 to establish a per se violation of the DUI statute if the driver has at least a certain amount of a controlled substance in the blood; create a defense if the person took the controlled substance in compliance with a valid prescription; reduce the required alcohol concentration for an aggravating circumstance from 0.18 to 0.15; amend KRS 189A.105 to lower the alcohol percentage from 0.18 to 0.15 for increased penalties; amend various other statutes to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 62 - Representative Ted Edmonds (12/12/08)**

AN ACT relating to drugs.

Create new sections of Subtitles 17 and 17A of KRS Chapter 304 to require insurers to cover urine drug screening or blood tests ordered by a health care practitioner.

(Prefiled by the sponsor(s).)

**BR 63 - Representative Brent Yonts (11/13/08)**

AN ACT relating to high school newspapers.

Create a new section of KRS Chapter 160 to provide that public high school student journalists have right to exercise freedom of speech and press in school-sponsored media; direct that student journalists are responsible for determining content of school-sponsored media; provide limitations for content determined by high school students; provide that school boards are immune from civil and criminal liability based on student expression in school-sponsored media; require local board adoption of student freedom of expression policy.

**BR 68 - Representative Ron Crimm (08/12/08)**

AN ACT relating to jury service.

Amend KRS 29A.010, relating to jury service, to define "calendar day"; amend KRS 29A.130, relating to limitations on jury service, to increase the interval between eligibility

for jury service from 24 months to five years; change "court days" to "calendar days" with regard to 30 days of service being required.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 69 - Senator Ray S. Jones II (08/21/08)**

AN ACT relating to the civil rights of deaf and hard of hearing persons.

Amend KRS 163.510 to require the Commission on the Deaf and Hard of Hearing to advise the Commission on Human Rights on adequate technological means of providing closed captioning for motion picture theaters; amend KRS 344.130 to require movie theaters with five or more screens to provide closed captioning for deaf and hard of hearing persons; amend KRS 344.190 to require the Commission on Human Rights to review and approve available closed captioning technologies and set the minimum numbers of closed captioned showings of a movie which must be offered at each covered theater.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 72 - Representative Melvin B. Henley (12/03/08)**

AN ACT relating to Gold Star Fathers license plates.

Amend KRS 186.162 to create a Gold Star Fathers license plate with the same fees as the Gold Star Mothers plate; amend KRS 186.041 to set forth limit of two Gold Star Fathers license plates per eligible recipient; amend KRS 186.164 to set forth eligibility requirements.

(Prefiled by the sponsor(s).)

**BR 73 - Representative Tom Burch (10/15/08)**

AN ACT relating to video lottery terminals, making an appropriation therefor, and declaring an emergency.

Create new sections of KRS Chapter 154A to establish video lottery terminals at licensed racetracks and in each county that authorizes video lottery terminals by a vote of the people of the county; direct the Lottery Corporation to purchase any vid-

eo lottery terminals utilized in Kentucky; require that persons wishing to operate video lottery games allotted to counties obtain a contract from the Lottery Corporation after having acquired prior approval from the local governing board where the terminals will be located; place the oversight of the games under the jurisdiction of the Lottery Corporation; limit the number of video lottery terminals to 25 at any one premises unless the premises is a racetrack or a qualifying hotel; set qualifying hotels as those within five miles of a convention center or facility that seats 2,000 or more people; allow these hotels to operate up to 75 video lottery terminals; establish that the three types of video lottery terminal allocation are racetracks, uniform county allotment, and county allotment based on population; limit racetrack allocation to a set formula, uniform county allotment to 50 per county, and a total county population allotment to 6,000 video lottery terminals distributed to the counties proportionate to population; establish the duties and responsibilities of the corporation, its agents, and its employees; prohibit ex parte communications between lottery board members and contract holders, licensees, and applicants for such contracts or licenses; allocate a base number of 500 video lottery terminals to each licensed racetrack; grant additional video lottery terminals to each track based on the number of days of live racing held at the track; set additional allotment at 15 video lottery terminals for each race day run beyond 30 and up to 50 race days, with an additional 10 video lottery terminals for each race day beyond 50 race days; prohibit operation of video lottery terminals on race days at the track where the live racing is being conducted from 30 minutes before the post time of the first race of the day until after the last race of the day has been run; allow a track to lease its machines to another track located in the same county; require tracks to run the same number of race days as in 2008 to remain eligible for video lottery terminals, with exemptions for extreme circumstances; prohibit any person less than 21 years of age from being on the premises or any portion of the premises where video lottery games are conducted; establish qualifications and responsibilities of video lottery retailers and licensees; list grounds by which a video lottery retailer or applicant may have his or her contract rescinded, revoked, suspended, or not renewed; permit the corporation to is-

sue temporary licenses; prohibit the transfer of licenses without obtaining prior approval from the corporation; create an exemption to allow facilities developed for video lottery gaming activities to be considered permitted uses for zoning purposes; maintain other applicable zoning and building codes; specify how the moneys earned from the conduct of video lottery games are expended; cap the amount the corporation may spend on administrative and operating expenses to no more than seven percent of net terminal income; pay the lesser of 0.25% or \$2,000,000 to the compulsive gamblers' assistance fund, and the lesser of 0.4% or \$3,000,000 to develop testing methods to detect growth hormones and performance-enhancing or illegal drugs in racehorses; allot the lesser of 0.3% or \$3,000,000 of the net terminal income from racetracks to conduct post-race testing of racehorses for illegal drugs; devote remaining moneys to education, Medicaid matches, prescription drug program for seniors, equine industry program, video lottery retailers, budget reserve fund, and county governments where video lottery games are located; require the Auditor of Public Accounts to conduct an annual audit of the corporation's disbursements and expenditures; create a committee to conduct a study on video lottery games operating in the state and their impact on the economy; indicate the committee's membership; direct each county to conduct a local option election on video lottery terminals at the next general election that occurs more than 90 days after video lottery terminals are authorized generally; allow for subsequent elections on the issue after at least three years have passed since the last referendum; make racetrack employee collective bargaining agreements for nonsupervisory employees applicable to the track's video lottery terminal employees; generate a list by which undesirables may be ejected or excluded from any premises where video lottery games are being conducted; set out criteria to be used in making a determination as to whether or not such persons should be excluded or ejected; allow an individual to have himself or herself voluntarily added to the exclusion list; require the commission to notify a person placed on the exclusion or ejection list; establish a procedure by which a person ejected or excluded may appeal the decision to eject him or her; define the term "cheat" and establish penalties for persons who cheat; create the compulsive gamblers assistance fund;

determine how expenditures from the compulsive gamblers assistance fund will be utilized; require the commission to prepare an annual report detailing activities and expenditures of the compulsive gamblers assistance fund; encourage video lottery retailers to cooperate with local business and community organizations to stimulate the economy through tourism; make the Lottery Corporation's board members, executive director, and employees subject to the executive branch code of ethics; amend KRS 154A.010; 154A.030, 154A.040, 154A.050, 154A.060, 154A.063, 154A.070, 154A.080, 154A.090, 154A.110, 154A.130, 154A.400, 154A.420, 154A.650, 230.357, 230.550, 243.500, 243.505, 525.090, 528.010, 528.100, 154A.990, and 15.380 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 74 - Representative Jim DeCesare (08/01/08)**

AN ACT relating to writing portfolios.

Amend KRS 158.6453 to remove writing portfolios from the statewide CATS assessment program for elementary school students; require elementary schools to use writing portfolios as an instructional tool for continuous assessment of students.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

**BR 75 - Representative Jim DeCesare, Senator Bob Leeper (08/01/08)**

AN ACT relating to accounting for the expenditure of state funds.

Create new sections of KRS Chapter 42 to require the Finance and Administration Cabinet to create a searchable Web site to provide certain information on the expenditure of state funds; provide that the new sections shall be known as the "Taxpayer Transparency Act of 2009."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

**BR 76 - Representative Jim DeCesare (08/01/08)**

AN ACT relating to a legislative time-out prior to voting on a floor amendment or a free conference report

related to an appropriation measure or a revenue measure.

Create a new section of KRS Chapter 6 to require a legislative time-out period of 24 hours prior to a vote on an appropriation or revenue bill or amendment.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

**BR 78 - Representative Jim Gooch Jr., Representative Hubert Collins, Representative Mike Cherry, Representative Ron Crimm, Representative Robert R. Damron, Representative Keith Hall, Representative Melvin B. Henley, Representative Steve Riggs, Representative Tommy Thompson (09/05/08)**

AN ACT relating to motor vehicle license plates.

Create a new section of KRS Chapter 186 to establish an In God We Trust license plate as an alternate standard issue license plate; set forth design characteristics and eligibility standards; amend KRS 186.240 to conform; EFFECTIVE January 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

**BR 79 - Representative Jimmy Higdon (08/29/08)**

AN ACT relating to automated or recorded political telephone messages.

Create a new section of KRS Chapter 367 to prohibit use of automated calling equipment or recorded political telephone messages from or by a political party or campaign; make use of such equipment for communicating political messages by a political party or campaign a Class B misdemeanor; provide that each prohibited automated call or recorded political message shall be punishable by a civil penalty of not less than \$5,000; provide that an injured person may bring a cause of action for damages up to the amount of actual damages or \$1,000 whichever is greater.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

**BR 82 - Representative Charles Siler (08/29/08)**

AN ACT relating to Kentucky State Parks.

Create a new section of KRS Chapter 148 to provide qualified Kentucky residents who are permanently and totally disabled veterans an exemption from the relevant overnight accommodations rate at any Kentucky State Park, Sunday through Thursday of each week; require the exemption to apply to a maximum of three overnight stays per calendar year at lodge rooms and campsites at any Kentucky State Park; limit reservations during peak months to ten consecutive days; require the exemption to be subject to space availability; require the Department of Parks to promulgate administrative regulations relating to the proof of eligibility for persons entitled to the exemption.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection

**BR 84 - Representative Jimmy Higdon (08/29/08)**

AN ACT relating to jurisdictional limits for Kentucky courts.

Amend KRS 24A.230 and 24A.290 to increase the jurisdictional limit of the small claims division of the District Court from \$1,500 to \$3,000 for both claims and counterclaims.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

**BR 88 - Senator Tom Buford (12/17/08)**

AN ACT relating to swimming pool safety.

Amend KRS 211.180 to require the Cabinet for Health and Family Services to follow certain guidelines when promulgating administrative regulations relating to swimming pool safety and sanitation; direct the cabinet to allow public swimming pools to be operated or maintained without a main outlet or main drain, or with an existing main outlet or main drain removed or disabled; mandate that swimming pool regulations comply with the federal Virginia Graeme Baker Pool and Spa Safety Act and that they allow any public pool equipment option permitted under that federal law; EFFECTIVE JANUARY 1, 2010.

(Prefiled by the sponsor(s).)



**BR 90 - Representative Bill Farmer, Representative David Floyd (11/21/08)**

AN ACT relating to taxation.

Amend various sections of KRS Chapter 139 to expand the sales and use tax base to include certain services and rental of commercial real estate, repeal certain exemptions, and lower the tax rate; create a new section of KRS Chapter 141 to apply the provisions of that chapter to taxable years beginning before January 1, 2010; amend KRS 141.020, 141.040, and 141.0401 to make the individual income tax, corporation income tax, and the limited liability entity tax effective for taxable years beginning before January 1, 2010; amend KRS 138.358 and 139.260 to conform; repeal KRS 139.485 and 139.486; EFFECTIVE July 1, 2009.

(Prefiled by the sponsor(s).)

**BR 94 - Representative Tom Burch (09/04/08)**

AN ACT relating to horse racing.

Amend KRS 230.260 to require the Kentucky Horse Racing Authority to promulgate administrative regulations compelling racetracks to report to the authority and to the horsemen's associations their daily on-track attendance and the daily on-track and off-track handle within 24 hours after the last race on the day in question; state that the report is to list moneys wagered on-track, off-track, through advance deposit wagering, and all other sources in the host track wagering pool; indicate that the report should also list how all wagering moneys retained by the track are credited to be paid to the state, the horsemen's purse account, the relevant horse development fund, and the track itself; direct that the Kentucky Horse Racing Authority promulgate administrative regulations to mandate submission of a report to the authority any time a racehorse, while training or racing in Kentucky, incurs a catastrophic, race-career ending injury or an injury requiring surgery; indicate that separate reports are to be filed by the premises where the injury occurred, the attending veterinarian, and the horse's trainer; disclose on the report whether the horse has ever been given growth hormones or anabolic steroids, corticosteroids within 10 days of the injury, any mental or physical changing med-

ications within 30 days of the injury, or had any corrective surgery or other techniques that could have altered the horse from its natural birth configuration; make reports available to the public upon request; penalize failure to report with a \$500 fine for the first offense and a six-month license suspension for each subsequent offense.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

**BR 103 - Representative Mary Lou Marzian (10/15/08)**

AN ACT relating to the expansion of the film industry in Kentucky.

Create new sections of KRS Chapter 148 to provide individual income tax, corporation income tax, limited liability entity tax, and sales tax incentives for locating a film production facility in Kentucky or filming or producing a motion picture production in Kentucky; define terms; establish qualifications including minimum capital investment and minimum qualifying expenditures and minimum qualifying payroll expenditures, application and reporting requirements; require the Kentucky Film Office to administer the incentive program; authorize the Kentucky Film Office to enter into a film industry tax incentive agreement; authorize the promulgation of administrative regulations by the Kentucky Film Office and the Department of Revenue; create a new section of KRS 141 to create a motion picture film production nonrefundable income tax credit for the construction of a new film production facility or the renovation of an existing structure to become a film production facility and a motion picture production that is filmed or produced in Kentucky against the tax imposed under KRS 141.020 or 141.040 and KRS 141.0401 for taxable periods beginning after December 31, 2008; allow credit to be carried forward 5 years; amend KRS 141.0205 to establish the order in which the credits may be taken; amend KRS 139.538 to provide refund of the sales and use tax paid on the purchase of tangible personal property that is permanently incorporated into a film production facility or is used to initially equip the film production facility; provide for a refund of the sales and use tax paid by an approved company on qualifying expenditures if used in the filming or production of a motion picture production in Kentucky.

(Prefiled by the sponsor(s).)

**BR 104 - Representative Jody Richards, Representative Mike Cherry, Representative Will Coursey, Representative Melvin B. Henley, Representative Fred Nesler, Representative Tommy Thompson, Representative Brent Yonts (12/18/08)**

A JOINT RESOLUTION recognizing the work done by Representative Joseph "Eddie" Ballard on behalf of veterans in Kentucky by naming the Western Kentucky Veterans Center in Hanson, Kentucky, in his honor.

Direct the Kentucky Department of Veterans' Affairs to name the veterans' nursing home in Hanson, Kentucky, the "Joseph 'Eddie' Ballard Western Kentucky Veterans' Center" in honor of Representative Eddie Ballard.

(Prefiled by the sponsor(s).)

**BR 106 - Representative Sal Santoro (10/10/08)**

AN ACT relating to noncommercial swimming pools.

Amend KRS 67.083 to allow counties to regulate above-ground noncommercial pools.

(Prefiled by the sponsor(s).)

**BR 109 - Representative Kevin D. Bratcher (09/23/08)**

AN ACT relating to postsecondary education finance.

Amend KRS 164.7874 and 164.7883 to clarify that an approved out-of-state institution at which eligible students may use KEES scholarships must be located in a state contiguous to Kentucky or be a participant in the Academic Common Market agreement.

(Prefiled by the sponsor(s).)

**BR 120 - Representative Rick G. Nelson (09/15/08)**

AN ACT relating to motor vehicle license plates.

Create a new section of KRS Chapter 186 to establish an "In God We Trust" license plate as an alternate standard issue license plate; set forth design characteristics and eligibility standards; amend KRS 186.240 to conform; EFFECTIVE January 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

**BR 123 - Representative Brent Yonts (11/18/08)**

AN ACT relating to allowable uses of personal information obtained under the Driver Privacy Protection Act.

Create a new section of KRS Chapter 186 to clarify that a business that obtains information from a driver's license or personal ID card, shall not retain or use the information obtained from the driver record; set fine for violation.

(Prefiled by the sponsor(s).)

**BR 127 - Representative Keith Hall (12/11/08)**

AN ACT relating to the Kentucky Educational Excellence Scholarship Program.

Amend KRS 164.7881 to permit, beginning with the 2010-2011 academic year, that eligible high school students use a portion of their KEES award to pay for tuition for dual credit courses; require that the funds they would have received during their post-secondary program be reduced over a four, or in some cases, five year period by an amount equal to that used for dual credit and part-time college courses; amend KRS 164.7885 to conform.

(Prefiled by the sponsor(s).)

**BR 128 - Representative Jimmie Lee (12/18/08)**

AN ACT relating to the operation of taxicabs and limousines.

Amend KRS 281.014 to clarify the definitions of "city taxicab certificate," "city limousine certificate," "county taxicab certificate," and "county limousine certificate" to allow countywide authority for taxicabs and limousines in counties with cities of the second class; clarify the operating authority of taxicabs and limousines to include a trip that originates or concludes within the county of the certificate; amend KRS 281.6602 to allow current city taxicab and limousine certificate holders operating in a county containing a city of the second class to be granted a county taxicab or limousine certificate.

(Prefiled by the sponsor(s).)

**BR 129 - Representative Jimmie Lee (12/18/08)**

AN ACT relating to the titling of motor vehicles.

Create a new section of KRS Chapter 186A to define the terms “approved entity” and “electronic titling system”; require the Transportation Cabinet to establish an electronic titling system allowing electronic submission of title application documents; outline the basic processes and requirements of an electronic titling system; require the Cabinet to promulgate administrative regulations to set forth qualifications of approved entities and procedures for the electronic titling system; amend KRS 186A.165, 186A.120, 186A.125, and 186A.170 to conform.

(Prefiled by the sponsor(s).)

**BR 132 - Representative David Floyd (12/18/08)**

AN ACT relating to emergency notification systems.

Amend KRS 65.7625 to require the state administrator for the Commercial Mobile Radio Service Emergency Telecommunications Board to implement compliance with a statewide wireless phone emergency notification system designed to assist the state’s deaf and hard-of-hearing community; amend KRS 65.7629 to authorize the board to develop and maintain the system with the cooperation and input of the Kentucky Commission on the Deaf and Hard of Hearing; mandate that the emergency notification system provide maximum statewide coverage, with separate administration and coordination within each area development district; allow the board to promulgate administrative regulations to shift existing grants and other board money to fund the system; delete outdated cost study language; amend KRS 65.7631 to authorize the board to use administrative funds to cover its expenses incurred due to the emergency notification system; permit the use of grants or matching money to implement the system; amend KRS 65.7633 to require the board to promulgate administrative regulations establishing procedures and guidelines for implementing and funding the emergency notification system.

(Prefiled by the sponsor(s).)

**BR 134 - Representative David Floyd (10/31/08)**

AN ACT relating to motor vehicle operator’s licenses.

Create a new section of KRS 186.400 to 186.650 to exempt 17-year olds who have enlisted in the military from the requirement to obtain an intermediate license; amend KRS 186.412, 186.450, 186.452, and 186.454 to conform and to clarify that individuals over the age of 18 are exempt from graduated driver’s licensing provisions.

(Prefiled by the sponsor(s).)

**BR 135 - Representative David Floyd, Representative Tom Burch (11/07/08)**

AN ACT relating to the operation of a motor vehicle.

Create a new section of KRS 189 to define terms; prohibit the use of a personal communication device without the use of a hands-free device by the operator of a motor vehicle, and provide limited exceptions; amend KRS 189.990 to provide for period ending January 1, 2010 during which courtesy warnings will be issued for a violation of Section 1 and set a fine of between \$20 and \$100 for a violation of Section 1 on or after January 1, 2010.

(Prefiled by the sponsor(s).)

**BR 142 - Senator Dan Seum (09/26/08)**

A CONCURRENT RESOLUTION urging the United States Congress to appoint an independent counsel to investigate the issue of American prisoners of war and those missing in action.

Urge Congress to appoint an independent counsel to investigate the issue of American prisoners of war and those missing in action.

(Prefiled by the sponsor(s).)

**BR 143 - Representative Bill Farmer (11/12/08)**

AN ACT relating to campaign finance reports.

Amend KRS 121.180, relating to campaign finance reports, to allow a filer to designate an entry reading “No change since last report” if the filer has received or spent nothing since the date of the filer’s last report; if entry is

designated, require the filer to specify only the balance carried forward from the last report.

(Prefiled by the sponsor(s).)

**BR 147 - Representative Tanya Pullin, Representative Scott W. Brinkman (09/16/08)**

AN ACT relating to income tax credits for small businesses.

Create new sections of KRS Chapters 141 and 154; amend KRS 141.0205 to establish a small business tax credit.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

**BR 149 - Representative Stan Lee (10/30/08)**

AN ACT relating to sexual offenders.

Amend KRS 17.545 to prohibit a person required to register as a sexual offender, for an offense committed against a victim who was a minor, from residing in specified areas and from participating in any Halloween activity with a minor.

(Prefiled by the sponsor(s).)

**BR 150 - Representative Carl Rollins II, Representative John Tilley, Representative Tim Firkins, Representative Joni L. Jenkins, Representative Mary Lou Marzian, Representative Reginald Meeks, Representative Steve Riggs, Representative Tommy Thompson, Representative David Watkins, Representative Jim Wayne (12/18/08)**

A RESOLUTION adopting the Rules of Procedure for the 2009 Regular Session of the House of Representatives.

Adopt Rules of Procedure to govern the 2009 Regular Session of the House.

(Prefiled by the sponsor(s).)

**BR 155 - Representative Don Pasley (12/18/08)**

AN ACT relating to public infrastructure authorities.

Establish KRS Chapter 175B and create 20 new sections thereof to: provide definitions; establish the Kentucky Public Transportation Infra-

structure Authority, specify membership, meeting requirements, staffing, and operations; state the purpose and powers of the authority; direct authority to evaluate potential projects, require that projects be proposed by a local government and approved by the department; permit tolling; establish requirements for level of tolling; direct how proceeds of tolls and other revenues shall be used; permit authority to contract with the department for construction and operations; specify that the authority shall maintain control of projects and revenues from projects; authorize projects constructed by the authority to include interchanges with existing roadways; permit authority to issue administrative regulations, permit public utilities to utilize rights of way under specific circumstances; permit agreements for use of real estate assets of the authority by the Commonwealth; authorize issuance of bonds; state that bonds are not a debt of the Commonwealth; permit incidental use of rights of way for specified purposes; authorize trust relationships; authorize state agencies and localities to invest in bonds; exempt bonds from state taxation; allow authority to contract for provision of maintenance services; direct that projects shall revert to ownership by the Commonwealth when all bonds are retired; require issuance of an annual report and require an annual audit; prohibit officers and employees from directly investing in authority bonds; indemnify board members and employees from personal liability; authorize previous planning and other work to become a part of the function of the authority; amend KRS 176.420 to require the activity of the authority to be evaluated as a part of the six-year road plan; repeal the following sections: KRS 181.850, 181.851, 181.852, 181.853, 181.854, 181.855, 181.856, 181.857, 181.858, 181.859, 181.860, 181.861, 181.862, 181.863, 181.864, 181.865, 181.866, 181.867, 181.868, 181.869.

(Prefiled by the sponsor(s).)

**BR 157 - Representative Brad Montell (12/17/08)**

AN ACT relating to charter county governments.

Amend KRS 132.010 to integrate charter county governments into the provisions of KRS Chapter 132; create a new section of KRS 67.825 to 67.875 to provide for tran-



sitional tax provisions for charter county governments and for the disposition of delinquent taxes; create a new section of KRS 67.825 to 67.875 to clarify that charter county governments fall within the purview of “HB 44” through KRS 68.245, 132.010, and 132.017; amend KRS 132.012 and 92.305 to allow charter county governments that contain cities that are no longer incorporated to provide for abandoned urban property for tax purposes; amend KRS 133.010 to integrate charter county governments into the provisions of KRS Chapter 133; amend KRS 134.010 to integrate charter county governments into the provisions of KRS Chapter 134.

(Prefiled by the sponsor(s).)

**BR 158 - Representative Robert R. Damron (11/24/08)**

AN ACT relating to Kentucky Access.

Amend KRS 304.17B-015 to require Kentucky residency for eligibility in Kentucky Access and to provide that an individual who is eligible under another group health plan is not eligible for Kentucky Access.

(Prefiled by the sponsor(s).)

**BR 159 - Representative Jeff Greer (11/25/08)**

AN ACT relating to insurance licensing.

Amend KRS 304.3-180 to reduce the number of consecutive years an insurer may use an accountant or firm for preparing the audited financial statement from seven (7) to (5); amend KRS 304.9-020 to define “rental vehicle agent” an “rental vehicle agent managing employee”; amend KRS 304.9-133 to remove the requirement that business entities file an annual report of all designated individuals who were not terminated on or prior to December 31; amend 304.9-150 to remove the requirement that a business entity applicant file with its application a certificate issued by the Kentucky Secretary of State demonstrating that it can do business in Kentucky and a copy of its assumed name certificate; provide that a business entity applicant or licensee shall not use a name which is the same or deceptively similar to another business entity licensee; amend KRS 304.9-230 to add rental vehicle as a limited line of authority; amend KRS 304.9-505 to conform; amend KRS 304.9-507 to

conform; and, repeal KRS 304.9-485, 304.9-501, 304.9-503 and 304.9-513.

(Prefiled by the sponsor(s).)

**BR 162 - Representative Brent Yonts, Representative Jody Richards (09/26/08)**

A JOINT RESOLUTION restoring the salary of the Legislative Research Commission Director to an acceptable level.

Express sense of General Assembly regarding salary increase for director of Legislative Research Commission; rescind Legislative Research Commission action giving salary increase to director; set salary at level of position on August 31, 2008; require director to repay any increase in salary; RETROACTIVE.

(Prefiled by the sponsor(s).)

**BR 163 - Representative Brent Yonts, Representative Jody Richards, Representative Dottie Sims (09/26/08)**

A RESOLUTION urging the Legislative Research Commission Director to reject his salary increase.

Express sense of House regarding salary increase for director of Legislative Research Commission; urge director to reject salary increase, agree to a cost of living increase of 1%, and repay any salary increase received as a result of the LRC’s September 24, 2008 vote.

(Prefiled by the sponsor(s).)

**BR 175 - Representative Mary Lou Marzian (10/21/08)**

AN ACT relating to wage discrimination.

Amend KRS 337.423 to prohibit wage discrimination on the basis of sex, race, or national origin by prohibiting wage differentials for employees who perform equivalent jobs; provide exceptions for wage differentials based on seniority or merit systems, systems that measure wages by quantity or quality of production, and factors other than sex, race, or national origin; amend KRS 337.420 to define equivalent jobs as those that are equal under the federal Equal Pay Act, or jobs that are dissimilar but equivalent in skill, effort, responsibility, and working conditions; and amend KRS 337.425 to require promulgation of administrative regulations on or before

July 1, 2010 to specify criteria for determining jobs that are dominated by employees of a particular sex, race, or national origin, and acceptable methodology for determining equivalent skill, effort, responsibility, and working conditions; EFFECTIVE July 1, 2011.

(Prefiled by the sponsor(s).)

**BR 176 - Representative Mary Lou Marzian (10/28/08)**

AN ACT relating to boards and commissions.

Amend KRS 12.070 to allow the Governor, when appointments to boards and commissions are made from lists submitted to him, to appoint a male or female so as to achieve as much gender equity as possible.

(Prefiled by the sponsor(s).)

**BR 177 - Representative Mary Lou Marzian (10/14/08)**

AN ACT relating to health care services provided in clinical trials for the treatment of cancer.

Create a new section of Subtitle 17A of KRS Chapter 304 to prohibit a health benefit plan from excluding coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare cost had it not been incurred in a cancer clinical trial; provide that nothing in this section requires a policy to offer, nor prohibit a policy from offering, cancer clinical trial services by a participating provider; provide that nothing in this section requires services that are performed in a cancer clinical trial by a non-participating provider of a policy to be reimbursed at the same rate as those performed by a participating provider of the policy.

(Prefiled by the sponsor(s).)

**BR 178 - Representative Brad Montell (12/17/08)**

AN ACT relating to child support.

Amend KRS 205.721 to require the \$25.00 disbursement fee for child support to be charged to the non-custodial parent.

(Prefiled by the sponsor(s).)

**BR 179 - Representative Steve**

**Riggs (11/25/08)**

AN ACT relating to compensation for legislative branch employees.

Amend KRS 7.090 to require that the salary of the Director of the Legislative Research Commission shall be approved by the General Assembly except for cost-of-living adjustments provided to all Commission employees.

(Prefiled by the sponsor(s).)

**BR 180 - Senator Jack Westwood (10/08/08)**

AN ACT amending 2008 Kentucky Acts Chapter 127, relating to corrections, and declaring an emergency.

Amend 2008 Kentucky Acts Chapter 127, the state/executive branch budget bill, to delete language pertaining to the calculation of probation and parole credit and to the minimum expiration of sentence required for final discharge of prisoners; include noncodified provision relating to the effect of the bill’s provisions after the bill’s effective date; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 182 - Senator Ken Winters (10/13/08)**

AN ACT amending 2008 Kentucky Acts Chapter 127, relating to corrections, and declaring an emergency.

Amend 2008 Kentucky Acts Chapter 127, the state/executive branch budget bill, to delete language pertaining to the calculation of probation and parole credit and to the minimum expiration of sentence required for final discharge of prisoners; include noncodified provision relating to the effect of the bill’s provisions after the bill’s effective date; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 186 - Representative Mike Cherry (12/19/08)**

AN ACT relating to retirement.

Amend KRS 61.565 to establish a ten year phase-in of the actuarially required employer contributions to the County Employees Retirement System for funding of retiree health

benefits; require the systems' board of trustees to amend employer rates payable on or after July 1, 2009 accordingly.

(Prefiled by the sponsor(s).)

**BR 187 - Representative Darryl T. Owens, Representative Larry Clark (11/20/08)**

AN ACT relating to early voting.

Create a new section of KRS Chapter 117 to allow early voting by requiring in-person absentee voting to be conducted for at least 12 working days before the Sunday prior to election day; require this voting to be held in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections; amend various sections of KRS Chapter 117 to conform.

(Prefiled by the sponsor(s).)

**BR 189 - Representative David Watkins (12/03/08)**

AN ACT relating to a cigarette surtax and declaring an emergency.

Amend various sections of KRS Chapter 138 to create an additional cigarette surtax of 70 cents; increase the tax rates for other tobacco products and snuff; impose a floor stock tax as of July 31, 2009; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 190 - Representative David Watkins (12/03/08)**

AN ACT relating to immunizations.

Amend KRS 214.034 to require immunization against human papillomavirus for female children and require that parental statements to withhold consent be filed with the immunization certificate; amend KRS 214.036 to require forms relating to exemptions from immunization to include a form that reflects the parents' choice to accept or decline immunization against human papillomavirus; require the department to provide educational resources to the public and all schools with specific information; amend KRS 158.035 to conform.

(Prefiled by the sponsor(s).)

**BR 191 - Representative Dennis**

**Keene (10/22/08)**

AN ACT relating to the provision of county offices.

Amend KRS 67.035 to allow the sheriff and county clerk, in certain counties, to maintain offices in cities other than the county seat; amend KRS 132.410 to allow the PVA, in certain counties, to maintain offices in cities other than the county seat; amend KRS 133.047 to conform.

(Prefiled by the sponsor(s).)

**BR 195 - Representative Tommy Thompson (11/03/08)**

AN ACT relating to the expansion of the film industry in Kentucky.

Create new sections of KRS Chapter 148 to provide individual income tax, corporation income tax, limited liability entity tax, and sales tax incentives for locating a film production facility in Kentucky or filming or producing a motion picture production in Kentucky; define terms; establish qualifications including minimum capital investment and minimum qualifying expenditures and minimum qualifying payroll expenditures, application, and reporting requirements; require the Kentucky Film Office to administer the incentive program; authorize the Kentucky Film Office to enter into a film industry tax incentive agreement; authorize the promulgation of administrative regulations by the Kentucky Film Office and the Department of Revenue; create a new section of KRS 141 to create a motion picture film production nonrefundable income tax credit for the construction of a new film production facility or the renovation of an existing structure to become a film production facility and a motion picture production that is filmed or produced in Kentucky against the tax imposed under KRS 141.020 or 141.040 and KRS 141.0401 for taxable periods beginning after December 31, 2008; allow credit to be carried forward 5 years; amend KRS 141.0205 to establish the order in which the credits may be taken; amend KRS 139.538 to provide refund of the sales and use tax paid on the purchase of tangible personal property that is permanently incorporated into a film production facility or is used to initially equip the film production facility; provide for a refund of the sales and use tax paid by an approved company on qualifying expenditures if used in the filming or production of a motion picture production in Kentucky.

(Prefiled by the sponsor(s).)

**BR 202 - Representative Ron Weston (11/25/08)**

AN ACT relating to coroners.

Amend KRS 72.450 to allow a coroner in any county containing a consolidated local government who is in possession of a body to elect to cremate a body in lieu of burial.

(Prefiled by the sponsor(s).)

**BR 203 - Representative Derrick Graham (12/19/08)**

AN ACT relating to consumer protection.

Create a new section of KRS 367.110 to 367.300 defining novelty lighters; prohibit the sale of novelty lighters within the Commonwealth; establish a civil penalty for a violation.

(Prefiled by the sponsor(s).)

**BR 204 - Representative Dennis Keene (10/22/08)**

AN ACT relating to live organ donation.

Create a new section of KRS Chapter 141 to provide a tax credit for individuals who donate live organs in the amount of the lesser of actual expenses or \$10,000; define "live organ donation expenses"; amend KRS 141.0205 to conform; create a new section of KRS Chapter 18A to provide that state employees who donate a live organ be entitled to 30 days paid leave; provide that Sections 1 and 3 of the Act shall be known as "Beth's Bill."

(Prefiled by the sponsor(s).)

**BR 205 - Representative Ron Crimm (12/11/08)**

AN ACT relating to the Five Wishes advance directive.

Amend KRS 311.621 to include the Five Wishes advance directive in the definition of advance directive; amend KRS 311.625 to permit a living will to be made in another form.

(Prefiled by the sponsor(s).)

**BR 209 - Representative Mary Lou Marzian (10/21/08)**

AN ACT relating to the Kentucky Recreational Trails Authority.

Amend KRS 148.795 to add a member of the Brain Injury Association of Kentucky to the Kentucky Recreational Trails Authority.

(Prefiled by the sponsor(s).)

**BR 210 - Senator Julie Denton (12/18/08)**

AN ACT relating to personal services and making an appropriation therefor.

Create a new section of KRS Chapter 216 to provide for the certification of personal services agencies; define the terms "cabinet", "client", "department", "personal services", "personal services agency", "parent personal services agency", and "secretary"; require a personal services agency to be certified; require existing personal services agencies to file an application for certification by December 31, 2009, and other agencies to obtain certification prior to providing personal services; require the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations; provide that only personal services agencies meeting standards for certification will be granted a certificate; require all fees to be paid to the State Treasury and used for funding a department as specified by the secretary of the Cabinet for Health and Family Services; impose a fine of \$500 per day for a personal services agency that provides services without proper certification; impose a fine of \$500 per day on a business that markets its services as a personal services agency without proper certification; create a new section of KRS Chapter 45 to create the Kentucky personal services agency fund and establish the parameters of the fund; require moneys in the fund to be used by a department as specified by the secretary of the Cabinet for Health and Family Services for administrative purposes; provide that moneys remaining in the fund at the end of the fiscal year will carry forward into the succeeding fiscal year; provide that interest earned on moneys in the fund will accrue to the account; and provide that moneys are appropriated for purposes set forth in the Act.

(Prefiled by the sponsor(s).)

**BR 216 - Representative Brent Yonts (11/13/08)**



AN ACT relating to government contracts.

Amend various sections in KRS Chapter 45A to expand and refine the list of entities included in definition of “contracting body”; allow committee to determine the definition of “governmental emergency”; refine the definition of memorandum of agreement (MOA) and include grant and research agreements; correct references to universities and colleges and institutions of higher education; require reporting of federal grant and research projects; refine the definition of “personal service contract” (PSC) to specifically include contracts for personal or professional services and group health care for public employees; allow the committee to establish reporting schedule for exempt PSC’s; exempt health maintenance organization or Medicaid-managed health care service contracts with the Cabinet for Health and Family Services, but require reporting of such contracts; exempt contracts between postsecondary institutions and health care providers, but require reporting of such contracts; exempt PSC’s of postsecondary institutions for federal grant and research projects, but require reporting of such contracts; exempt contracts \$40,000 and under from Request for Proposals process, but require three quotes when feasible, and determination of unfeasibility may be reviewed by the secretary of the Finance and Administration Cabinet or the committee; exempt contracts \$40,000 and under from routine review process, but require filing within 30 days for informational purposes; allow meetings of the committee as necessary, but not less than once per month; prohibit delegation of decision-making authority by secretary of the Finance and Administration Cabinet, except with respect to institutions of higher education that have elected to implement procurement procedures in accordance with statutory authority; delete requirement for annual reports; delineate powers of the committee; specify that competitive bids may not be required for authorized contracts with risk-bearing organizations responsible for Medicaid-managed health care services.

(Prefiled by the sponsor(s).)

**BR 218 - Representative Joni L. Jenkins (11/19/08)**

AN ACT relating to dating violence.

Amend KRS 403.720 to in-

clude dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 431.005 to reference the definition of “unmarried couple” in KRS 403.720.

(Prefiled by the sponsor(s).)

**BR 220 - Representative Joni L. Jenkins (11/19/08)**

AN ACT relating to employment.

Amend KRS 337.415, relating to court-ordered appearances by employees, to define terms; prohibit employers from discharging or retaliating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with the crime; require employee to give employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave time; require employer to maintain confidentiality of records and communications with employee crime victim; create a penalty for failing to maintain confidentiality.

(Prefiled by the sponsor(s).)

**BR 224 - Senator Dan Seum (12/15/08)**

AN ACT relating to the storage of explosives and declaring an emergency.

Create a new section of KRS Chapter 67C prohibiting the location of explosive magazines within 3,000 feet of water installations within a county containing consolidated local government; establish penalties for violations; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 226 - Representative Darryl T. Owens (12/16/08)**

AN ACT relating to low-income heating assistance, making an appropriation therefor, and declaring an emergency.

Authorize governor to add \$2,000,000 to Low Income Home Energy Assistance Program should it run out of money this winter.

(Prefiled by the sponsor(s).)

**BR 227 - Representative Mike Cherry (12/03/08)**

AN ACT relating to honoring

military service.

Amend KRS 18A.150 to expand the state hiring preference honoring military service; require the adding of five or ten preference points to a military-connected individual’s examination score used for state hiring in classified positions; permit the total of an examination score and preference points to exceed 100; require that a register certificate of finalists for a state job identify all finalists entitled to preference points, whether or not an examination is actually a part of the selection method; require that an employing state agency offer an interview to all finalists entitled to preference points unless five or more of the finalists are entitled preference points, in which case, the employing state agency shall offer an interview to no fewer than five.

(Prefiled by the sponsor(s).)

**BR 231 - Representative Jeff Greer (12/18/08)**

AN ACT relating to minors soliciting contributions on highways.

Amend KRS 189.570 to require direct adult supervision of minors under the age of 14 who are soliciting contributions on highways.

(Prefiled by the sponsor(s).)

**BR 236 - Representative Melvin B. Henley (12/03/08)**

AN ACT relating to health facility-acquired infections.

Create new sections of KRS Chapter 216B to define terms; require health care facilities to implement infection prevention program in high risk areas and throughout the facility by January 1, 2010; require implementation of best practices that include identification of infected patients, contact precautions, cultures upon discharge or transfer, hand washing, written infection prevention and control policy and public posting of policies, worker and staff education program; require health facility to report data on health-facility acquired infection rates and multi-drug resistant infections; permit the cabinet to promulgate administrative regulations; require report to Governor and Legislative Research Commission; establish penalties for violations.

(Prefiled by the sponsor(s).)

**BR 238 - Representative Carl**

**Rollins II (12/05/08)**

AN ACT creating the Kentucky Family Trust Program.

Create a new section of KRS Chapter 194A to establish a Kentucky Family Trust Program, which would operate a special needs or supplemental needs trust allowing family and friends to place money into trust for the supplemental care of persons with disabilities without endangering the beneficiary’s eligibility for public benefits.

(Prefiled by the sponsor(s).)

**BR 247 - Representative Jim DeCesare (12/10/08)**

AN ACT relating to special license plates.

Amend KRS 186.164 to allow any entity that sponsors a special license plate issued with a \$0 EF fee under KRS 186.162 to set a voluntary requested donation amount not to exceed ten dollars.

(Prefiled by the sponsor(s).)

**BR 251 - Representative Reginald Meeks (12/19/08)**

AN ACT relating to human remains and burial objects.

Create new sections of KRS Chapter 171 to require persons excavating archaeological sites on private property to obtain a permit from the Kentucky Heritage Council; establish a process by which the landowner shall provide reasonable access to the cemeteries to the descendants and relatives of those buried within; place responsibility on the landowner to maintain the cemetery’s integrity; make denial of access to the cemetery a violation; set out a process by which the state shall dispose of human remains within its custody and control; permit a legally recognized tribal government to conduct reinterment ceremonies for Native Americans; require a person who encounters or accidentally disturbs human remains to immediately cease disturbing the ground in the area of the human remains; place responsibility of encountered or accidentally discovered human remains on the cemetery owner or the state and require responsible party to dispose of; require persons wishing to possess human remains or burial objects to obtain a permit from the Vital Statistics Branch of the Department for Public Health and limit possession to teaching, medi-

cal, scientific, or training purposes; make unlawful possession of human remains or burial objects a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; require a person who unlawfully possesses human remains or burial objects to reimburse the state for the cost of properly disposing of the remains and objects; prohibit the excavation of human remains and burial objects; amend KRS 525.105 to delete the requirement that desecration of a venerated object is shown only when one's purpose is commercial gain or exploitation; require that the tools, implements, or vehicles used in desecrating human objects be seized and sold with profits from such sale going to the council; require a violator to reimburse the Commonwealth for its costs in properly disposing of the human remains and the landowner for damage to the property; amend KRS 525.120 to increase penalty for abuse of a corpse from a Class A misdemeanor to a Class D felony; require human remains possessed or so used to be seized and forfeited to the state; require the violator to reimburse the Commonwealth for the cost of properly disposing of the human remains.

(Prefiled by the sponsor(s).)

**BR 252 - Representative Reginald Meeks (12/19/08)**

AN ACT relating to historic preservation.

Create a new section of KRS Chapter 381 relating to the disposition of historic or prehistoric human remains; declare public policy of the Commonwealth regarding historic or prehistoric human remains; define terms relating to the disposition of historic or prehistoric human remains; establish property confirmation process by which property owners or developers verify whether property contains known human remains; authorize the Kentucky Heritage Council to promulgate administrative regulations related to the disposition of historic and prehistoric human remains; prohibit the issuance of building permits under KRS Chapter 198B until the property owner or developer has completed the preconditions relating to human remains; formulate the procedures and requirements for a human remains outcome review; prescribe the procedures and requirements for an adverse effects determination; list prohibited actions subject to the penalties prescribed in KRS 381.990 regarding

the disposition of human remains; establish the procedures and requirements for a human remains disposition agreement between the Kentucky Heritage Council and a property owner or developer; authorize the Kentucky Heritage Council to establish a plan for the disposition of human remains if a human remains disposition agreement cannot be reached; create an emergency inspection process for unforeseen human remains or unforeseen adverse effects on human remains; allow property owners or developers to appeal in specified ways when aggrieved by decisions of the Kentucky Heritage Council; exempt from human remains disposition process actions taken under KRS 381.755 or KRS Chapter 72, surface coal mining conducted in accordance with a permit issued under KRS Chapter 350, archaeological investigations and data recovery projects conducted under relevant portions of the Federal National Historic Preservation Act of 1966, and archaeological surveys; amend KRS 381.990 to create the offense of intentional desecration of human remains; levy fines of not less than \$1,000 and not more than \$2,000 for each act of intentional desecration of human remains; declare that intentional desecration of human remains is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; amend KRS 164.715 to state that no person shall willfully injure, destroy, or deface any human remains found on any property when protected under this Act; make technical corrections to conform; amend KRS 171.313 to require the Kentucky Historical Society to cooperate in the processes established under this Act; make technical corrections to conform; amend KRS 171.381 to require the Kentucky Heritage Council to develop and control the system for the disposition of human remains under this Act; make technical corrections; require the state historic preservation officer to coordinate and administer the system for the disposition of historic and prehistoric human remains established under this Act; make technical corrections to conform.

(Prefiled by the sponsor(s).)

**BR 253 - Representative Reginald Meeks (12/03/08)**

AN ACT relating to the definition of "American Indian."

Amend KRS 446.010 to define "American Indian" to mean a person

having origins in any of the original peoples of North and South America and who maintains tribal affiliation or community attachment to the tribe of origin; make conforming amendments.

(Prefiled by the sponsor(s).)

**BR 254 - Representative Reginald Meeks (12/03/08)**

AN ACT relating to recognition of American Indian tribes.

Create a new section of KRS Chapter 171 to allow a group desiring to be formally recognized as an American Indian tribe to submit a petition to the Kentucky Native American Heritage Commission; provide criteria that shall be met to be recognized as an American Indian tribe; authorize the Kentucky Native American Heritage Commission to approve petitions submitted for recognition; provide approved petitions to the Governor and, if the Governor accepts the recommendation, provide for issuance of an executive order recognizing the approved group; require the Kentucky Native American Heritage Commission to promulgate administrative regulations identifying the procedures to be followed in submitting a petition and appealing and decision of the commission.

(Prefiled by the sponsor(s).)

**BR 255 - Representative Reginald Meeks (12/03/08)**

AN ACT relating to economic development.

Create a new section of Subchapter 12 of KRS Chapter 154 to establish the International Business Relations Committee as a permanent committee of the Legislative Research Commission; provide that the committee shall address efforts to attract and maintain international businesses in Kentucky and open foreign markets to Kentucky goods and services.

(Prefiled by the sponsor(s).)

**BR 257 - Representative Reginald Meeks (12/03/08)**

AN ACT relating to fish and wildlife.

Create a new section of KRS Chapter 150 to provide that personnel of the Department of Fish and Wildlife Resources may provide administrative assistance to the Kentucky Fish and

Wildlife Foundation.

(Prefiled by the sponsor(s).)

**BR 258 - Representative Brent Yonts (11/24/08)**

AN ACT proposing to amend Sections 147 and 148 of the Constitution of Kentucky relating to voting.

Propose to amend Sections 147 and 148 of the Constitution of Kentucky to permit qualified voters who choose to do so to vote by absentee ballot in-person on the days prior to the regular election and to require the state to reimburse counties for the cost of early voting; submit to voters for approval or disapproval.

(Prefiled by the sponsor(s).)

**BR 263 - Representative Robert R. Damron (11/24/08)**

AN ACT relating to firearms certification.

Amend KRS 237.140, relating to federal Law Enforcement Officer Safety Act certification and recertification of active and retired peace officers, to permit any peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course to certify persons under KRS 15.383 and 237.140.

(Prefiled by the sponsor(s).)

**BR 267 - Representative Rick G. Nelson (11/17/08)**

AN ACT relating to personal communication devices.

Create a new section of KRS Chapter 189 prohibiting the use of a personal communication device by an operator of a motor vehicle, motorcycle, or moped that is under the age of 18; provide a grace period during which a warning will be issued until January 1, 2010; provide that after January 1, 2010, a fine will be imposed for violation.

(Prefiled by the sponsor(s).)

**BR 268 - Representative Don Pasley (12/18/08)**

AN ACT relating to surface mining.

Amend 350.450 to change requirements relating to restoration to original contour of surface mines, and to require that when all requirements



of the amended KRS 350.450 are met that the configuration requirements of KRS 350.410 and 350.445 may be altered, but that overburden must be returned to mine area to the maximum extent possible and that other overburden is to be disposed of in permitted areas or previously mined areas, and that no overburden is to be disposed of in the waters of the Commonwealth; amend KRS 350.440 to provide that no spoil be disposed of in the waters of the Commonwealth, and that any spoil not returned to mine area be disposed of only in previously disturbed areas on lands eligible for reclamation under the abandoned mine land program or transported and placed in lifts and concurrently compacted in an engineered, constructed fill; amend KRS 350.410 to require that restoration of the approximate original contour includes both the configuration and elevation of the area prior to disturbance associated with coal removal.

(Prefiled by the sponsor(s).)

**BR 271 - Representative Tom Burch (12/18/08)**

AN ACT relating to the equine industry program and making an appropriation therefor.

Amend KRS 138.510 to establish exemption for two day international horse racing events; increase funding for equine industry program at the University of Louisville from one-twentieth to eighteen hundredths of one percent wagered on intertrack and interstate wagering; amend KRS 230.550 to specify the purposes for which money is to be utilized; direct the University of Louisville to hold symposiums and to cooperate with representatives of key racing and breeding organizations to determine the sevenths' times and agendas.

(Prefiled by the sponsor(s).)

**BR 278 - Representative Jimmy Higdon (12/12/08)**

AN ACT relating to the solemnization of marriage and declaring an emergency.

Amend KRS 402.050 to allow solemnization of marriages by a member of the General Assembly who has been authorized by the presiding officer of his or her chamber; amend KRS 402.090 to forbid any legislator to solicit, accept, or agree to accept anything of value in exchange for solemnizing a marriage; amend KRS

402.100 to require all marriage certificates to contain a space where the officiating legislator may affirm membership in the General Assembly and list the date he or she was authorized to solemnize marriages; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 279 - Senator Tom Buford (12/03/08)**

AN ACT relating to urban-county government police and fire employees.

Amend KRS 67A.300 to provide that police and fire employees of an urban-county government who are laid off or suspended due to economic necessity caused wholly or in part by an increase in employer contributions to the policemen's and firefighters' retirement fund shall be provided a monthly benefit of 40 percent of salary and health insurance benefits not to exceed ten years or the date of reemployment or retirement; require the urban-county government to certify whether or not a police or fire employee who has been laid off or suspended is eligible for benefits; allow the employee to petition the Circuit Court if he or she is determined to not be eligible for benefits; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 281 - Representative Dennis Keene (12/15/08)**

AN ACT relating to the provision of court house facilities.

Amend KRS 26A.090 to clarify the definition of "unit of government" with respect to counties; remove "special districts" as an eligible unit of local government for the provision of court facilities; amend KRS 26A.110 to conform.

(Prefiled by the sponsor(s).)

**BR 282 - Representative Rick G. Nelson (12/01/08)**

AN ACT relating to railroad grade crossings.

Create a new section of KRS Chapter 177 to require the Department of Highways to inspect all public railroad grade crossings at least 2 times per year; require results of inspection to be kept on file for 5 years; permit the department to assess the cost of inspection to the railroad company; require the department to promulgate administrative regulations to establish

standards for railroad grade crossings; specify that within 90 days of being notified that a crossing is substandard that the railroad company submit plans for improvement; permit the department to issue an order to the railroad company to make improvement to a railroad grade crossing pursuant to the procedures set forth in KRS 177.150 through 177.210.

**BR 284 - Representative Mary Lou Marzian (12/09/08)**

AN ACT relating to civil rights.

Amend KRS 344.010 to include definitions for "sexual orientation" and "gender identity"; amend KRS 344.020, relating to the purpose of the Kentucky's civil rights chapter, to include a prohibition on discrimination because of sexual orientation and gender identity; amend KRS 344.040, 344.050, 344.060, 344.070, and 344.080, relating to prohibited discrimination in various labor and employment practices, to include sexual orientation and gender identity; amend KRS 344.025, 344.100, 344.110, and 18A.095, relating to the same, to conform; amend KRS 344.120 and 342.140, relating to prohibited discrimination in places of public accommodation and advertisements therefor, to include sexual orientation and gender identity; amend KRS 344.170, 344.180, 344.190, 344.300, and 344.310, relating to the state and local human rights commissions, to include prohibition of discrimination on the basis of sexual orientation and gender identity in the scope of their powers and duties; amend KRS 344.360, 344.680, 344.370, and 344.380, relating to prohibited discrimination in certain housing, real estate, and other financial transactions, to include sexual orientation and gender identity; amend KRS 344.367, relating to prohibited discrimination in certain insurance sales, to include sexual orientation and gender identity; amend KRS 344.400, relating to prohibited discrimination in certain credit transactions, to include sexual orientation and gender identity; and make various technical amendments.

(Prefiled by the sponsor(s).)

**BR 288 - Senator Elizabeth Tori (12/15/08)**

AN ACT relating to the military family assistance trust fund.

Amend KRS 36.474 to make

military personnel and their families eligible for military family assistance trust fund grants for 180, rather than 90, days after the end of deployment; provide for grants for a demonstrated need for several members of the military or their families if approved by a majority of the military family assistance trust fund board.

(Prefiled by the sponsor(s).)

**BR 289 - Representative Jesse Crenshaw (11/20/08)**

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to exclude a convicted felon from the right to vote only until expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 302 - Representative Brent Yonts (12/16/08)**

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define "low-speed electric vehicle" and amend the definition of "motor vehicle" to include a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 45 miles per hour or less; require low-speed electric vehicles operated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with KRS 186.020, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than 45 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)

**BR 303 - Representative Brent Yonts (12/16/08)**

AN ACT relating to classified employee benefits.

Amend KRS 158.070 to permit public school employees other than teachers to participate in statewide professional meetings with substitutes

when needed; amend KRS 161.011 to define “progressive discipline” as a process to deal with job-related behavior that does not meet expected and communicated performance standards; establish due process and hearing procedures for classified employees notified that their contracts will not be renewed; require the board policy to provide a process that includes for verbal and written warnings, public and private reprimands, probation with a corrective action plan, and suspensions with pay or without pay of up to seven days prior to termination; establish due process procedures for an employee who has completed four years of continuous active service; establish a process to require the commissioner of education to appoint a hearing officer upon request; establish the right of appeal to the Circuit Court in the county where the school district is located; provide service credit for limited status employees on approved military leave and for reemployment or reinstatement of an employee inducted into the Armed Forces of the United States.

(Prefiled by the sponsor(s).)

**BR 311 - Representative Carl Rollins II (12/17/08)**

AN ACT relating to state employees as mentors.

Create a new section of KRS Chapter 61 to define “mentoring leave” as leave time granted by a supervisor to a state employee spent volunteering as a mentor; allow one hour of mentoring leave per week, not to exceed five hours per calendar month or (40) hours per calendar year; establish eligibility requirements; limit mentoring leave to actual mentoring activities; prohibit use of mentoring leave as hours worked for overtime purposes.

(Prefiled by the sponsor(s).)

**BR 326 - Representative Mary Lou Marzian (12/09/08)**

AN ACT relating to art therapy.

Create a new section of KRS 309.130 to 309.1399 to require that disciplinary proceedings against licensed art therapists or applicants for licensing be conducted in accordance with KRS Chapter 13B; permit aggrieved parties to file suit in Franklin Circuit Court; amend KRS 309.130 to define “the practice of professional art therapy”; prohibit anyone from en-

gaging in the practice of art therapy unless he or she is duly licensed; exempt persons engaged in the practice of employment, job placement, and school counseling from the licensing requirements; amend KRS 309.137 to permit a person whose license has been revoked to petition the board for reinstatement if five years has elapsed; permit the board to issue a written admonishment if the board determines that the violation is not serious; specify that a voluntary suspension shall not bar the board from taking disciplinary action; amend KRS 309.1305, 309.131, 309.1315, 309.133, 309.1335, 309.135, and 309.138 to conform.

(Prefiled by the sponsor(s).)

**BR 331 - Senator Dan Kelly, Senator Ed Worley (12/15/08)**

AN ACT relating to crimes and punishments and declaring an emergency.

Create a new section of KRS Chapter 196 to require the Department of Corrections to develop an intensive secured substance abuse recovery program for substance abusers seeking or utilizing pretrial diversion in certain circumstances; amend KRS 431.515 to conform; create a new section of KRS 431.510 to 431.550 to require pretrial screening of felony substance abuse offenders and allow testing and treatment as a condition of pretrial release; create a new section of KRS 533.250 to 533.260 to require felony substance abuse offenders to demonstrate suitable participation in and compliance with substance abuse treatment or recovery before being eligible for pretrial diversion; amend KRS 533.250 to allow referral of certain persons on pretrial diversion to the secured recovery program; amend KRS 532.120 to allow credit for time served in the secure treatment facility or a residential treatment facility; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 334 - Representative David Floyd (12/19/08)**

AN ACT relating to public performances.

Create new section of KRS Chapter 518 to prohibit the audio or visual recording of public performances; provide notice and create exception.

(Prefiled by the sponsor(s).)

**BR 339 - Senator Bob Leeper**

**(12/16/08)**

AN ACT relating to the Kentucky Infrastructure Authority.

Amend KRS 224A.030 to add one member to the Kentucky Infrastructure Authority representing the Kentucky Municipal Utility Association; establish initial and subsequent terms.

(Prefiled by the sponsor(s).)

**BR 344 - Representative Mike Denham (12/16/08)**

AN ACT relating to military education benefits.

Amend KRS 164.516 to include in the definition of “member” members of a Reserve Component with Kentucky as their home of record; amend KRS 164.5161 to make members in the Reserves eligible for the tuition award program.

(Prefiled by the sponsor(s).)

**BR 345 - Representative Mike Denham (12/16/08)**

AN ACT relating to agroterrorism.

Create new sections of KRS Chapter 247 to define “agricultural equipment,” “agricultural facility,” “agricultural product,” and “agroterrorism”; establish damages for committing agroterrorism; amend KRS 500.080 to define “agricultural equipment,” “agricultural facility,” and agricultural product”; amend KRS 512.010, 513.010, 513.060, and 527.205 to conform; repeal KRS 437.410, 437.415, 437.420, and 437.429.

(Prefiled by the sponsor(s).)

**BR 346 - Representative Mike Denham (12/10/08)**

AN ACT relating to weights and measures.

Create a new section of KRS 363.510 to 363.850 to allow the promulgation of administrative regulations relating to tobacco moisture testing devices; amend KRS 363.510 to include instruments to measure internal moisture or density of unprocessed bulk tobacco in the “weights and measures” definition.

(Prefiled by the sponsor(s).)

**BR 348 - Representative Addia Wuchner (12/19/08)**

AN ACT relating to independent district boards of health.

Amend KRS 212.786 to reduce the membership of independent health district boards; remove proportional representation of certain professions; change the population requirements for certain appointments; establish population criteria for subsequent appointments.

(Prefiled by the sponsor(s).)

**BR 350 - Representative Steve Riggs (12/19/08)**

AN ACT relating to peace officers.

Amend KRS 61.365, relating to Kentucky peace officer status for federal officers, to add United States Postal Inspection Service Postal Inspectors.

(Prefiled by the sponsor(s).)

**BR 366 - Representative Ted Edmonds (12/15/08)**

A JOINT RESOLUTION directing the University of Kentucky to conduct research studies with recommendations relating to mining in E.O. Robinson Forest.

Direct the University of Kentucky to study and make recommendations concerning mining in E.O. Robinson Forest and the implications of that activity on forests and streams.

(Prefiled by the sponsor(s).)

**BR 368 - Representative Tommy Thompson (12/19/08)**

AN ACT relating to mortgages.

Amend KRS 286.8-010 to create definitions for compliance with the federal S.A.F.E. Mortgage Licensing Act of 2008; amend KRS 286.8-020 to establish new requirements for mortgage loan companies and mortgage loan brokers; create a new section of Subtitle 8 of KRS Chapter 286 to establish requirements for mortgage loan originators and mortgage loan processors; amend KRS 286.8-030 to prohibit transaction of business in Kentucky as a mortgage loan company or mortgage loan broker without the licensing required by Subtitle 8 of KRS Chapter 286 unless specifically exempted; provide that each solicitation, attempt, or closed loan constitutes a separate violation, require that



the unique identifier appear clearly on the mortgage loan application and on solicitations or advertisements and prohibit representations on a mortgage loan application that are inconsistent with this subsection; amend KRS 286.8-032 to exempt a mortgage loan company from the requirement that the company have a funding source of a minimum of \$1 million dollars if the company certifies that it shall not purchase or make loans secured by mortgages on residential property in Kentucky so long as the company's license is in effect and the company maintains a net worth in excess of \$100,000; clarify that an applicant for a mortgage loan broker license who has held a broker's license for at least one year within the last five years is exempt from the educational training course requirement; require that the application for a mortgage loan broker and mortgage loan company license shall include a physical location of a mortgage lending business that is a street address and not a post office box and revise the proof of residence requirements; amend KRS 286.8-034 to require submission of a license renewal to the Nationwide Mortgage Licensing System and Registry with an annual report of condition on a form prescribed by the Nationwide Mortgage Licensing System and Registry in addition to submission to the executive director; amend KRS 286.8-044 to require that notice of entry of any order by the executive director relating to the suspension or denial of a license, registration, or claim of exemption be in writing and served personally or by certified mail, authorize a hearing upon written request by the affected person, and authorize the executive director to enter a final order if a written request is not received within 20 days of service, as defined; amend KRS 286.8-046 to authorize the executive director to order any affirmative actions such as restitution or refund deemed necessary against any person who violates any provision of Subtitle 8 of KRS Chapter 286 or any administrative regulation promulgated thereunder or any order issued by the executive director; amend KRS 286.8-060 to amend the bond requirements; amend KRS 286.8-100 to prohibit transacting business, either directly or indirectly, without filing the required application; amend KRS 286.8-150 to substitute a licensee or registrant for a mortgage loan company for purposes of classifying documents as confidential to protect the licensee or registrant, including

documents obtained from the Nationwide Mortgage Licensing System and Registry, and authorize the executive director to determine the time period the documents may be classified as confidential and recognize that any material obtained from the Nationwide Mortgage Licensing System and Registry is subject to the provisions of Section 1512 of the S.A.F.E. Mortgage Licensing Act; amend KRS 286.8-170 to require every mortgage loan company and mortgage loan broker to maintain correct and complete records of its business transactions at its principal office; add mortgage loan originator and mortgage loan processor to the records retention and records access requirements; authorize the executive director to exchange information with the Nationwide Mortgage Licensing System and Registry; require every mortgage loan originator and mortgage loan processor to make available records relating to the originator or processor's operations to the executive director or designated examiner; specify reports the executive director may require of any person subject to Subtitle 8 of KRS Chapter 286; prohibit a mortgage loan company, loan broker, originator, or processor from impeding the executive director or a designated examiner from interviewing specified persons; authorize the executive director to control access to documents and records of a licensee or person under examination or investigation, subject to court order or consent of the executive director, but the licensee or owner of the documents shall have necessary access to the documents unless the executive director has reasonable grounds to believe the documents are at risk of alteration or destruction; prohibit knowingly withholding, damaging, changing, destroying or hiding paperwork which is subject to investigation or examination; authorize the executive director to retain necessary professionals to conduct examinations or investigations, enter into agreements or relationships with government officials or regulatory associations to improve efficiency in the regulatory process and engage analytical systems, methods, or software necessary to an examination or investigation; provide that this section is effective whether the person claims to act within the licensing or registration law of Kentucky or claims to act without authority; amend KRS 286.8-190 to conform; amend KRS 286.8-220 to make it unlawful to obtain property by fraud or misrepresentations, to fail to make re-

quired disclosures or to fail to comply with state and federal laws applicable to transacting business in Kentucky, and to comply with the provisions of Subtitle 8 of KRS Chapter 286, unless specifically exempted; amend KRS 286.8-225 to establish the "Mortgage Fraud Prosecution Fund" as a trust and revolving fund in the State Treasury and establish the sources of and uses for the Fund; amend KRS 286.8-227 to conform; amend KRS 286.8-240 to provide that KRS 286.8-010 to 286.8-285 may be cited as the "Mortgage Licensing and Regulation Act"; amend KRS 286.8-255 to provide that no natural person shall transact business directly or indirectly as a mortgage loan originator or processor without a current certificate of registration and compliance with all applicable provisions of Subtitle 8 of KRS Chapter 286 and maintenance of a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry; authorize the executive director to require information deemed necessary in an application for registration; increase from 12 to 20 hours of pre-licensing education courses required for initial registration for mortgage loan originators and processors and specify that the pre-licensing education courses be approved and designated by the executive director and shall meet the requirements of Section 1505(c) of the S.A.F.E. Mortgage Licensing Act and shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry; authorize acceptance of pre-licensing education from any other states that meet the Kentucky requirements; delete the provision for a temporary certificate of registration; authorize the executive director to require background records checks necessary to comply with the minimum requirements of Section 1505 of the S.A.F.E. Mortgage Licensing Act and to require submission of an independent credit report with an initial application or renewal application; establish the minimum standards for registration for a mortgage loan originator or processor; establish the minimum standards for renewal of registration for a mortgage loan originator or processor; require mortgage loan originators to provide loan origination services to no more than one mortgage loan company or mortgage loan broker at a time; amend KRS 286.8-260 to establish new continuing professional education requirements to meet the minimum requirements of Section 1505(b) of the S.A.F.E. Mortgage Licensing Act;

amend KRS 286.8-285 to authorize the executive director to participate in the establishment and implementation of the Nationwide Mortgage Licensing System and Registry, to implement and comply with the S.A.F.E. Mortgage Licensing Act, establish relationships or contracts with other governmental agencies, the Nationwide Mortgage Licensing System and Registry or affiliated entities as needed; authorize the executive director to establish interim procedures to implement the transition to the registration of new applicants and the renewal of previously registered persons; provide that the executive director may use the Nationwide Mortgage Licensing System and Registry as an agent for purposes of receiving, requesting, and distributing information; require the executive director to establish a process for challenging information submitted by the executive director to, and entered into, the Nationwide Mortgage Licensing System and Registry; require the executive director to request audited financial reports annually from the Nationwide Mortgage Licensing System and Registry; require the executive director to annually request any nonconfidential protocols or reports for security and safeguarding personal information; require the executive director to annually request from the Nationwide Mortgage Licensing System and Registry specified statistical information relating to examinations taken by applicants for registration as a loan originator; require the executive director to report to the General Assembly when requested any information received from the Nationwide Mortgage Licensing System and Registry relating to audited financial reports, nonconfidential protocols or reports, and statistical information relating to loan originator licensing examinations; require the executive director to report violations of Subtitle 8 of KRS Chapter 286 to the Nationwide Mortgage Licensing System and Registry; create a new section of Subtitle 8 of KRS Chapter 286 to require every mortgage loan company and mortgage loan broker to exercise proper supervision and control over its operations and personnel and prohibit using the services of a mortgage loan originator who is not an employee under the supervision and control of the company, and provide this does not prohibit using the services of a mortgage loan broker and its employees; create a new section of Subtitle 8 of KRS Chapter 286 to establish severability of the provisions

of this Act; amend KRS 286.2-100 to conform and to add “bank holding company”, “savings and loan association holding company” and wholly owned subsidiary” of the named entities to the definition of “financial institution”; amend KRS 286.2-670 to conform by deleting the various foreign financial institutions listed as not doing business in this state and to substitute “a foreign financial institution”; amend KRS 286.2-680 to conform; create a new section of Subtitle 2 of KRS Chapter 286 to authorize the executive director to levy a civil penalty of not less than \$1000 nor more than \$5000, plus costs, on any person who violates any provision of Subtitle 2 of KRS Chapter 286; amend KRS 286.012 to conform; repeal KRS 286.8-040, 286.8-042, 286.8-200 and 286.230.

(Prefiled by the sponsor(s).)

**BR 381 - Representative Linda Belcher (12/19/08)**

AN ACT relating to the reporting of stolen items with vehicle identification numbers.

Create a new section of KRS Chapter 186 to require a law enforcement agency to enter information on a stolen item with a vehicle identification number into the NCIC database.

(Prefiled by the sponsor(s).)

**BR 382 - Representative Linda Belcher (12/19/08)**

A CONCURRENT RESOLUTION urging the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset and Windfall Elimination Provisions.

Urge the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset and Windfall Elimination Provisions.

(Prefiled by the sponsor(s).)

**BR 383 - Representative Mike Denham, Representative Hubert Collins (12/18/08)**

AN ACT relating to the agricultural program trust fund and making an appropriation therefor.

Create a new Section of KRS Chapter 246 to create and set provisions of the agricultural program trust fund; amend KRS 186.050 to estab-

lish a voluntary contribution of \$10 for motor vehicles being registered as farm trucks; permit the person registering the motor vehicle to opt out of the voluntary contribution.

(Prefiled by the sponsor(s).)

**BR 388 - Representative Jim Glenn (12/16/08)**

AN ACT relating to college student financial awareness.

Create a new section of KRS Chapter 164 to require public postsecondary institutions to provide new undergraduates with information regarding credit cards and debt management and encourage them to conduct informational sessions; encourage nonpublic postsecondary institutions to provide new undergraduates with information regarding credit cards and debt management and to conduct informational sessions; permit institutions to utilize existing debt education materials from nonprofit entities; and require the Council on Postsecondary Education to assist institutions in identifying appropriate materials and curricula.

(Prefiled by the sponsor(s).)

**BR 389 - Representative Jim Glenn (12/16/08)**

AN ACT relating to lifetime combination hunting and fishing licenses.

Amend KRS 150.175 to authorize a lifetime hunting and fishing license for persons age sixty-five and older that authorizes the holder to do all the acts permitted under the senior/disabled hunting license and does not expire until the death of the holder.

(Prefiled by the sponsor(s).)

**BR 390 - Representative Jim Glenn (12/16/08)**

AN ACT designating burgoo as the state dish.

Create a new section of KRS Chapter 2 naming and designating burgoo as the state dish.

(Prefiled by the sponsor(s).)

**BR 391 - Representative Jim Glenn (12/16/08)**

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to provide a sales and use tax holiday for the first week in August each year to exempt clothing with a sales price of less than \$100 per item, school supplies, and school art supplies; define terms; EMERGENCY; EFFECTIVE May 1, 2009.

(Prefiled by the sponsor(s).)

**BR 392 - Representative Jim Glenn (12/16/08)**

AN ACT relating to occupational taxes.

Amend KRS 67.750 to update the reference to the Internal Revenue Code to the code in effect on December 31, 2006, as amended.

(Prefiled by the sponsor(s).)

**BR 393 - Representative Jim Glenn (12/16/08)**

A CONCURRENT RESOLUTION urging the Council on Postsecondary Education to restore funding for the Kentucky Educational Television (KET) televised and online college credit courses.

Encourage the Council on Postsecondary Education to restore funding to the Kentucky Educational Television (KET) televised and online college credit course program.

(Prefiled by the sponsor(s).)

**BR 395 - Representative Leslie Combs (12/18/08)**

AN ACT relating to the civil rights of deaf and hard of hearing persons.

Amend KRS 344.120 to require movie theaters with five or more screens to provide closed captioning for deaf and hard of hearing persons; amend KRS 344.190 to require the Commission on Human Rights to review and approve available closed captioning technologies and set the minimum numbers of closed captioned showings of a movie which must be offered at each covered theater.

(Prefiled by the sponsor(s).)

**BR 410 - Representative John Tilley (12/19/08)**

AN ACT relating to the taxation of military pay.

Amend KRS 141.010 to provide an exemption from individual

income tax for all military pay, effective for tax years beginning on or after January 1, 2009.

(Prefiled by the sponsor(s).)

**BR 412 - Representative John Tilley (12/19/08)**

AN ACT relating to encouraging healthy lifestyles.

Create a new section of KRS Chapter 131 to require reporting of data to LRC on the wellness project credit; create new sections of KRS Chapter 141 to establish the wellness project credit; amend KRS 141.0205 to order the credit for income tax purposes; create a new section of KRS Chapter 194A to require the cabinet to develop an employer wellness project model and certify employers' project based on the model; create a new section of KRS Chapter 18A to establish a state employee personal fitness pilot program.

(Prefiled by the sponsor(s).)

**BR 415 - Representative Keith Hall (12/18/08)**

AN ACT relating to charitable health care providers.

Amend KRS 216.940 to add optometrists to the definition of charitable health care providers; amend KRS 216.941 to permit optometrists and physicians with valid licenses from other states to provide charitable health care services in Kentucky if approved by their respective boards; amend KRS 216.942 to add dentists and optometrists to charitable health care providers; create a new section of KRS 311 to permit the Board of Medical Licensure to permit a physician with a valid license from another state to provide charitable health care services in Kentucky through a sponsoring organization; create a new section of KRS 320 to permit the Board of Optometric Examiners to provide charitable health care services in Kentucky through a sponsoring organization.

(Prefiled by the sponsor(s).)

**BR 417 - Representative Brent Yonts (12/16/08)**

AN ACT relating to petroleum storage tanks.

Amend KRS 224.60-142 to allow owners of petroleum storage tanks containing motor fuels until July



15, 2015, to register the tanks and to submit affidavits and applications relevant to the tank accounts.

(Prefiled by the sponsor(s).)

**BRs by Sponsor**

\* - denotes primary sponsorship of BRs

**Senate**

Buford, Tom  
BR34\*, 88\*, 279\*  
Denton, Julie  
BR210\*  
Jones II, Ray S.  
BR61\*, 69\*  
Kelly, Dan  
BR331\*  
Leeper, Bob  
BR45\*  
BR75\*  
BR339\*  
Pendleton, Joey  
BR38\*  
Rhoads, Jerry P.  
BR12\*  
Ridley, Dorsey  
BR12\*  
Seum, Dan  
BR28\*  
BR142\*  
BR224\*  
Stine, Katie  
BR37\*  
Tapp, Gary  
BR28\*  
Tori, Elizabeth  
BR288\*  
Westwood, Jack  
BR180\*  
Winters, Ken  
BR182\*  
Worley, Ed  
BR331\*

**House**

Belcher, Linda  
BR381\*  
BR382\*  
Bratcher, Kevin D.  
BR109\*  
Brinkman, Scott W.  
BR147\*  
Burch, Tom  
BR41\*, 73\*, 94\*, 135\*, 271\*  
Cherry, Mike  
BR78  
BR104  
BR186\*, 227\*  
Clark, Larry  
BR187\*  
Collins, Hubert  
BR78\*, 383\*  
Combs, Leslie

BR395\*  
Coursey, Will  
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Crenshaw, Jesse  
BR289\*  
Crimm, Ron  
BR35\*, 60\*, 68\*, 78, 205\*  
Damron, Robert R.  
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DeCesare, Jim  
BR74\*, 75\*, 76\*, 247\*  
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BR344\*, 345\*, 346\*, 383\*  
Edmonds, Ted  
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Farmer, Bill  
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Floyd, David  
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Gooch Jr., Jim  
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Graham, Derrick  
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Greer, Jeff  
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Hall, Keith  
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Marzian, Mary Lou  
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Montell, Brad  
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Nelson, Rick G.  
BR120\*, 267\*, 282\*  
Nesler, Fred  
BR104  
Owens, Darryl T.  
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Pasley, Don  
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Pullin, Tanya  
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Richards, Jody  
BR104\*, 162\*  
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Riggs, Steve  
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Siler, Charles  
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Weston, Ron  
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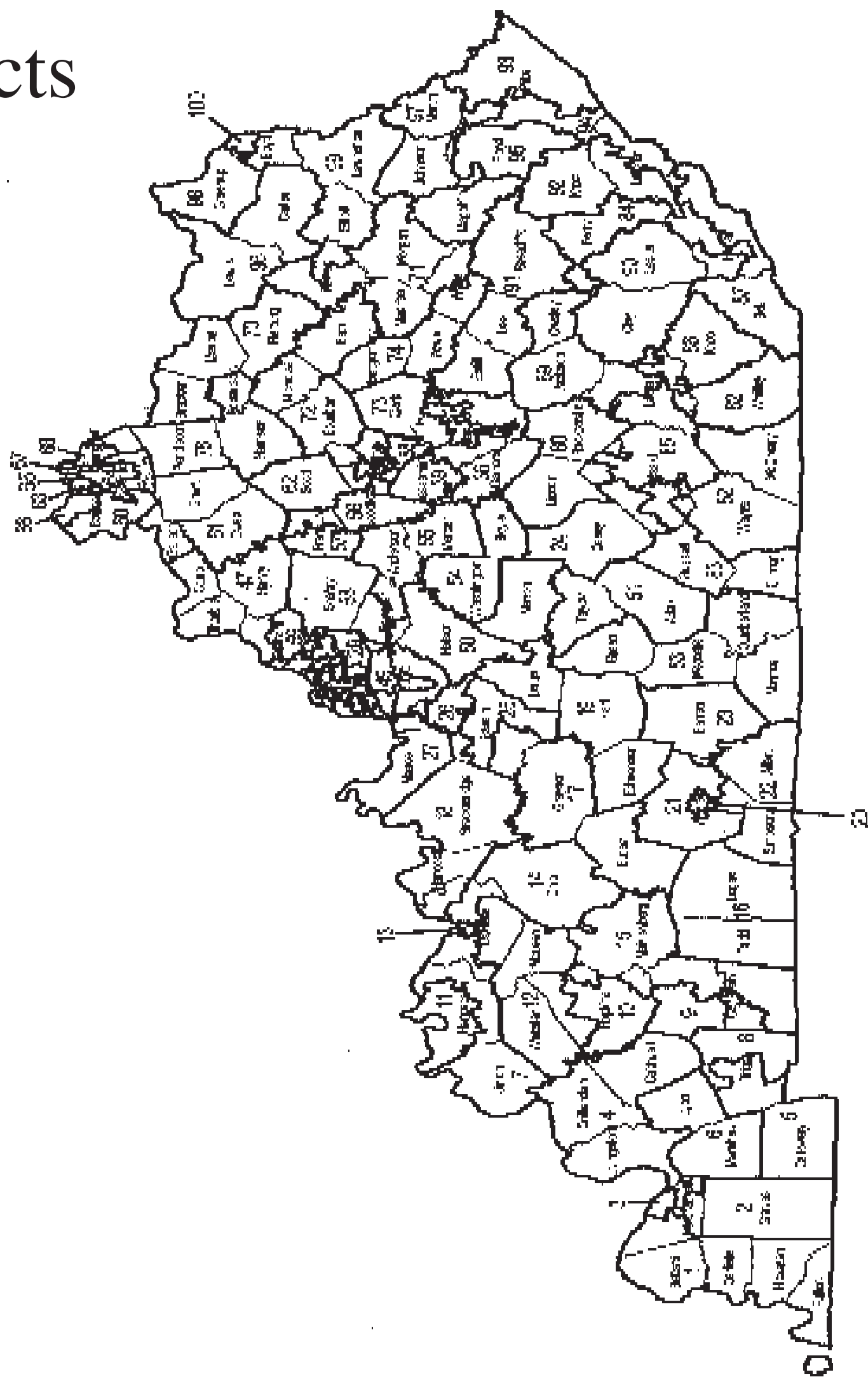
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# Districts

Senate Plan (SH001A09) became law (KRS 5.101 - 5.133) January 31, 2002, with enactment of House Bill 1.



# House Districts



House Plan (HJR001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.



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