

2011 Interim LEGISLATIVE

Volume 24, No. 9
December 2011

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RECORD

Charles Siler named 2011 Hellard Award recipient

by Scott Payton
LRC Public Information

Former State Rep. Charles Siler, who served two notable stints in the Kentucky General Assembly before saying farewell in 2010 as one of Frankfort's most respected lawmakers, has been named recipient of the 2011 Vic Hellard Jr. Award for excellence in public service.

The Hellard Award, the highest honor the Legislature can bestow, has been given annually since 1997. Siler -- known to all simply as Charlie -- was chosen for this year's honor by the 16-member legislative leadership that comprises the Legislative Research Commission.

The award's namesake, Vic Hellard Jr., was executive director of the LRC staff for 19 years. The honor goes each year to someone who embodies the values Hellard brought to his long career: A public servant of vision, who appreciates history while finding innovative approaches to hard problems, someone who champions the equality and dignity of all, nurtures the processes of a democratic society, and promotes public dialogue while educating and fostering civic engagement, and who approaches that work with commitment, caring, generosity, and humor.

In announcing Siler's selection, LRC co-chairs David L. Williams, President of the Senate, and Greg Stumbo, Speaker of the House, noted that he met all those criteria perfectly.

They remembered Siler as a quietly passionate voice for the people of his beloved Laurel and Whitley counties, and a leader of vision and good humor whose tireless work made life better for all Kentuckians, whether they knew his name or not.

'Charlie Siler, to me, embodied the very heart and soul of what it means to be a citizen-legislator,' Stumbo said. 'He was always a citizen first. Being in



the Legislature was an expression of his citizenship, yet another civic duty he undertook, not a career.'

Williams recalled Siler's 'good heart and good humor,' and added: 'Charlie had a way of helping even people deeply divided on a difficult issue find common ground. It was like common sense walked in the room with him, and when Charlie talked, people listened.'

Siler himself expressed gratitude for a recognition he called 'totally unexpected.'

'I'm honored, I'm touched, and I accept this award humbly,' Siler said. 'Vic Hellard was a special man, and this is a special award, even more so since it's given to me by my respected colleagues, people who served with me.'

Siler's civic career was historically remarkable, spanning national and even world history. His

Continued on page 2

Vic Hellard Jr. Award past winners

2010
Peggy Hyland

2009
Congressman Romano Mazzoli

2008
Sally Brown

2007
John R. Hall

2006
Sylvia L. Lovely

2005
William H. Hintze

2004
Robert M. "Mike" Duncan

2003
Walter A. Baker

2002
Virginia G. Fox

2001
Thomas D. Clark

2000
Albert P. (Al) Smith

1999
Mary Helen Miller

1998
Joseph W. Kelly

1997
Anthony M. Wilhoit

Employers winning contested unemployment claims

by Rebecca Mullins Hanchett
LRC Public Information

Employers were the winners of the majority of employer-contested unemployment insurance cases in 2010 and are emerging the winners of these types of cases in 2011, state lawmakers were told on Nov. 30 by the state official who oversees unemployment insurance for Kentucky.

Education and Workforce Development Cabinet Secretary Joe Meyer, whose Cabinet oversees Kentucky's unemployment insurance claim division, said that employers—not fired or terminated employees—won 70 percent of the 61,000 unemployment insurance cases contested by employers in 2010. The employers' success rate for contested cases so far this year is 71 percent, said Meyer.

"In terms of our actual application, and our rulings...70 percent of the time, the employers win," he told the Interim Joint Committee on Labor and Industry.

The committee had earlier received testimony from some area employers who told lawmakers they have fired employees for documented reasons only to see those employees be awarded unemployment benefits. Joining the employers during their testimony was Rep. Susan Westrom, D-Lexington, who said the employers "encountered that they've fired somebody they thought they had a documented reason to fire, and they (the employee) end up collecting unemployment insurance, which has been very much of a shocker ..."

Lexington area insurance salesman, stock broker and real estate broker Ben Kaufmann told lawmakers about a former maintenance employee who Kaufmann said was not where he was supposed to be during work hours and was eventually fired, only to be awarded unemployment by the state.

"I'm scared to death to hire people. We need to do something," Kaufmann said.

Another employer, Cynthia Bohn of Equus Run Vineyards, recounted scenarios involving a former

employee who allegedly committed unemployment insurance fraud and a former worker who received benefits after allegedly not performing well upon job reassignment.

Although employers are winning most of the unemployment insurance cases they contest, Meyer told the committee and others presents that unemployment insurance law is designed to favor the person who is applying for benefits, not the employer. Employers have an "absolute right" to legal representation at benefit determination hearings, said Meyer, but unemployment insurance law is designed to favor the applicant.

"The burden of proof is on the employer," said Meyer.

Meyer said there are a set of eight standards adopted by the 1982 Kentucky General Assembly that clearly constitute misconduct by a fired or terminated employee under state unemployment insurance law. If those standards are met, the terminated employee may not receive unemployment benefits. If someone is let go for a reason other than one of

those eight standard reasons, Meyer said the employer is responsible for establishing that misconduct was committed by the former employee, if the employer wants to avoid paying benefits.

In short, unsatisfactory work and inability to perform one's job, in general, are not considered enough reason to deny a person benefits, explained Meyer.

Rep. Bill Farmer, R-Lexington, stressed the need for consistency in the unemployment insurance proceedings. "I think if there were a factor of consistency here...the entire group is going to be better served." Meyer said the unemployment insurance appeals process is a legal process, and decisions made are in writing.

Committee co-chair Rep. Rick Nelson, D-Middlesboro, said the issue might need to be addressed by the General Assembly. "It sounds to me like you are playing mostly by the rules that the General Assembly at some point enacted into law. So... maybe that's something a legislator needs to address," said Nelson.

Hellard Award, from page 1

military career alone traced the narrative arc of the last half of the 20th Century. It began with the end of World War II and the beginning of the Cold War. He served in occupied Japan. He served in the Korean War. He was with the troops protecting Dr. Martin Luther King's Civil Rights march on Montgomery in the 1960s.

His military decorations include two awards of the Legion of Merit, a Meritorious Service Medal, a Bronze Star for Valor, an Army Commendation Medal, a Combat Infantry Badge, and Master Paratrooper Wings. In September 1998, Siler was inducted into the Infantry OCS Hall of Fame.

When his long military career ended, retiring with the rank of Colonel, he returned to Kentucky and ran for office to help shape his home state's history.

As a representative from District 82 and a Republican, first taking office in 1984, he was a voice for veterans and a voice for labor, but his greatest passion was education. He voted for the Kentucky Education Reform Act of 1990 though he knew the tax increase to pay for it would likely get him beat next election -- and did.

But four years later, Siler's district sent him back to Frankfort, where he served until 2010.

His tenure in the House was called by one observer a study in thoughtful, courageous representation. When he came back from his years out of office, Siler voted for 1997's higher education reform, another politically difficult vote on principle.

But he said the reform was necessary for community colleges to better prepare Kentuckians for the 21st Century workplace, and for universities to answer the call for citizens of exceptional preparation to prosper in a complex world.

As another observer said, Siler had seen the world and knew its demands, and wanted Kentuckians ready for it.

Current LRC Director Robert Sherman, who worked closely with Hellard for the better part of two decades, said leadership's selection of Siler for this year's award would have greatly pleased his old boss.

'Charlie Siler shares with Vic some core beliefs,' Sherman said. 'Vic believed self-government would lead to good government. He knew people



Former Rep. Charles Siler, speaking on a bill on the floor of the Kentucky House of Representatives during the 2010 Regular Session of the Kentucky General Assembly.

treated well will respond to you in kind. And his great optimism was that the American experiment will succeed if everyday folks out there take up their share of civic responsibility and smile while doing it. That describes Charlie perfectly.'

Siler is the 15th recipient of the Vic Hellard Jr. award, and only

the third former legislator (Romano Mazzoli, a former state Senator and Congressman, won in 2009, and former state Sen. Walter Baker won in 2003).

Hellard himself died in 1996, a year after his retirement from the LRC. The award in his name has been given annually since.

State spending cuts outlined for lawmakers



Rep. Mike Denham, D-Maysville, at left, talks with Rep. Derrick Graham, D-Frankfort, during the Nov. 29 meeting of the Interim Joint Committee on Appropriations and Revenue.

Some state agencies will face additional 2 percent cuts

by Rob Weber
LRC Public Information

Many state agencies will cut their spending by 2 percent as part of an effort to balance the current fiscal year budget, lawmakers were told during the Nov. 29 meeting of the Appropriations and Revenue Committee.

The spending cuts ordered by Gov. Steve Beshear are part of a plan to close a \$190 million gap in the current budget.

While most agencies will be impacted by the latest round of cuts, there are some large and notable exemptions. School funding, Medicaid, corrections, community-based services, behavioral health, juvenile justice and the state park system are among the areas that will be spared, said State Budget Director Mary Lassiter.

Though furloughs of state employees were ordered last year in a cost-cutting move, there are no plans for furloughs this fiscal year, Lassiter said.

In response to a question from Rep. Reginald Meeks, D-Louisville, Lassiter said that employee layoffs, if any, would be minimal. "Every agency will have to evaluate its capacity to deal with these additional cuts," she said. "I wouldn't expect large numbers (of layoffs), but I will stop short of saying there won't be any. But if there are any, it will be minimal."

The newest round of spending cuts for state agencies will save \$29 million, Lassiter said. Recurring savings from past spending cuts and debt service lapse is expected to provide an additional \$57.9 million and \$29 million, respectively.

Those spending reductions combined with \$75.5 million worth of the estimated excess revenues for the current fiscal year will fill the \$190 million budget gap, Lassiter said.

But she warned that difficult

decisions lie ahead when lawmakers return to Frankfort in January to begin crafting the state's next two-year budget.

"Every budget is difficult," she said. "There are never enough dollars to fulfill the wants of everyone. But this upcoming budget cycle will be significantly difficult."

Her remarks were echoed by the Appropriations and Revenue co-chairs.

Federal stimulus funds received in Kentucky that helped the state weather budget difficulties will not be available in the next budget cycle.

"The upcoming budget is going to be difficult," said Rep. Rick Rand, D-Bedford. "We are going to have some more hard

work to do."

Sen. Bob Leeper, I-Paducah, said that some people saw increased state revenue projections earlier this year and concluded too quickly that the state was well-prepared for the next budget cycle. "I just want people to be aware ... that we have difficult times ahead and that they should prepare for those. Those people who are affected by state government should be on the lookout for a difficult budget session."

Federal stimulus funds received in Kentucky that helped the state weather budget difficulties will not be available in the next budget cycle, Leeper said. "I recently had a superintendent ask me, ... 'Can you imagine what you would have done if you didn't have that federal stimulus money?' I said, 'I don't have to imagine. We're getting ready to do it.'"

Teaching conditions survey yields positive results, lawmakers told

by Amy Rose Karr
LRC Public Information

Kentucky educators are more positive about their teaching conditions than peers in other states, Ann Maddock of the New Teacher Center told members of the Interim Joint Education Committee on Monday, Dec. 12.

Maddock shared the results from Kentucky's first Teaching, Empowering, Leading, and Learning (TELL) survey aimed at measuring teaching conditions in schools across the nation. It is important to understand how educators perceive their teaching conditions when considering education policies, Maddock said. Teaching conditions also affect student achievement and teacher retention.

Kentucky had the highest response rate for the survey and many positive results. Of the teachers surveyed, 95% agreed they have access to reliable communication technology and that their physical classroom environment supports teaching and learning. Educators also affirmed their school councils, with 86% saying their school council makes decisions that positively impact instruction.

"You, in my opinion, are at the forefront of where education needs to be in each state," Maddock said, commending what she called Kentucky's collaborative and visionary education efforts. The survey identified 49 schools in the Commonwealth that could become best practice models.

The survey also found some areas for improvement. Educators named time as their biggest challenge. Teachers reported they were least happy with the amount of paperwork they are required to do. Maddock noted that while many issues regarding time are difficult to address without large budget allocations, paperwork is something that could be tackled with very little financial cost.

2012 REGULAR SESSION CALENDAR
(Approved by LRC Co-Chairs 9/14/11)

JANUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6 *SEN-OP Rolling required for printed House Bills	7
8	9	10 (1)	11 (2)	12 (3)	13 (4)	14
15	16 Martin Luther King, R. Day HOLIDAY	17 (5)	18 (6)	19 (7)	20 (8)	21
22	23	24 (9)	25 (10)	26 (11)	27 (12)	28
29	30 (13)	31 (14)				

FEBRUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 (24)	7 (25)	8 (26)	9 (27)	10 (28)	11
12	13 (29)	14 (30)	15 (31)	16 (32)	17 Last Day for Bill Requests (33)	18
19	20 Presidents' Day HOLIDAY	21 (34)	22 (35)	23 (36)	24 (37)	25
26	27 Last Day for New House Bills (38)	28 (39)	29 Last Day for New Senate Bills (40)			

() Denotes Legislative Day

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5 (43)	6 (44)	7 (45)	8 (46)	9 (47)	10
11	12 (48)	13 (49)	14 (50)	15 (51)	16 (52)	17
18	19 (53)	20 (54)	21 (55)	22 (56)	23 (57)	24
25	26 Concessions Only (58)	27 Concessions Only (59)	VETO	VETO	VETO	VETO

2012 REGULAR SESSION CALENDAR

* () denotes legislative day

APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 VETO	3 VETO	4 VETO	5 VETO	6 VETO	7 VETO
8	9 SINE DIE (60)	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

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Committee Meetings

Index

- A**
Administrative Regulation Review Subcommittee, 36
Agriculture, 6, 7
Appropriations and Revenue, 8, 9, 10, 11, 12, 47
- B**
Banking and Insurance, 13
- C**
Calendar, 2012 Regular Session, 4
Capital Projects and Bond Oversight, 35
Childhood Obesity, Task Force on: 47
- E**
Economic Development and Tourism, 13, 24
Education, 14, 16, 18
Education Assessment and Accountability Review Subcommittee, 38
Energy, 19
- G**
Government Contract Review Committee, 40
- H**
Health and Welfare, 20, 22
- J**
Judiciary, 23, 24
- L**
Labor and Industry, 24, 26
Local Government, 27, 28
- N**
Natural Resources and Environment, 29, 30
- P**
Penal Code and Controlled Substances Act, Task Force on: 33, 34
Prefiled Bills, 50
Program Review and Investigations Committee, 42, 43
- S**
State Government, 31, 33
- T**
Tobacco Settlement Agreement Fund Oversight Committee, 48
- V**
Veterans, Military Affairs, and Public Protection, 35

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 6th Meeting of the 2011 Interim November 9, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, November 9, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator David Givens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators Carroll Gibson, Paul Hornback, Bob Leeper, Vernie McGaha, Joey Pendleton, Dorsey Ridley, Damon Thayer, and Robin L. Webb; Representatives Royce W. Adams, John "Bam" Carney, Mike Cherry, James R. Comer Jr., Mike Denham, C. B. Embry Jr., Sara Beth Gregory, Richard Henderson, Kim King, Martha Jane King, Michael Meredith, Terry Mills, Brad Montell, Fred Nesler, David Osborne, Sannie Overly, Ryan Quarles, Tom Riner, Steven Rudy, Rita Smart, Wilson Stone, Tommy Turner, and Susan Westrom.

Guests: Roger Thomas, Executive Director, and Joel Neaveill, Chief of Staff, Governor's Office of Agricultural Policy; Mark Haney, President, Kentucky Farm Bureau; Tricia Houston, President, and Ben Able, Treasurer, Community Farm Alliance; Cassia Herron, Vice President, Metro-Louisville Food Policy Council; Linda Grimes, Chair, John Settles, and Keith Crawford, Kentucky Animal Control Advisory Board; Dr. Perry Wornall, Chair, and Ed Hall, Kentucky Board of Veterinary Examiners; and Phil Craft, State Apiarist, Kentucky Department of Agriculture.

LRC Staff: Tanya Monsanto, Lowell Atchley, Biff Baker, and Susan Spoonamore, Committee Assistant.

The October 12, 2011 minutes were approved, without objection, by voice vote, upon motion made by Representative Henderson and second by Representative Rudy.

The Horse Farming Subcommittee report was approved, without objection, by voice vote upon motion made by Representative Westrom and second by Senator Thayer.

The Rural Issues Subcommittee report was approved, without objection, by voice vote upon motion made by Senator McGaha and second by Representative Denham.

Legislative Issues for 2012 Session

Roger Thomas, Executive Director, and Joel Neaveill, Chief of Staff, Governor's Office of Agricultural Policy (GOAP), updated the members on recent activities of the office and of investments made from the Agricultural Development Fund. Mr. Thomas stated that financial investments made to 4-H and FFA have enhanced youth leadership development. At the recent National FFA Convention,

several Kentucky chapters won national awards, and one student the received the prestigious 2011 American Star in Agribusiness.

Mr. Thomas asked that two changes be made to the Kentucky Agricultural Finance Corporation statutes: increase the \$1 million loan cap on individuals, and amend the definition of "beginning farmer" to allow more people to be eligible for funding.

Mr. Neaveill explained that the Agricultural Development Fund provides funds for county programs and for investments in regional and state-wide projects. He noted that funding for regional and state-wide projects decreased in FY 2011 and is expected to decrease more in FY 2012. He clarified that funding for county programs has remained constant.

Mr. Thomas noted that the GOAP has distributed approximately \$2 million of federal stimulus dollars, through the Farm Energy and Efficiency Program, to 200 recipients, and that his agency would continue to act as a conduit to distribute any federal dollars available.

Responding to questions, Mr. Thomas said arbitration hearings have taken place over the last two years regarding non-participating tobacco manufacturers, and that the issue is still being argued by the Kentucky Attorney General. Mr. Thomas warned that if a state is found guilty of not diligently enforcing the monitoring of the sale of non-participating manufacturers' products, that state might be required to reimburse some, or all, of its Master Settlement Agreement (MSA) payment.

It was noted by one member that several 4-H positions remained unfilled in tobacco impacted counties, thereby affecting youth involvement in leadership programs.

Mr. Mark Haney, President, Kentucky Farm Bureau (KFB), explained that legislative policy issues for his agency start at the county level and are then forwarded to the state resolutions committee level for consideration. From there, resolutions are sent to the delegate body to be voted on. Mr. Haney said the Farm Bureau supports maintaining 50 percent of the MSA to the Agricultural Development Fund, funding the Breathitt Veterinary Center, adequately funding the Kentucky Department of Agriculture (KDA), supporting the Kentucky Proud program, and supporting the Kentucky Soil Erosion and Water Quality Cost-Share program. The Farm Bureau recommends that the General Assembly pay \$28 million in bond debt service, currently being taken from agriculture's portion of the MSA, from General Fund revenue.

Mr. Haney also reported supporting the rural secondary and county road aid program, continuing the 22.2 percent allocation of the state gasoline tax revenue for rural roads, maintaining the Property Tax Cap law, protecting property rights, enforcing Kentucky's trespass laws, and improving health care in Kentucky.

One other issue that Farm Bureau supports is allowing farmers to compost dead animals on the farm without having to acquire a permit. Mr. Haney stated that the KDA has agreed to repeal the permit requirement by filing an emergency regulation.

In response to a question, Mr. Haney stated that Kentucky Farm Bureau is against the Department of Labor's proposed regulation regarding utilization of child labor on farms. The Department of Labor needs to understand that most farms are family farms, and restricting certain types of child labor on the farm will be a hardship on farmers.

Ms. Tricia Houston, President, Community Farm Alliance (CFA), said small farms in Kentucky could become profitable by growing and marketing their products locally and regionally. Developing farmer's markets for all counties and supporting local food systems would help develop sales and benefit farmers. If Kentucky State Parks and at least one school district in every county utilized locally grown products, it could create a huge economic market for farmers.

Ms. Cassia Herron, Vice President, Metro-Louisville Food Policy Council, stated that the CFA has actively promoted Kentucky's agricultural food policy and community development landscapes. CFA brings a public voice to the public policy making process and is proud of its commitment to diversifying and rebuilding Kentucky tobacco farm families and communities. She said that CFA was instrumental in the creation of the Metro-Louisville Food Policy Council, which works to identify and propose innovative solutions to improve local and state food systems.

Mr. Ben Able, Treasurer, CFA, discussed issues pertaining to beginning farmers. He said Kentucky needs a comprehensive vision for the next generation of farmers, and that input from existing farmers, potential farmers, students, and landowners who are not farmers is important for creating that vision. There is a need for additional research and information on alternative agriculture enterprises.

Ms. Houston said the CFA would like to see Kentucky create a Kentucky Food Policy Council. In addition, CFA has policy goals for 2012, including working on public perception of food systems, initiating research on the economic health benefits of a local and regional food system, creating production and marketing support systems, and increasing low income population access to local food.

Dr. Linda Grimes, Mr. John Settles, and Mr. Keith Crawford, Kentucky Animal Control Advisory Board members, described the activities of the board, including providing grant money to counties for improving or constructing animal shelters and providing grants for spay and neuter programs. Dr. Grimes said

the board offers training to animal control officers. KDA has provided funds for training grants and equipments grants in the past, but because of budgets cuts, it is unable to provide funding to the board. Dr. Grimes stated that the last appropriation for shelter improvements or construction was \$3 million in 2008. The board had over \$6 million in requests for that money. On behalf of the board, Dr. Grimes requested that the General Assembly appropriate \$3 million for animal shelter improvements and construction over the next biennium.

In response to questions, Mr. Settles stated that the primary source of funding for local animal control enforcement comes from the local governing body. Money for improving shelters or constructing shelters has come from state funding. Dr. Grimes stated that the board has received numerous requests from counties concerning large animals. County shelters are not equipped to handle livestock. She said several counties have asked for funding to construct paddocks and for training on how to deal with large animals.

Dr. Perry Wornall and Dr. Ed Hall of the Kentucky Board of Veterinary Examiners stated that the board would like to update KRS Chapter 321, relating to veterinarians. Several clarifications and changes need to be made to conform the statutes to modern veterinarian practices.

Dr. Phil Craft, State Apiarist, KDA, stated that he is one of only two people in the state who work with an estimated 4,000 to 5,000 beekeepers. Current law relating to bees pertains mostly to diseases, but other issues such as parasites and non-native honeybees need to be addressed. Of particular concern is the importation of Africanized honeybees. Dr. Craft requested that the committee consider expanding the jurisdiction of the KDA to include parasites and undesirable races or subspecies of honeybees.

There being no further business, the meeting adjourned at 3:00 p.m.

INTERIMJOINTCOMMITTEE ON AGRICULTURE

Subcommittee on Rural Issues
Minutes of the 2nd Meeting
of the 2011 Interim
November 9, 2011

Call to Order and Roll Call

The 2nd meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture was held on Wednesday, November 9, 2011, at 10:00 AM, in Room 131 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; Senators David Givens and Paul Hornback; Representatives Will Coursey, Kim King, Tom McKee, Terry Mills, Steven Rudy, and Tommy Turner.

Guests: Representative Marie Rader; Todd Lewis, Executive Director, Attorney General's Office Special Prosecutions; Patrick Hughes, Deputy Attorney General; Mitch Denham, Assistant Deputy Attorney General; Karen Woodrich, State Conservationist, United States Department of Agriculture, Natural Resources

Conservation Service; Jerry Rickett, President and CEO, Kentucky Highlands Investment Corporation; Terry Aff, CEO, Stardust Cruisers; and Gregory Luhan, Associate Professor of Architecture, University of Kentucky.

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

Eastern Livestock case from the Attorney General's Office of Special Prosecutions

Todd Lewis, Executive Director, Attorney General's Office of Special Prosecutions, explained that the Office of the Attorney General began investigating the returned checks that were issued from the Metcalfe Buying Station in Edmonton immediately after being notified of possible wrongdoing. The Metcalfe County grand jury issued an indictment containing 173 criminal counts for individuals in Eastern Livestock Company. The indictment also listed the names of 172 victims who were cattle producers who sold at the Metcalfe Buying Station. Mr. Lewis stated that the Attorney General's Office was aware of other cattle producers who also suffered returned checks, but for venue purposes, the indictment listed only the persons who sold at Edmonton. The Bill of Particulars, which was recently filed, stated that from January 1, 2009 to November 10, 2010, the defendants participated in a criminal enterprise with five or more others on a continuing basis, the purpose of which was to commit theft. He said that the named defendants knew that the enterprise was engaged in obtaining property or services from others unlawfully. The first scheme was to defraud Fifth Third Bank by maintaining a set of falsified transactions on the books of Eastern Livestock, and the second scheme consisted of a massive check kiting operation.

Mr. Lewis said that, pursuant to legislative requests, the Attorney General's Office had been researching Kentucky's laws to identify areas of the Kentucky Revised Statutes that could be revised to prevent fraud of this magnitude from happening again. The recommendations were as follows:

1. Amend KRS 431.525 to clarify that a judge has the ability to consider the immense financial resources of a defendant when setting the defendant's bond.
2. Amend KRS 261.200 to more clearly define "buying station" and ensure that a single buying station would be subject to the same federal and state regulations and bonding requirements as stockyards.
3. Increase the bonding requirements in the stockyards statute.
4. Change the monthly requirement that stockyards report receipts to the Kentucky Department of Agriculture to a daily reporting requirement. Increase the penalty for not posting a bond for a flagrant and willful violator from a Class B Misdemeanor.
5. Add statutory language to authorize an investigator to require buying stations to immediately produce records to verify their compliance with relevant statutes and regulations.
6. Increase all the penalties in Chapter 261.
7. Grant the Attorney General's Office statewide jurisdiction over agricultural

fraud, and provide the resources necessary to investigate criminal activity.

In response to Representative Denham, Mr. Lewis stated that the last quoted figure for a nationwide loss from Eastern Livestock Company was approximately \$130 million. He said that eight to ten states were affected by the criminal activities and that there were three or four banks involved in the check kiting scheme.

In response to Representative Kim King, Mr. Lewis said that the current definition of a stockyard does not include individual sales conducted by Future Farmers of America, 4-H groups, county, state or private fairs, breeder livestock associations, or individual sales of livestock conducted by or for a person on his or her own premises.

In response to Senator Givens, Mr. Lewis said that the definition of a stockyard is set out in KRS 261.200(5). Mr. Lewis also gave a timeline of court action to be taken against the Eastern Livestock Company, but stated that no trial date had been set yet. He said that the Attorney General's Office was aware of lawsuits being filed against Fifth Third Bank by some of the named victims.

In response to Representative Kim King, Mr. Lewis said that the Attorney General's office has a Victims' Advocate Division and victims can contact that office for questions and assistance.

In response to Representative Rudy, Mr. Lewis stated that if a stockyard or the cattle marketing industry were to be federally classified as a highly regulated industry, then a state would be able to authorize investigators to demand that relevant records be provided immediately.

In response to Representative McKee, Mr. Lewis said that he was aware of only one other state to issue a warrant against one of the defendants.

USDA Natural Resources Conservation Service Programs Available to Rural Kentuckians

Karen Woodrich, State Conservationist, United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), stated that the mission of the USDA Natural Resources Conservation Service Program was to help people help the land. She said that the NRCS helped all 120 conservation districts in Kentucky deal with soil, water, air, plant, animal, human-effect, and energy issues. The Technical Assistance Program, the largest of NRCS's programs, worked with individuals to assess their needs from simple to complex. The most popular financial assistance program was the environmental incentives program. Both programs offered resources and assistance for making the best use of land conservation. In 2012, a new program will be available to focus on organic growers. Another popular program was the Wildlife Habitat Incentives Program that established good wildlife practices. The Emergency Watershed Protection Program was established to safeguard lives and property as a result of natural disasters. Beginning in 2012, areas must be declared federal disaster areas before funds can be requested. Ms. Woodrich also discussed several new smaller programs that will be available for 2012. She stated that there are 54 NRCS offices located across

Kentucky to help all of its residents with environmental conservation issues.

In response to Representative Denham, Ms. Woodrich said that some of the major conservational issues were soil erosion in western Kentucky, intense grazing pressure in central Kentucky, and forestry and surface mining control in eastern Kentucky. She further stated that enrollment for NRCS's programs was available year-round and that NRCS worked with other state agencies to assist in cost-sharing for fencing and other needs. In response to a question regarding the NRCS's Watershed Program that once included the building of lakes, Ms. Woodrich stated that it had been phased out at the national level.

In response to Representative Kim King, Ms. Woodrich stated that Anderson and Spencer Counties were most likely participating in some programs even though the map in the presentation may not have shown it.

In response to Representative McKee, Ms. Woodrich said that NRCS was anticipating a 10 percent federal funding cut, with possible cuts to some programs.

In response to Senator Hornback, Ms. Woodrich said she had no idea what programs would be affected with the anticipated decrease in federal funding. She said that NRCS receives approximately \$30 million in federal assistance dollars.

Houseboats to Residences Manufacturing Project in Southeastern Kentucky

Mr. Jerry Rickett, President and CEO of the Kentucky Highlands Investment Corporation (KHIC), stated that KHIC works in 22 counties in southeastern Kentucky investing in businesses. Since 2007, the loss of manufacturing and related jobs in southeastern Kentucky had resulted in 1,200 people being unemployed. Seeing the need for energy-efficient housing and employment, KHIC was working with the Center for Applied Energy Research and the School of Design at the University of Kentucky to help houseboat manufacturers build energy-efficient housing. Rural housing was a problem in southeastern Kentucky. Most homes were older mobile homes with no insulation, which caused families to struggle with paying their energy bills.

Mr. Gregory Luhan, Associate Professor of Architecture, University of Kentucky, discussed the interaction between the Kentucky Highlands Corporation, Stardust Cruisers, the Center for Applied Energy Research, and the UK College of Design for designing Houseboats to Energy Efficient Residences (HBEER). He said that the goal of the group was to design an energy-efficient residence for \$100,000 in order to meet the low-cost housing needs of southeastern Kentucky.

Mr. Terry Aff, President, Stardust Cruisers, explained the opportunities of diversifying from houseboat manufacturing to sustainable, high-efficiency houseboats. Stardust has completed the energy-efficient houseboat unit and hoped to complete a second unit soon. Stardust has built seven new boats averaging approximately \$700,000 each, and most are going overseas. Mr. Aff also stated that Stardust hoped to begin

constructing high-efficiency modular classrooms. Challenges facing Stardust include shipping, employee taxes, sales taxes, property taxes, and financing. The two largest obstacles are the unemployment tax rate and the property taxes on boats. He asked that the General Assembly consider making rate adjustments to those taxes.

In response to Representative Kim King, Mr. Luhan stated that the modular homes are built on rigid foundations. He testified that the homes were durable, well-built, and long-lasting. In the future, homes can be built with FEMA approved safe rooms in case of tornados.

Representative Rader expressed concerns over the lack of affordable, energy efficient homes for the low-income population.

In response to Representative Mills, Mr. Rickett stated that the \$100,000 prototype home contained 1,030 square feet.

In response to Senator McGaha, Mr. Rickett said that some of the heating equipment and certain types of trusses were not available for purchase in Kentucky. Otherwise, almost all of the materials used in the modular home were produced or made here in Kentucky.

There being no further business, the meeting was adjourned at 12:00 p.m.

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on
Postsecondary Education
Minutes of the 4th Meeting
of the 2011 Interim
October 27, 2011

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 27, 2011, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Arnold Simpson, Co-Chair; Representatives Melvin B. Henley, Reginald Meeks, Jody Richards, and Kevin Sinnette.

Guests: Bob King, President, Council on Postsecondary Education; John Hayek, Senior Vice President for Budget, Planning, and Policy, Council on Postsecondary Education; Dr. Aaron Thompson, Senior Vice President for Academic Affairs, Council on Postsecondary Education; and Dr. Melissa Bell, Director for Student Success, Council on Postsecondary Education.

LRC Staff: Kelly Dudley, Tom Willis, and Amie Elam.

National Center for Higher Education Management Systems (NCHEMS) Report

CPE provided an overview of a report conducted by the National Center for Higher Education Management Systems entitled "Realizing Kentucky's Educational Attainment Goal: A Look in the Rear View Mirror and Down the Road Ahead." President King and Dr.

Hayek explained that the report looks at the progress that the state has made during the past decade and what gains need to be made between now and 2020 to realize the college attainment and degree production goals set forth in the 1997 Postsecondary Education Improvement Act (HB 1 1997 Special Session).

In response to a question asked by Representative Simpson, Mr. Hayek stated that the figures in the report do not include Sullivan University's information. Representative Simpson stated that he would like to see technical training added to the data. President King stated that this report was based on census data which does not include technical training as a category of its own. Mr. Hayek stated that Sullivan University is included in the population degrees portion of the data.

In response to a question asked by Representative Simpson, President King stated that last week members of CPE attended a conference on how to help students recognize career pathways. The conference concentrated on job-focused advising and directing students away from unnecessary courses.

In response to a question asked by Representative Meeks, President King said that Kentucky is improving faster than any other state but because other states are improving as well it will take some time to close the gap. President King added that at the time the goal was set by the legislature reaching the national average would have positioned us to compete in a global economy but other countries are advancing so rapidly that Kentucky will need to surpass the national average to be able to compete.

In response to a question asked by Representative Meeks, President King answered that there is a flow of communication between CPE and Jefferson County to achieve education goals in the metropolitan area and increase the number of degree holding citizens by 55,000.

In response to a question asked by Representative Richards, President King answered that the financial aid program has grown tremendously since the decision was made to apply lottery proceeds to financial aid. President King added that actual spending per student has gone down. President King said that the state share of tuition has gone down while tuition continues to go up.

In response to a question asked by Representative Stacy, President King answered that in the strategic agenda the first part of the agenda is to help K-12 be successful by producing increasing numbers of students that are college ready. He added that by making K-12 more successful, the areas on the map in the report with lower degree attainments levels will see an increase in their numbers. Representative Stacy asked what the private universities were being asked to do, and if they were being held to the same standard as the public universities. President King answered that the private institutions were producing nearly 25 percent of graduates in Kentucky each year. He added that CPE has no budgetary or tuition setting control over private universities.

In response to a question asked by Representative Stacy, President King stated that the notion to be competitive

business wise and to make the universities more nimble and adaptable is being taken seriously. President King added that as technology improves there will be an increasing availability for students in all parts of the state to access higher learning.

In response to a question asked by Representative Henley, President King answered that, at the beginning of the 2000s, about 60 percent of the operating budgets in the institutions were financed through state support. He stated that number has declined to 50 percent. Enrollment is increasing, and, to address the impact of that growth, tuition will increase. President King stated that most enterprises do not hire PhDs and do not need the same amount of technological infrastructure that goes into a college campus, which puts pressure on raising tuition prices.

New Academic Programs Policy and Procedures

Dr. Aaron Thompson gave a presentation on the Council on Postsecondary Education's revised policy for approving new academic programs and new approach for reviewing existing academic programs at public institutions. Dr. Thompson indicated that CPE approved the revised policy for the approval of new academic programs and a new approach for the review of existing academic programs at its September 2011 meeting. He explained that the policies tie the two processes together with a focus on student learning outcomes, student and employer demand, academic needs, centrality to the institution's mission, consistency with the state's strategic agenda, and prevention of unnecessary duplication of programs at other state institutions.

In response to a question asked by Representative Meeks, Dr. Thompson answered that non-profit and private institutions follow the same process as public institutions. He added that there is a more complete group of people to review each campus at public institutions.

Representative Simpson asked Dr. Thompson and Dr. Bell to return to the next subcommittee meeting on November 29, 2011 to provide ample time for their presentation.

Representative Henley stated the importance of national accreditation of programs. He added that if a program is nationally accredited students can be assured a good education because these programs are reviewed every three to four years.

In response to a question asked by Representative Carney, President King answered that that last year the General Assembly passed legislation that would provide a new tax benefit for the creation of scholarships if they are done through a community foundation. He agreed that encouraging more employers to provide educational support to their workforces is essential.

Representative Simpson thanked Greg Rush for his time served as the analyst for the Postsecondary Subcommittee, and welcomed Kelly Dudley as the new analyst.

There being no further business before the committee, the meeting was adjourned at 12:09 PM.

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on
Postsecondary Education
Minutes of the 5th Meeting
of the 2011 Interim
November 29, 2011

Call to Order and Roll Call

The 5th meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 29, 2011, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Henley called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Senators Gerald A. Neal, and Ken Winters; Representatives Kelly Flood, Melvin B. Henley, Reginald Meeks, Jody Richards, Carl Rollins II, and Rita Smart.

Guests: Dr. Aaron Thompson, Senior Vice President for Academic Affairs, Council on Postsecondary Education (CPE). Allen Lind, Vice President for Technology and eLearning, Council on Postsecondary Education. Dr. Karla Hughes, Provost and Vice President for Academic Affairs, Morehead State University. Dr. Jay Box, Chancellor, Kentucky Community and Technical College System (KCTCS). Dr. Kumble Subbaswamy, Provost, University of Kentucky. Ken Walker, Vice President, KCTCS.

LRC Staff: Kelly Dudley and Amie Elam.

Representative Henley requested a motion to approve the minutes from the September 22, 2011 meeting. A motion was made and the minutes were approved without objection.

New Academic Programs Policy and Procedures

Representative Henley welcomed Dr. Thompson from CPE to give a presentation on the policy and procedures for approval of new academic programs.

In response to a question by Representative Rollins, Dr. Thompson responded that in the list of the most popular majors the popularity is based on the number of students enrolled in the particular program. Dr. Thompson stated that he would provide the committee with an expanded list of the most popular majors.

In response to a question by Representative Rollins, Dr. Thompson answered that there are only a small number of new programs that are denied but almost ninety percent of requests are sent back for more information. Dr. Thompson stated that the criteria for coursework at community colleges is aligned with the universities. Dr. Thompson stated that the institution determines the timeline for program reviews and it is often based on the accreditation process.

In response to a question by Representative Meeks, Dr. Thompson answered that the process for program review outlined in his presentation pertains only to public institutions. He added that request process for a new academic program usually takes six months from

beginning to end.

In response to a question by Representative Smart, Dr. Hughes answered that limited access to programs in the medical field is often due to lack of clinical sites and specific accreditation rules on the faculty to student ratio. Rotational clinical sites including weekend rotations have been added to create more access to these programs.

In response to a question by Representative Horlander, President King answered that CPE is developing a survey to ask employers about the preparedness of graduates and to get a sense of business needs around the state.

Trends in Planning and Budgeting for Virtual Education

Allen Lind gave a brief introduction of the university representatives, which included focus areas for strategic improvement and the growth rates of online learning.

In response to a question by Representative Smart, Dr. Box answered that at KCTCS face to face learning has an eighty-one percent student success rate, learn by term is seventy-seven percent, and learn on demand has a sixty-seven percent success rate.

In response to a question by Representative Henley, Dr. Hughes answered that teamwork is fostered through group assignments online and in the workplace. She added that Skype is also used for group projects.

KCTCS Capital Projects Prioritization Process

Ken Walker gave a presentation on the capital project prioritization process utilized by KCTCS. Mr. Walker explained that the process includes a Strategic Needs Analysis, evaluation by facility management staff, ranking according to KCTCS’s Six-year Capital Plan ranking criteria, review by 16 college presidents prior to submission to the Capital Planning Advisory Board, consideration by Capital Planning and Advisory Board, and approval by the KCTCS Board of Regents.

In response to a question by Representative Belcher, Mr. Walker answered that he would provide the committee with a list of capital projects criteria.

There being no further business before the subcommittee, the meeting was adjourned at 12:12 p.m.

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 6th Meeting of the 2011 Interim November 29, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 29, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Walter Blevins Jr., Joe Bowen, Tom Buford, Jared Carpenter,

Denise Harper Angel, Jimmy Higdon, Ray S. Jones II, Alice Forgy Kerr, Vernie McGaha, Gerald A. Neal, R.J. Palmer II, Joey Pendleton, Brandon Smith, Jack Westwood, and Mike Wilson; Representatives Royce W. Adams, John A. Arnold Jr., Dwight D. Butler, John “Bam” Carney, James R. Comer Jr., Ron Crimm, Mike Denham, Bob M. DeWeese, Kelly Flood, Danny Ford, Derrick Graham, Keith Hall, Richard Henderson, Jimmie Lee, Reginald Meeks, Lonnie Napier, Fred Nesler, Sannie Overly, Marie Rader, Jody Richards, Jim Stewart III, Tommy Turner, Jim Wayne, Alecia Webb-Edgington, Susan Westrom, and Brent Yonts.

Guests: Ms. Mary Lassiter, Secretary of the Governor’s Executive Cabinet and State Budget Director; Ms. Mary Elizabeth Harrod, Division of Employee Management, Personnel Cabinet; Mr. Robbie Perkins, Division of Technology Services, Personnel Cabinet; Mr. Mack Gillim, Executive Director of the Office of Processing & Enforcement; Department of Revenue; and Mr. Don Speer, Executive Director, Office of Procurement Services, Finance and Administration Cabinet.

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

Representative Ford moved that the minutes from the previous meeting be approved as written. The motion was seconded by Senator Westwood. The minutes were approved by voice vote.

Reductions mandated and gaps created by the budget for FY12

Ms. Mary Lassiter, Secretary of the Governor’s Executive Cabinet and State Budget Director gave an overview of FY12 budget balancing measures to be implemented by the Executive Branch. The secretary summarized cuts that have been implemented to date, and reported that agencies were informed that an additional cut of 2 percent would be implemented during FY12, noting that for the most part, state agencies exempt from prior cuts would also be exempted from the cuts in FY12. She noted that revenues are improving; however FY13 and FY14 will still be very challenging. The secretary reported that actual revenue collections continue to exceed the CFG forecast, and that a portion of those revenues will be used to balance the FY12 budget. Additional spending reductions will be imposed, including recurring savings from non-merit reductions during 2011, debt restructuring, and the 2 percent reduction. These measures will result in \$189.1 million in revenues to offset the projected shortfall. The secretary noted that despite our revenue shortfalls, Kentucky has still fared better than many states during the recession.

Mr. John Hicks, Deputy Budget Director, then discussed the potential impact of federal budget sequestration on Kentucky. He discussed the Budget Control Act of 2011, which set caps on federal discretionary spending for 2012 until 2021. The Act also established the “Supercommittee,” and put into place automatic procedures called Sequestration to reduce spending by \$1.2 trillion through 2021. The sequestrations will automatically be enacted on January 15, 2012, if Congress does not enact at least

\$1.2 trillion in deficit reductions measures by that time.

Mr. Hicks stated that the impact of federal sequestration would be felt in many areas of Kentucky. Sequestration would result in automatic, across-the-board cuts in budgetary resources to take effect in January of 2013, with 50 percent from defense and 50 percent from non-defense sources. Certain agencies are exempt from sequestration, including Medicaid, KCHIP, TANF, Supplemental Nutrient Assistance Program, foster care, Pell grants, highway traffic safety, and others. The largest areas which would not be exempt from sequestration cuts include education, Head Start, National Guard, clean & drinking water revolving fund, transit grants, aging programs, community block grants, Homeland Security, Employment Services, and LIHEAP, among others. It is estimated that the areas not exempt could see an 8.8 percent reduction in federal funding.

Recognition of committee member
Chairman Leeper presented Representative James R. Comer Jr. with a resolution honoring him for his years of service on the Appropriations and Revenue committee. Representative Nesler moved for the adoption of the resolution. The motion was seconded by Representative Ford. The motion carried by voice vote.

Representative Comer thanked the committee for the resolution and stated that he valued his service on the committee.

Implementation of the new personnel system

Mr. Robbie Perkins, Division of Technology Services, Personnel Cabinet, discussed implementation of the Kentucky Human Resources Information System (KHRIS). He reported that the system is the largest enterprise-wide technology transformation in the history of Kentucky state government. The new system replaced the payroll system, benefits administration system, life insurance system, and approximately 25 other systems used for human resource functions in state government. The system went live on April 4, 2011 and has been implemented with very few problems or issues. Some reports from the system for use in budgeting and planning purposes are currently available and others are in the final testing phases and will be available soon.

Mr. Robbie Perkins then discussed the various functions which will be combined within the new KHRIS system. These functions include organizational management, such as position control, workforce planning, and re-organization modeling. Personnel administration functions such as management of employee records and performance management will also be encompassed. Payroll, time and labor, and benefits administration will also be handled through the KHRIS system. KHRIS will eventually become a self service system, allowing employees and managers to manage their own information within the system.

Department of Revenue contingency fee contracts for collecting taxes

Mr. Mack Gillim, Executive Director of the Office of Processing & Enforcement; Department of Revenue informed the committee that an agreement between the

Department of Revenue/Finance Cabinet and ACS State and Local Solutions relating to assistance with corporate audits was not continued after the initial term, and that no taxes were collected which would have resulted in contingency fees being paid to ACS during the term of the agreement.

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

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, and Public Protection Minutes of the 1st Meeting of the 2011 Interim November 29, 2011

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 29, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Royce W. Adams, Co-Chair; Representatives Leslie Combs, Mike Denham, Adam Koenig, Tom McKee, Tanya Pullin, Steve Riggs, Tom Riner, and Wilson Stone.

Guests: Corey Kline, Special Assistant, Office of the Secretary, Finance and Administration Cabinet; Robin Morley, Special Assistant, Office of the Secretary, Finance and Administration Cabinet; Lynsey Womack-Denney, General Counsel, Department for Local Government; Jamie Mangeot, Local GovernmentAdvisor, Department for Local Government; Tamara Sandberg, Executive Director, Kentucky Association of Food Banks; Marion Guinn, CEO, God’s Pantry Food Bank; David Neville, Manager and Auctioneer, Capstone Produce Market; Brian Riendeau, Executive Director, Dare to Care Food Bank; and Walt Gaffield, Director of Administrative Services, Personnel Cabinet.

LRC Staff: Tom Willis, Frank Willey, Katherine Halloran, Perry Papka, Jennifer Rowe, and Spring Emerson.

Smart Government Initiative

Robin Morley and Corey Kline, Special Assistants, Office of the Secretary, Finance and Administration Cabinet, provided an overview of the Smart Government Initiative (SGI), which was launched in January 2010 by Governor Beshear.

In response to a question from Chairman Westwood regarding the self-insured fleet, Ms. Morley said there was a separate fund in the accounting system for the payment of claims and the agencies are issued a premium which is a source of revenue for the fund. She stated she would provide more information regarding investments at a later date.

In response to a question from Representative Stone, Ms. Morley said energy savings performance plans are components of a comprehensive energy

management plan for state facilities. Ms. Kline added that there is no statewide formal audit in place.

In response to questions from Representative Adams, Ms. Morley said reductions have been made in the number of vehicles in the fleet and global positioning systems (GPS) were installed in all state vehicles, which includes trucks as well as passenger vehicles. Ms. Morley will provide a summary of requirements for contractors' vehicles at a later date. She also said that practices were adopted and mandated for all vehicles owned and managed by the Division of Fleet Management, which is approximately 50 percent of the total state fleet. Those agencies which are not governed by the Executive Branch are encouraged to adopt those best practices.

In response to a question from Representative Denham, Ms. Morley said part of the audit process is comparing wireless telephone subscriptions to actual usage as well as comparing number of users and number of calls on landline telephones. Ms. Morley will provide actual savings realized by the SGI at a later date.

In response to a question from Chairman Westwood, Ms. Morley said health insurance projections are based on past claims history. She added that actual savings would not be realized until the first twelve-month period has passed.

Representative Riner commented that many of the small post offices in rural areas are facing possible closure as they try to cut back on expenses. He said if there is a decrease in postage, the post office would probably be cut, along with the jobs associated with it.

Area Development Fund

Lynsey Womack-Denney, General Counsel and Legislative Liaison, and Jamie Mangeot, Local Government Advisor and Manager of the Area Development Fund, Department for Local Government (DLG), provided an overview of the Area Development Fund.

In response to questions from Representative Adams, Ms. Womack-Denney said the variance in amounts in the Area Development Districts (ADDs) are the result of the 60/20/20 formula, based on population, manufacturing employment, and per capita income. Each county is allotted an amount based on that formula then it is distributed by the ADD. Ms. Mangeot said current regulations require that projects be completed within two years. Ms. Womack-Denney added that Area Development Funds are separate from coal severance dollars. She will provide information regarding the agency budget request at a later date.

In response to questions from Representative Koenig, Ms. Womack-Denney said funding is no longer based upon coal severance, it is now all General Fund dollars and is very important to local governments.

In response to a question from Chairman Westwood, Ms. Womack-Denney said priority is given to those who have matching funds. Ms. Mangeot added that the amount of matching funds depends on the project.

In response to a question from Representative Riggs, Ms. Womack-Denney said the local governments must

have balanced budgets in order to receive ADF dollars.

In response to a question from Representative Riner, Ms. Womack-Denney said she would work with him at a later date regarding the distribution of computer equipment being retired from manufacturers.

Kentucky Association of Food Banks

Tamara Sandberg, Executive Director, Kentucky Association of Food Banks; Marion Guinn, CEO, God's Pantry Food Bank; David Neville, Manager and Auctioneer, Capstone Produce Market; and Brian Riendeau, Executive Director, Dare to Care Food Bank, provided an overview of the Kentucky Association of Food Banks (KAFB) and the work they do to help alleviate hunger throughout the Commonwealth.

In response to a question from Representative Denham, Ms. Sandberg said the KAFB had distributed produce to 108 counties in Kentucky this past summer. She said the reason they were unable to distribute to all 120 counties was a volume issue, and produce had been allocated by the percent of poverty per district. She added that they would contact the Mason County Produce Auction.

In response to questions from Representative Adams, Ms. Sandberg said their budget request would go through the Department of Agriculture. She also said they work closely with the Kentucky Proud program, which had been very helpful in accessing the producers. Representative Adams commented that other states had been using this concept successfully for a number of years. He asked if the KAFB had looked into the Hunters for the Hungry program and Ms. Sandberg replied in the affirmative.

Representative McKee commented that the work KAFB does is extremely important and they are doing a great job meeting the challenges presented.

In response to a question from Representative Stone, Ms. Guinn said the food banks pursue other sources of benevolence in the community and could not operate without that support. She added that more than fifty percent of God's Pantry Food Bank's budget was made up of contributions from individuals, organizations, corporations, and foundations.

Representative Pullin commented that the local food bank in her district was originated with various church groups pulling together with a program called Helping Hands. She inquired as to why this group was not listed on the presentation. Ms. Guinn replied the Helping Hands group were a member agency in the network of food banks and would fall under the Huntington Area Food Bank, which although it is based in West Virginia includes three and one-half counties in Kentucky.

In response to a question from Representative Riggs, Ms. Sandberg said the funds received by the KADF were the result of a one-time grant.

Quasi-Governmental Employees Health Insurance Subsidy

Walt Gaffield, Director of Administrative Services, Personnel Cabinet, provided an overview of the State Group Health Fund as it relates to

quasi-governmental agencies.

In response to a question from Representative Adams, Mr. Gaffield said even though some agencies drop out of the program, others come in. He said three agencies are joining the plan in January.

In response to a question from Representative Koenig, Mr. Gaffield said not all counties are included and it is based upon the amount of money available. He added that it is not based on regulations, but rather on head counts. He also said that the Kentucky Bar Association and the Kentucky County Judge Executives Association were members last year.

In response to questions from Representative Riggs, Mr. Gaffield said those members listed as corporate entities fit the definition of quasi-governmental agencies, such as multi-county social services groups. He added that he would provide statutory information at a later date. He also said that quasi-governmental agencies must pay the same premiums and receive the same types of coverage.

There being no further business before the subcommittee, Chairman Westwood entertained a motion to adjourn. Motion was made by Representative Denham, seconded by Representative McKee, and the meeting was adjourned without objection at 11:52 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Justice and Judiciary

Minutes of the First Meeting

of the 2011 Interim

October 27, 2011

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 27, 2011, at 10:30 AM, in Room 149 of the Capitol Annex. Representative Jesse Crenshaw, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jesse Crenshaw, Co-Chair; Representatives Ron Crimm, Joni L. Jenkins, Martha Jane King, John Tilley, and Brent Yonts.

Guests: J. Michael Brown, Secretary of the Justice and Public Safety Cabinet; Charles Geveden, Deputy Secretary of the Justice and Public Safety Cabinet; Ladonna Thompson, Commissioner of the Department of Corrections; Rodney Brewer, Commissioner of the Kentucky State Police; and Ron Haws, Commissioner of the Department of Juvenile Justice.

LRC Staff: Mike Mullins and Christina Williams.

Chairman Crenshaw welcomed committee members and guests.

Department of Corrections Budget Update

Ms. Ladonna Thompson, Commissioner of the Department of Corrections, gave an update on the Department's budget status and expectations, and the plans the department has for the 2012-2014 biennial budget.

Commissioner Thompson and

Representative Tilley provided an update on a few aspects of House Bill 463.

In response to a question asked by Chairman Crenshaw, Commissioner Thompson stated that \$6 million was expected to be received for Northpoint Training Center from the insurance company, of which they have received \$4.5 million. She stated that there should be another \$1.5 million owed to them. In addition to the expected \$6 million, the department has received \$11 million for expenses incurred due to displacement of inmates.

In response to an inquiry from Chairman Crenshaw, Stephen Castle, Director of Administrative Services for the Department of Corrections, stated that the department is in negotiations with the insurance company because of items in dispute; therefore, it is difficult to say what the exact total receipts will be. Additional receipts are anticipated for housing of displaced inmates.

In response to a question asked by Chairman Crenshaw, Mr. Castle stated that items in dispute included prescription drugs and officer meal reimbursements necessary during the displacement period. Disputed receipts are not for a large sum of money.

In response to a question asked by Chairman Crenshaw, Commissioner Thompson stated that the Department expects to receive some federal Medicaid funds for inmate care; however, the department is in the early stages of acquiring the information needed to be able to receive those funds.

In response to a question asked by Chairman Crenshaw, Commissioner Thompson stated that she does not have an estimate as to how much money will be received by the department from federal Medicaid dollars. Mr. Castle stated that he was doubtful that the estimate would be available before the completion of the 2012-2014 biennial budget.

In response to a question asked by Representative Yonts, Commissioner Thompson stated that the difference between the \$18 million loss from the Northpoint Training Center riots and the \$6 million estimated to be received from the insurance company is being made up by the issuance of state bonds.

In response to a question asked by Representative Yonts, Commissioner Thompson stated that the statute that requires an increase in pay for officers has not been implemented.

In response to a question asked by Representative Yonts, Commissioner Thompson reassured Representative Yonts that the intent of House Bill 463 was to place inmates with substance abuse problems into mental health programs. He stated that he is receiving several letters per week from families of inmates and/or inmates that are paroled subject to completion of a substance abuse program. The letters state that some facilities have a six month to one year waiting list, or they do not have a program for the parolee to attend at all. Representative Yonts further stated that inmates who are getting into the program in parts of Eastern Kentucky are purposefully violating rules to be removed from it because the program director has problems with proper administration. Inmates are aware of this and refuse to go

there. Representative Yonts asked what is being done to address these issues.

Commissioner Thompson stated that the department has researched and contacted several resources. It is working with these resources to enable inmates to have a home placement and travel from home placement to the substance abuse program. She further stated that the department is looking into using some community mental health facilities for inmates to complete a substance abuse program. The department is looking into facilities that were used in the past for substance abuse programs to see if they are available for use.

Commissioner Thompson stated there are a large number of inmates who need the substance abuse program in order to be paroled, and it is certainly a problem. The department is in the process of addressing the problem.

Representative Yonts asked the department to provide a list of all the inmates within each facility who are eligible for parole contingent upon the completion of a substance abuse program, and a list that shows how many months of waiting time before the inmate is able to complete a substance abuse program. Commissioner Thompson stated that the department would provide the list.

Department of Kentucky State Police Budget Update

Commissioner Brewer gave an update on the Department of Kentucky State Police's budget status.

In response to a question asked by Chairman Crenshaw, Commissioner Brewer stated that there will be 60 new cadets graduating out of the most recent cadet training class.

In response to a question asked by Chairman Crenshaw, Commissioner Brewer stated that the next cadet training class will be an accelerated training class, and the targeted start date for that class is April 15, 2012.

In response to a question asked by Chairman Crenshaw, Commissioner Brewer stated that he believes the Trooper R Program, where retired officers can be hired back, has not materialized as expected because troopers are looking for the "catch." Few adjustments have been made to the program. He believes another reason for lack of interest in the program is that troopers are working harder and longer due to a smaller workforce. Troopers are unable to work all the federal overtime they are allotted regarding DUI enforcement, speed enforcement, and marijuana suppression due to increased workload during normal working hours. Troopers want and need a day off for safety concerns. Commissioner Brewer said that part of the lack of response to the Trooper R program is due to troopers having worked long and hard hours over the past few years, and retired troopers are moving on to other opportunities.

In response to a question asked by Representative Yonts, Commissioner Brewer stated that the department has not run the most recent salary comparison of Kentucky state troopers to state troopers in surrounding states. The previous year's salary comparison ranked Kentucky in the middle. To his knowledge, very few officers who retire or resign go on to other police agencies. Commissioner Brewer

stated that the few officers who move to other police agencies usually move to a local sheriff's department. Many of the troopers that the department loses are employed by federal agencies.

In response to a question asked by Representative Yonts, Commissioner Brewer stated that the new trooper vehicle will be a Chevy Caprice.

Department of Juvenile Justice Budget Update

Ron Haws, Commissioner of the Department of Juvenile Justice, gave an update on the department's budget status and the expectations.

In response to a question asked by Chairman Crenshaw, Commissioner Haws stated there are no immediate plans to reopen the Laurel Regional Juvenile Detention Center; however, there are plans to reopen the facility in 2014.

In response to a question asked by Chairman Crenshaw, Commissioner Haws stated that the buildings that housed the facilities in Lexington for the Bluegrass Treatment Center have been handed over to the Department of Finance since the facility's closure. He further stated that there are no plans to reopen the Bluegrass Treatment Center.

In response to a question asked by Chairman Crenshaw, Commissioner Haws stated that the possibility of closing additional youth centers would depend on the 2012-2014 biennial budget. He indicated that if things continue as they are currently, there will not be a need for additional closings.

In response to a question asked by Representative Tilley, Commissioner Haws stated that implementation of the Juvenile Detention Alternative Initiative (JDAI) program has begun in Henderson County. He stated that the internal structure and managing strategies are currently being set up. Commissioner Haws stated that he expects there will be approximately 365 juveniles who will not be placed in the juvenile justice system due to this program.

Representative Tilley stated that the program does not deal with children who commit crimes; rather, the program deals with children who are status offenders.

In response to a question asked by Representative Yonts, Commissioner Haws stated that approximately 20 percent of the juveniles were originally status offenders who were probated and are now assigned to the department because of probation violations.

In response to a question from Representative Yonts, Commissioner Haws stated that, if the status offender problem were solved by the JDAI program, and the department's budgetary needs were lessened because of that impact, the department would reallocate resources to assist in the probated category or to help find alternatives to detention.

Chairman Crenshaw thanked all in attendance and adjourned the meeting at 11:37 a.m.

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education
Minutes of the 5th Meeting

of the 2011 Interim

November 29, 2011

Call to Order and Roll Call

The 5th meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 29, 2011, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Henley called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Senators Gerald A. Neal, and Ken Winters; Representatives Kelly Flood, Melvin B. Henley, Reginald Meeks, Jody Richards, Carl Rollins II, and Rita Smart.

Guests: Dr. Aaron Thompson, Senior Vice President for Academic Affairs, Council on Postsecondary Education (CPE). Allen Lind, Vice President for Technology and eLearning, Council on Postsecondary Education. Dr. Karla Hughes, Provost and Vice President for Academic Affairs, Morehead State University. Dr. Jay Box, Chancellor, Kentucky Community and Technical College System (KCTCS). Dr. Kumble Subbaswamy, Provost, University of Kentucky. Ken Walker, Vice President, KCTCS.

LRC Staff: Kelly Dudley and Amie Elam.

Representative Henley requested a motion to approve the minutes from the September 22, 2011 meeting. A motion was made and the minutes were approved without objection.

New Academic Programs Policy and Procedures

Representative Henley welcomed Dr. Thompson from CPE to give a presentation on the policy and procedures for approval of new academic programs.

In response to a question by Representative Rollins, Dr. Thompson responded that in the list of the most popular majors the popularity is based on the number of students enrolled in the particular program. Dr. Thompson stated that he would provide the committee with an expanded list of the most popular majors.

In response to a question by Representative Rollins, Dr. Thompson answered that there are only a small number of new programs that are denied but almost ninety percent of requests are sent back for more information. Dr. Thompson stated that the criteria for coursework at community colleges is aligned with the universities. Dr. Thompson stated that the institution determines the timeline for program reviews and it is often based on the accreditation process.

In response to a question by Representative Meeks, Dr. Thompson answered that the process for program review outlined in his presentation pertains only to public institutions. He added that request process for a new academic program usually takes six months from beginning to end.

In response to a question by Representative Smart, Dr. Hughes answered that limited access to programs in the medical field is often due to lack of clinical sites and specific accreditation rules on the faculty to student ratio.

Rotational clinical sites including weekend rotations have been added to create more access to these programs.

In response to a question by Representative Horlander, President King answered that CPE is developing a survey to ask employers about the preparedness of graduates and to get a sense of business needs around the state.

Trends in Planning and Budgeting for Virtual Education

Allen Lind gave a brief introduction of the university representatives, which included focus areas for strategic improvement and the growth rates of online learning.

In response to a question by Representative Smart, Dr. Box answered that at KCTCS face to face learning has an eighty-one percent student success rate, learn by term is seventy-seven percent, and learn on demand has a sixty-seven percent success rate.

In response to a question by Representative Henley, Dr. Hughes answered that teamwork is fostered through group assignments online and in the workplace. She added that Skype is also used for group projects.

KCTCS Capital Projects Prioritization Process

Ken Walker gave a presentation on the capital project prioritization process utilized by KCTCS. Mr. Walker explained that the process includes a Strategic Needs Analysis, evaluation by facility management staff, ranking according to KCTCS's Six-year Capital Plan ranking criteria, review by 16 college presidents prior to submission to the Capital Planning Advisory Board, consideration by Capital Planning and Advisory Board, and approval by the KCTCS Board of Regents.

In response to a question by Representative Belcher, Mr. Walker answered that he would provide the committee with a list of capital projects criteria.

There being no further business before the subcommittee, the meeting was adjourned at 12:12 p.m.

INTERIMJOINTCOMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education
Minutes of the 4th Meeting
of the 2011 Interim
October 27, 2011

Call to Order and Roll Call

The 4th meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 27, 2011, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Representatives John "Bam" Carney, Will Coursey, Ted Edmonds, Rick G. Nelson, and John Will Stacy.

Guests: Bob King, President, Council on Postsecondary Education; John Hayek,

Senior Vice President for Budget, Planning, and Policy, Council on Postsecondary Education; Dr. Aaron Thompson, Senior Vice President for Academic Affairs, Council on Postsecondary Education; and Dr. Melissa Bell, Director for Student Success, Council on Postsecondary Education.

LRC Staff: Kelly Dudley, Tom Willis, and Amie Elam.

National Center for Higher Education Management Systems (NCHEMS) Report

CPE provided an overview of a report conducted by the National Center for Higher Education Management Systems entitled "Realizing Kentucky's Educational Attainment Goal: A Look in the Rear View Mirror and Down the Road Ahead." President King and Dr. Hayek explained that the report looks at the progress that the state has made during the past decade and what gains need to be made between now and 2020 to realize the college attainment and degree production goals set forth in the 1997 Postsecondary Education Improvement Act (HB 1 1997 Special Session).

In response to a question asked by Representative Simpson, Mr. Hayek stated that the figures in the report do not include Sullivan University's information. Representative Simpson stated that he would like to see technical training added to the data. President King stated that this report was based on census data which does not include technical training as a category of its own. Mr. Hayek stated that Sullivan University is included in the population degrees portion of the data.

In response to a question asked by Representative Simpson, President King stated that last week members of CPE attended a conference on how to help students recognize career pathways. The conference concentrated on job-focused advising and directing students away from unnecessary courses.

In response to a question asked by Representative Meeks, President King said that Kentucky is improving faster than any other state but because other states are improving as well it will take some time to close the gap. President King added that at the time the goal was set by the legislature reaching the national average would have positioned us to compete in a global economy but other countries are advancing so rapidly that Kentucky will need to surpass the national average to be able to compete.

In response to a question asked by Representative Meeks, President King answered that there is a flow of communication between CPE and Jefferson County to achieve education goals in the metropolitan area and increase the number of degree holding citizens by 55,000.

In response to a question asked by Representative Richards, President King answered that the financial aid program has grown tremendously since the decision was made to apply lottery proceeds to financial aid. President King added that actual spending per student has gone down. President King said that the state share of tuition has gone down while tuition continues to go up.

In response to a question asked by

Representative Stacy, President King answered that in the strategic agenda the first part of the agenda is to help K-12 be successful by producing increasing numbers of students that are college ready. He added that by making K-12 more successful, the areas on the map in the report with lower degree attainments levels will see an increase in their numbers. Representative Stacy asked what the private universities were being asked to do, and if they were being held to the same standard as the public universities. President King answered that the private institutions were producing nearly 25 percent of graduates in Kentucky each year. He added that CPE has no budgetary or tuition setting control over private universities.

In response to a question asked by Representative Stacy, President King stated that the notion to be competitive business wise and to make the universities more nimble and adaptable is being taken seriously. President King added that as technology improves there will be an increasing availability for students in all parts of the state to access higher learning.

In response to a question asked by Representative Henley, President King answered that, at the beginning of the 2000s, about 60 percent of the operating budgets in the institutions were financed through state support. He stated that number has declined to 50 percent. Enrollment is increasing, and, to address the impact of that growth, tuition will increase. President King stated that most enterprises do not hire PhDs and do not need the same amount of technological infrastructure that goes into a college campus, which puts pressure on raising tuition prices.

New Academic Programs Policy and Procedures

Dr. Aaron Thompson gave a presentation on the Council on Postsecondary Education's revised policy for approving new academic programs and new approach for reviewing existing academic programs at public institutions. Dr. Thompson indicated that CPE approved the revised policy for the approval of new academic programs and a new approach for the review of existing academic programs at its September 2011 meeting. He explained that the policies tie the two processes together with a focus on student learning outcomes, student and employer demand, academic needs, centrality to the institution's mission, consistency with the state's strategic agenda, and prevention of unnecessary duplication of programs at other state institutions.

In response to a question asked by Representative Meeks, Dr. Thompson answered that non-profit and private institutions follow the same process as public institutions. He added that there is a more complete group of people to review each campus at public institutions.

Representative Simpson asked Dr. Thompson and Dr. Bell to return to the next subcommittee meeting on November 29, 2011 to provide ample time for their presentation.

Representative Henley stated the importance of national accreditation of programs. He added that if a program is nationally accredited students can be assured a good education because these

programs are reviewed every three to four years.

In response to a question asked by Representative Carney, President King answered that that last year the General Assembly passed legislation that would provide a new tax benefit for the creation of scholarships if they are done through a community foundation. He agreed that encouraging more employers to provide educational support to their workforces is essential.

Representative Simpson thanked Greg Rush for his time served as the analyst for the Postsecondary Subcommittee, and welcomed Kelly Dudley as the new analyst.

There being no further business before the committee, the meeting was adjourned at 12:09 PM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education
Minutes of the 5th Meeting
of the 2011 Interim
November 29, 2011

Call to Order and Roll Call

The 5th meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, November 29, 2011, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Henley called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Senators Gerald A. Neal, and Ken Winters; Representatives Will Coursey, Dennis Horlander, Charles Miller, Carl Rollins II, and John Will Stacy.

Guests: Dr. Aaron Thompson, Senior Vice President for Academic Affairs, Council on Postsecondary Education (CPE). Allen Lind, Vice President for Technology and eLearning, Council on Postsecondary Education. Dr. Karla Hughes, Provost and Vice President for Academic Affairs, Morehead State University. Dr. Jay Box, Chancellor, Kentucky Community and Technical College System (KCTCS). Dr. Kumble Subbaswamy, Provost, University of Kentucky. Ken Walker, Vice President, KCTCS.

LRC Staff: Kelly Dudley and Amie Elam.

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KCTCS Capital Projects Prioritization Process

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In response to a question by Representative Belcher, Mr. Walker answered that he would provide the committee with a list of capital projects criteria.

There being no further business before the subcommittee, the meeting was adjourned at 12:12 p.m.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 2nd Meeting of the 2011 Interim
November 22, 2011

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, November 22, 2011, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Julie Denton, Dennis Parrett, Dorsey Ridley, John Schickel, Dan “Malano” Seum, and Brandon Smith; Representatives Dwight D. Butler, James R. Comer Jr., Will Coursey, Ron Crimm, Robert R. Damron, Joseph M. Fischer, Danny Ford, Jim Gooch Jr., Sara Beth Gregory, Mike Harmon, Dennis Horlander, Brent Housman, Dennis Keene, Adam Koenig, Michael Meredith, Brad Montell, Sannie Overly, Ryan Quarles, Jody Richards, Steve Riggs, Arnold Simpson, Kevin Sinnette, Wilson Stone, Tommy Thompson, and John Tilley.

Guests: Debra Stamper, General Counsel, John Cooper, Governmental Affairs, Kentucky Bankers Association; Sharon Clark, Commissioner, D J Wasson, Legislative Liaison, Department of Insurance; Thad Connally, President, First Choice Medical Equipment and Teresa Camfield, Executive Director, Medical Equipment Suppliers Association.

LRC Staff: Rhonda Franklin, Sean Donaldson, Jens Fugal and Jamie Griffin.

Dodd-Frank Wall Street Reform Act

Debra Stamper, General Counsel, Kentucky Bankers Association addressed the committee regarding the potential impact of the Dodd-Frank Wall Street Reform Act on state banks, including: burdensome regulation that was intended for the banks that were “too big to fail”, which should not include the smaller state banks; the need to regulate providers of non-traditional financial services with the same level of scrutiny as banks; and the need to ensure that consumers have the information needed to make informed financial decisions.

She stated that the areas being reviewed by the state bankers for amendment include: changes to the Uniform Commercial Code statutes that would maintain the ability of Kentucky businesses to enter into transactions consistently; changes necessary under the Dodd-Frank Wall Street Reform Act; changes to statutes to conform to actual current business practices; and changes that would require additional notices and reasonable restrictions on third party tax purchasers to protect communities, citizens, and banks.

In response to a question from Representative Montell asking if Congress should rework the Dodd-Frank Act. Ms. Stamper stated there are some parts that work, but there is an error in application. Mr. Cooper stated that Congress realizes that the Dodd-Frank Act overreaches and has hurt community banks. He stated that

there would be amendments to the Act in 2012.

In response to a question from Representative Simpson asking if Dodd-Frank targets investment banks, Ms. Stamper replied yes.

Sharon Clark, Commissioner, Department of Insurance, addressed the committee regarding potential legislation for the 2012 session, stating that the department’s legislation would focus on consumer protection and departmental administration. Consumer protection legislation would redefine “dependent for life” for life insurance purposes. Other consumer protections would include property insurance protections to: prohibiting or limiting cancellations and nonrenewal of property insurance due to a lack of or minimal credit history or cancellation of a policy based on the volume of inquiries regarding credit history; establishing responsibility of an insurance agency for an agent’s action; and prohibiting previous year’s audit as the basis for cancellation. Health insurance legislation would incorporate the Affordable Care (Act) provisions already in effect. The commissioner stated that without specific legislation addressing the provisions of the Act, as well as clarification of the Commissioner’s enforcement authority, Kentucky’s regulatory power over domestic insurance companies may be in jeopardy.

In response to a question from Representative Thompson regarding an update on the development of a health benefit exchange, Commissioner Clark stated that the representatives of the Department of Insurance have been working with Janie Miller, Commissioner for the Cabinet for Health and Family Services, and her staff to have a proposal ready for the 2012 Regular Session, and would defer questions to Commissioner Miller regarding health benefit exchange legislation. Representative Thompson asked that Commissioner Miller be invited to the first committee meeting of the upcoming 2012 Regular Session to update the committee.

Cancellation of Existing Home Medical Equipment Provider Contracts

Thad Connally, President & Owner, First Choice Home Medical Equipment, and Teresa Camfield, Executive Director, Medical Equipment Suppliers Association, addressed the cancellation of existing home medical equipment provider contracts with one of the state’s largest health insurers. The cancellation of the provider contracts was due to a provider contract entered into between the health insurer and Apria, a national home medical equipment provider located in another state. Mr. Connally stated home medical equipment medical equipment providers would seek licensure of members of their industry and their inclusion in the definition of “any willing provider” to ensure participation of Kentucky’s home medical equipment providers in contracts with health insurers for home medical equipment. Bill Spear, Humana, stated that the contract with the national medical equipment provider was not exclusive, but clinical management of over 2,000 home medical equipment providers nationwide was too difficult and the contract with a national provider was

more manageable.

In response to a question from Representative Riggs regarding why exclude a home medical providers were excluded and why they are not considered “any willing provider”, Mr. Spear stated that they are not excluded, but Humana will evaluate the need and make the decision whether to do business with the local home medical equipment provider or APRIA. Senator Buford noted that the language in the Kentucky Revised Statute is not specific to home medical providers as any willing providers. Representative Riggs stated that he feels Humana is taking advantage of a loophole. Representative Richards stated that he fears this could harm small businesses and he will be requesting legislation to help the home medical equipment providers.

With no further business, the meeting adjourned.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Minutes of the 6th Meeting of the 2011 Interim
November 17, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, November 17, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Leslie Combs, Co-Chair; Senators Jared Carpenter, Julian M. Carroll, Julie Denton, Denise Harper Angel, Ernie Harris, Jerry P. Rhoads, Katie Kratz Stine, and Jack Westwood; Representatives Julie Raque Adams, Royce W. Adams, Linda Belcher, Will Coursey, Jim DeCesare, Mike Denham, Myron Dossett, Ted Edmonds, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Dennis Horlander, Wade Hurt, Dennis Keene, Thomas Kerr, Kim King, Adam Koenig, Donna Mayfield, Tom McKee, Terry Mills, Fred Nesler, David Osborne, Ruth Ann Palumbo, John Short, Fitz Steele, Wilson Stone, Addia Wuchner, and Jill York.

Guests: Larry Kranking, President and Chief Executive Officer, Coldstream Laboratories, Inc.; Gene Fuqua, Executive Director, Office of Commercialization and Innovation, Kentucky Cabinet for Economic Development; Barry Alberts, Interim Director, Muhammad Ali Center; Eric Gregory, President, Kentucky Distillers’ Association; and Mike Kuntz, Founder and Coordinator, Bourbon Chase Relay.

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

Approval of Minutes

A motion and second by Representatives Hall and Keene to approve the minutes of the October 20, 2011, meeting passed by voice vote.

Biotech Firms, Attraction and Retention

Larry Kranking, president of

Aveta Lifesciences and Coldstream Laboratories, gave a presentation that centered upon how site selection firms see Kentucky in comparison to other states, and what Kentucky should do to increase its ability to attract high-tech businesses. He began by stating that *Site Selection* magazine, in its November 2011 issue, ranked Kentucky 19th in the nation in terms of “business climate,” with Texas being ranked 1st, Tennessee 8th, and Ohio 9th; in a survey of business executives, Kentucky was ranked 31st. He said that because Kentucky has so much to offer in terms of location, labor availability, and other factors, the marketing of the state to business must be called into question.

Mr. Kranking said that if information cannot be found on the internet, then it figuratively does not exist. Because so many states and localities are competing to recruit businesses, time constraints serve to place emphasis upon information being readily and easily accessible to business leaders. Therefore the state should make every effort to have needed information on every database possible.

The state should make every effort to seek foreign direct investment. 18 percent of new business facilities are foreign owned, with foreign direct investments worth over \$1.7 trillion, resulting in the creation of 5 million jobs. Business sites should be “shovel ready” and business parks should be certified.

In regard to skilled labor, Deloitte’s Manufacturing Institute survey found that there is a 600,000 person deficit of available skilled labor, with the number increasing in the next three years. A Tower and Watson survey found that 60 percent of US companies have problems attracting critical skilled employees. As a result, business location decisions are often based upon the availability of skilled labor.

A strong alliance between Kentucky’s universities and the business community is critical to fostering high-tech firms. Research being conducted at the University of Kentucky and the University of Louisville gives Kentucky a world-class standing and attracts the best talent from around the globe, but recent budget cuts in higher education are causes for concern. He asked the question, “Stanford, Duke, UNC-Chapel Hill and North Carolina State are technology transfer powerhouses, but can Kentucky be a powerhouse?”

Mr. Kranking emphasized the need for Kentucky to “tell its story” in terms of what assets and attributes it can offer to businesses. He said that the quality of the region, low manufacturing costs, and a good business and work environment need to be emphasized. He praised the Cabinet for Economic Development for the variety of financial and incentive programs designed to assist small business owners, and he said that the Kentucky matches in both phases of the federal Small Business Innovation Research (SBIR) and Small Business Technology Transfer programs were working effectively in the state.

The availability of capital is a key for small business development. He said that banks are increasingly reluctant to provide lending to small businesses, and that angel investors are needed to help with start-up businesses. The state should consider ways to help small businesses secure lending.

In response to a question from Representative Keene about a declining number of international air connections in Kentucky, Mr. Kranking said that while it does have some impact on business location decisions, of equal importance is maintaining an adequate number of flights to major airline hubs such as Chicago and Atlanta.

Representatives Adams and DeCesare urged Mr. Kranking to visit and consider the research and development efforts at other universities throughout the state; particularly the National Institutes of Health grant awards at the University of Louisville and Western Kentucky University's efforts in applied research and development, respectively.

Gene Fuqua, Executive Director, Office of Commercialization and Innovation, Cabinet for Economic Development, addressed the committee about the cabinet's efforts to recruit and develop high-tech firms and to assist start-up companies. He noted that the entrepreneurial activity growth rate in Kentucky was the third fastest nationally in 2008-2010, and the fifth fastest nationally over the past decade. Kentucky has recently been the host to several major national conferences such as the MidAmerica Healthcare Venture Forum and the 2012 National Institutes of Health SBIR-STTR Conference, and these conferences are important to showcase Kentucky's resources and to lure business to the state. Kentucky has labored to develop its high tech infrastructure, with examples including numerous centers such as the Eastern Kentucky University Business and Technology Center, MetaCyte, LLC, Murray State University Innovation and Commercialization Center, and the University of Louisville Cardiovascular Innovation Institute, to name but a few, that are located throughout the state.

Startup business plays a critical role in job creation. He noted that virtually all net new jobs have been created by startup companies since 1977. The cabinet employs both incentive-based strategies and other funding mechanisms to assist startup businesses, and since 2006, the SBIR matching program has resulted in 12 high-tech firms locating in Kentucky. Kentucky lacks in sufficient venture capital, however, ranking 42nd in 2010, and efforts are underway to increase the availability of seed capital.

The Cabinet for Economic Development is making numerous and varied efforts to develop and assist entrepreneurial activity in the Commonwealth. The high-tech pool has 48 active companies, with over \$15 million awarded, resulting in a projected 960 high-tech jobs having an average annual salary of over \$66,000. These awarded have gone to 19 counties throughout the state. The Kentucky New Energy Ventures Fund has awarded \$3.19 million to 28 Kentucky companies involved in renewable and alternative energy, with 18 of the awards going to firms located in rural counties. The Cabinet has sponsored a competition in business plans to develop entrepreneurial talent at public universities. Last April, an all-time high of 20 student teams from all 8 public universities competed, with some going on to national and international competitions.

One team, TNG Pharmaceuticals and the University of Louisville, won over \$800,000 in 2011 after winning the Rice University Business Plan Competition and the Global Championship at the Venture Labs Investment Competition.

The Muhammad Ali Center

Barry Alberts, Interim Director, and Jeanie Kahnke, Vice President of Public Affairs and Communications, Muhammad Ali Center, gave a presentation about the Ali Center, its mission and goals. The center was built to preserve and share the legacy and ideals of Muhammad Ali, and in that sense it is more than a history museum for Ali's boxing career. The center encourages visitors to come away from their experience knowing more about themselves and what they can do to positively impact their communities by seeing how Muhammad Ali was able to change lives through his efforts.

The center was built through a \$10 million contribution by the state, \$48 million in private donations, 50 percent of which was from out-of-state donors, and a \$22 million in-kind funding by the city of Louisville. The center has 93,000 square feet, a 3-floor state-of-the-art exhibit hall, galleries, classrooms, an auditorium, a library, and a retail store. It has received over a half million visitors, 50 percent of whom are from out of state, and the center hosts over 300 events annually. The center has also won numerous awards, including the "Best Museum Environment, 2006" award, and the "Best New Attraction in North America, 2006" award.

In response to a question from Representative Stone, Mr. Alberts explained that the center cannot support itself from revenues earned by admissions, rentals, and sales, and that as with most non-profit museums, it relies on outside funding.

Kentucky Bourbon Trail

Eric Gregory, President, Kentucky Distillers Association, discussed the background of the Kentucky Distillers Association and the impact of bourbon production in Kentucky. Kentucky produces 95 percent of the world's bourbon, and in response to rapidly escalating demand, production has increased by more than 50 percent since 1999. Driving market demand is premium, small batch bourbon. Currently there are more than 5 million barrels of bourbon aging in warehouses in Kentucky, which is the biggest total inventory since 1982. The 2011 tax assessed value is \$1.5 billion.

Bourbon production in Kentucky is directly responsible for 3,200 jobs having an annual payroll of \$244 million. The distilling industry has a high job multiplier (3.29), which ranks 4th among the 244 manufacturing industries in the Commonwealth. This means that bourbon production is responsible for a total economic impact of 10,000 jobs having an annual payroll of \$442 million. Additionally, \$125 million annually is generated in state and local taxes. There are seven different taxes on every bottle of bourbon produced in Kentucky, and nearly 60 percent of every bottle of spirits goes to taxes. Kentucky bourbon is exported to 126 countries, with England, Germany, Australia, Japan, France, and Spain being top importers of the product.

Bourbon tourism is growing rapidly

in Kentucky. Maker's Mark spent \$54 million to enhance its visitors' experience, increase distillation capacity, and supplement its warehouse. Wild Turkey spent \$50 million to double distilling capacity, and Jim Beam spent \$28 million to increase bottling, which resulted in 120 new jobs. Four Roses recently completed a \$2 million office building and expansion of its visitors' center and gift shop.

Kentucky's Bourbon Trail, which was created in 1999 and modeled after wine country tours in California and whisky trails in Scotland, has had visitors from all 50 states and 52 countries. It has received nearly 2 million visits in the last 5 years, and over 9,000 visitors have completed the "passport" tour of all participating distilleries. The demographics of Bourbon Trail tourists show that 50 percent have annual household incomes greater than \$80,000, 61 percent are 21-54 years old, and 85 percent come from out of state. Fifty-one percent stayed three or more days, and 70 percent stayed in a hotel or bed and breakfast.

Mike Kuntz testified about the Bourbon Chase Relay along the Bourbon Trail. It was the third year for the event, and it has sold out each time. The relay is a 200 mile race that links all distilleries along the Bourbon Trail, starting at Clermont and ending in Lexington, and teams of 12 runners literally race through the night. Over 1,000 volunteers staffed the race. There were 262 teams from 44 states and 3 countries, and over \$140,000 was raised this year to benefit local charities. The 2012 race is September 28-29, with registration opening January 2. The race is so popular that it is expected to sell out within days.

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

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 6th Meeting of the 2011 Interim

November 14, 2011

Call to Order and Roll Call

The sixth meeting of the Interim Joint Committee on Education was held on Monday, November 14, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Ken Winters, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Walter Blevins Jr., Jared Carpenter, David Givens, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Vernie McGaha, Gerald A. Neal, R.J. Palmer II, Johnny Ray Turner, Jack Westwood, and Mike Wilson; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Leslie Combs, Ted Edmonds, C. B. Embry Jr., Bill Farmer, Kelly Flood, Jim Glenn, Derrick Graham, Donna Mayfield, Reginald Meeks, Charles Miller, Ruth Ann Palumbo, Ryan Quarles, Marie Rader, Jody Richards, Tom Riner, Rita Smart, Wilson Stone, Ben Waide, Alecia Webb-Edgington, Addia Wuchner, and Jill York.

Guests: Jim Thompson, Education and Workforce Development Cabinet; Erin Klarer, Kentucky Higher Education

Assistance Authority and Kentucky Higher Education Student Loan Corporation; Wayne Young, Kentucky Association of School Administrators; Sue Cain, Council on Postsecondary Education; and Clyde Caudill, Kentucky Association of School Administrators and Jefferson County Public Schools.

LRC Staff: Kenneth Warlick, Jo Carole Ellis, Ben Boggs, Sandy Deaton, Janet Stevens, Lisa W. Moore, and Daniel Clark.

Approval of the October 10, 2011, minutes

Representative Combs moved to approve the minutes of the October 10, 2011, meeting, and Representative Collins seconded the motion. The minutes were approved by voice vote.

Reports of the Subcommittee Meetings

Representative Meeks reported on the Subcommittee on Postsecondary Education. He said the subcommittee heard presentations about international initiatives for college students and an analysis of the statewide high school assessment results from a postsecondary perspective.

Dr. Ted Farrell, President of Education Kentucky, Inc., presented information about international students attending Kentucky's universities including the benefits such students bring to the Commonwealth and the barriers to their coming here.

Dr. Anthony Ogden, Chair of the Kentucky Council on Education Abroad, and Dr. Chris Bierwirth, Executive Director of the Kentucky Institute for International Studies, gave an overview of study abroad programs for Kentucky students and discussed the benefits such programs provide to Kentucky students and the Commonwealth.

Representative Meeks said former Governor Martha Layne Collins provided her insight on the benefits of global engagement to the Commonwealth. She stressed the importance of international markets to Kentucky's economic future and how strong the competition is for that business. She noted economic development and education go hand-in-hand, and international study programs can lay the groundwork to help Kentucky be more prosperous.

Dr. Sue Cain and Dr. Aaron Thompson with the Council on Postsecondary Education (CPE) presented an analysis of the statewide high school assessment results. They discussed the efforts underway as a result of Senate Bill 1 and the successes already being seen as a result. They provided data that showed Kentucky is making improvements in college readiness; however, they said there is still a long way to go, particularly in closing the gaps for minority and low-income students.

Representative Edmonds reported on the Subcommittee on Elementary and Secondary Education. The subcommittee heard from two school superintendents and two university presidents about the collaborative efforts underway to help Kentucky's students be successful following high school graduation.

Mr. Bert Hensley, Superintendent of Estill County Schools, and Mr. Tommy Floyd, Superintendent of Madison County

Schools, discussed various programs being implemented in their districts. The “Excellence for All” program that started this year in Estill County has 41 freshmen enrolled in an accelerated program that will allow them to receive a high school diploma in two years. The “Middle College” program in Madison County has enrolled 39 juniors that have the ability to earn 18 college credit hours while still enrolled in high school. Included in these programs are some students who would typically not be considered “college bound.”

Representative Edmonds said to decrease the number of college freshmen who have to enroll in developmental math and English courses, Eastern Kentucky University and Morehead State University have offered these same developmental courses at the high school level. This allows students to enter college with those classes completed. Students and their families have saved approximately \$200,000 since they have not had to pay the cost for non-credit bearing college courses.

Morehead State University President Wayne Andrews and Eastern Kentucky University President Doug Whitlock discussed their partnerships with the high schools located in their areas. They explained the importance of Senate Bill 1 and the positive impact it has had across the state in focusing the collaborative efforts between the CPE, the Education Professional Standards Board (EPSB), the Kentucky Department of Education (KDE), the colleges and universities, and the local schools.

Both superintendents and both college presidents expressed appreciation to the General Assembly for keeping education a priority during difficult budgetary times.

Staff from the Early Childhood Education Center in Anderson County gave testimony of the importance of early childhood education. They explained the significance of early intervention and thanked the members for their continued support.

Update on Kentucky’s Postsecondary Education Performance and Accountability System and Implementation of HB 160 (2010), Transfer of College Credits

Bob King, President, CPE, said Kentucky leads the nation in the rate of improvement between 2000 and 2009. Mr. King credited the legislature and former Governor Patton for having the foresight to enact House Bill 1 in 1997 and the structure it created to foster the improvement that Kentucky is experiencing.

Mr. King said Kentucky’s strategic agenda consists of four focus areas: college readiness; student success; research, economic, and community development; and efficiency and innovation. He gave an overview of the performance metrics and the statewide, institutional, and regional targets that will be utilized to measure progress in the four focus areas. The specific charts are located in the meeting folder in the Legislative Research Commission (LRC) library.

Mr. King said CPE is requesting \$25 million for the performance funding in 2012-2014. The money would only be distributed to the campuses if they achieve

the targets in the four areas set out for their individual campuses. If the campuses do not earn the money in the first biennium, it is recommended that the money be carried over to a second biennium.

In response to a question from Senator Winters, Mr. King said the universities do not receive any funding for performance at this time. He said years ago, there was an effort to institute a performance funding model and it was not long lasting. Dr. Thompson said a retention and enrollment trust fund was introduced in 2000 that was performance based. He said many universities took advantage of this funding for a two-year period.

Representative Waide commended CPE and the legislative body on expanding doctoral programs to regional universities during the last regular session. He attended a reception at Western Kentucky University celebrating the implementation of the new doctor of physical therapy program. He noted there were many employers in the area eager to meet these students and thankful for the program.

In response to questions from Senator Givens, Mr. King said Kentucky is a leader in the nation in its efforts to align standards and expectations between K-12 and postsecondary education. However, in the coming decade, higher education leaders and policymakers must work even harder to clearly define postsecondary education’s role in community and economic development, ensure greater success in the transformation of research into high-skill job creation, and build more effective relationships between the postsecondary enterprise and the entities charged with workforce and economic development. Dr. Thompson said he hopes all universities reach their statewide targets. Mr. King said it is more important for the universities to be internationally competitive than reaching the national average.

In response to questions from Representative Rollins, Mr. King said the \$25 million being requested for performance funding is in addition to baseline funds. Representative Rollins said he felt the money should come from existing funds, which is equivalent to two percent of the overall higher education budget.

Mr. King said he understands the difficult decisions that legislators must make during session regarding the budget. It was important to CPE to: 1) institute the notion of tying at least some of the funding to performance and 2) to make a clear model that is easy to understand and would easily convey to the legislative body or to the public whether or not a university was performing. He said there are performance funding models around the country that ensure all campuses get 100 percent of the money, and this is not what CPE desires. They want to create some metrics that are easy to understand and ascertain whether or not campuses are achieving specific targets. The model is supported by the campus presidents and the provosts across the public universities. CPE would like to use the performance funding as an incentive system and not a penalty system.

Responding to a question from Senator Winters, Mr. King said that universities that offer specialized

accreditation programs will not have to adhere to the degree being 120 hours or less. He agreed with Senator Winters that this could be counterproductive to performance.

Responding to Senator Westwood, Mr. King said the regional targets are indicators of trends for Kentucky to track in specific service regions. He said if a particular group of schools are not improving significantly, these numbers should be monitored and used to gauge improvement and assist in policy development. It will indicate eighth and tenth grade students who are not on track to perform well on the ACT and allow time for intervention to get them prepared for college.

Dr. Thompson said CPE is on track to accomplish the goals of House Bill 160 and the KnowHow2Transfer website should be ready by January 1, 2012. He said the Kentucky Transfer Action Plan is an agreement that was reached to base transfer on common learning outcomes instead of specific courses. He described the Kentucky Transfer Action Plan and the results of the 2011 student survey. The information is located in the meeting folder in the LRC library.

Dr. Thompson said the KnowHow2Transfer.org is a one-stop website with reliable, accurate information on how to transfer which will provide the ability for users to find transferable courses with Kentucky’s public postsecondary system, state general education requirements, comprehensive listings of degree program requirements, transparency about state and institutional transfer policies, and transfer degree program pathways. He also discussed the accomplishments and the goals still in progress related to HB 160.

In response to a question from Representative Waide, Mr. King said the public universities will increase the grade point average necessary for students to be admitted into teaching programs. He said college introductory courses are now aligned with the Senate Bill 1 common core standards, improving the content of the courses so that teachers will be ready to use the new assessment tools upon graduation. He said upcoming teachers will have significantly more hands-on time working in classrooms during their college education than ever before. The teachers will be more adept at being able to diagnose individual learning disabilities. CPE is also working more closely with the EPSB.

Responding to questions from Representative Rollins, Dr. Thompson affirmed the KnowHow2Transfer website should be accessible in January 2012. Representative Rollins said the language in HB 160 required that universities must provide a clearly defined path to a bachelor’s degree for the students who started at the community college.

Dr. Thompson said HB 160 required the CPE to define five clear pathways to obtain bachelor degrees by the end of 2012. He said this is in process but not complete. Representative Rollins said it had been a year and a half and he truly expected considerable progress. Dr. Thompson said CPE focused on general education requirements and aligning KCTCS courses to higher education courses

before it started defining the major, clear pathways. He said four pathways should be complete by January. One major still has some things to work out but he feels the other ones are ahead of schedule.

Representative Rollins said he is disappointed in CPE’s goals. He thought obtaining 1,200 additional transfer students was low when there are over 100,000 students enrolled in the community college system. He said this is equivalent to about a one percent increase of all community college students moving on to a four year institution. He said this is not nearly as strong a goal as it should be.

Mr. King said part of the challenge with transfers is that most of the Kentucky Community and Technical College System (KCTCS) dollars have been deployed towards technical training and certificates. As the organization is maturing, it is starting to add faculty and programs to expand associate degrees. He also said KCTCS needs to recruit and attract students enrolling in the community college with intentions of transferring and completing a four-year degree. Mr. King assured Representative Rollins that CPE will encourage KCTCS to implement more vigorous goals and increase the number of transfer students. He noted that when HB 160 was enacted, the focus was on getting the credit transfer issue resolved. Most surveys show that students who have actually transferred are transferring without credit issues or if they have one it is self created, such as changing majors. Mr. King said it is difficult to determine the best strategies to encourage more students to transfer to a four-year university. Representative Rollins said community college students would be more likely to transfer to a four-year public university if they did not lose an entire year’s worth of course credits.

Representative Rollins said Kentucky used to do a fairly decent job of transferring general education credits. He said the language in HB 160 encouraged, but did not mandate, most associate degrees to require 60 hours and most bachelor degrees to require 120 hours. Dr. Thompson said it was not true that KCTCS was cutting out general education courses in order to meet the required hours for the associate degrees. He said KCTCS had already been directed through HB 160 to define its general education courses necessary for degree completion. He said CPE tried to streamline the process so that KCTCS general education courses were aligned with the four-year institution general education courses to ensure an easy course-by-course transfer. Dr. Thompson noted that it took awhile to get KCTCS on the same course numbering system as the four-year education system. He said KCTCS is looking at how to expedite its students from time of enrollment until completion of the associate degree. He assured Representative Rollins that KCTCS is not cutting the required general education courses from the curriculum.

Representative Rollins reiterated that he will be watching the CPE website very closely and he fully expects a good number of clearly defined pathways from each institution. He noted if CPE did not make significant process that further legislation may be required.

Getting Past Go-Leveraging

investments in remedial and developmental education to increase college degree attainment

Bruce Vandal, Director, Postsecondary and Workforce Development Institute, Education Commission of the States, said Kentucky lags the nation and many states in the percentage of its adult workforce with college degrees. He said Kentucky needs to evaluate the way it assesses students for college and not rely on one test to determine college readiness. He noted students who need numerous remediation classes often have low success rates in college. It is better to have the students prepared upon enrolling in college. Austin Peay University in Tennessee combined its remedial courses to one semester and student success increased from 11 to 61 percent. He said accelerating remediation works well for most students. He provided many statistics, and Kentucky's complete profile is located in the meeting folder in the LRC library.

In response to a question from Representative Waide, Dr. Vandal said certificate programs that required significant student remediation did show economic benefit. When students are successful, it is good for everyone in the community. He said there is not a clear picture in the overall system of whether remedial students graduated and obtained good jobs in their field. There are examples where remediation has been contextualized within specific degree programs that are connected to workforce opportunities that show that students are able to be far more successful, particularly in certificate programs, and more likely to be placed into the workforce. He noted the state of Washington designed its remedial education strategies to show economic benefits when students are successful and quickly moved into jobs.

Representative Waide said he liked the idea of removing barriers to students completing certain curriculums. However, some students may complete their academic coursework but are not very professional. He would like to see data if high quality folks are graduating and becoming high quality professionals. He asked Dr. Vandal to research to see if remedial student graduates are obtaining jobs in their fields and having success in those careers. Dr. Vandal said ECS is working on boosting college completion and how to work with states and show them how to align what is going on in higher education with the needs of states around workforce development goals.

The tribunal process for certified school district employees

Wayne Young, Kentucky Association of School Administrators (KASA), said the tribunal process is defined by KRS 161.790. It allows any certified employee who is terminated, suspended without pay, or publicly reprimanded to ask the Commissioner of Education to convene a tribunal to review that action by the superintendent. The tribunal panel consists of an active or retired teacher and administrator, and a lay person, all from outside the county where the school district is located. He said hearings are conducted pursuant to KRS Chapter 13B personnel laws. Tribunal decisions are binding and may be appealed to circuit court by either

party.

Mr. Young said between 1990 and 2010, certified employees requested a total of 492 tribunals, roughly 25 per year. He said just over 200 of the proposed tribunals resulted in settlement prior to hearing with 100 cases being dismissed or withdrawn. He noted data is missing on approximately 30 tribunal requests. Of the 163 cases that were heard by a panel, 76 were affirmed, 39 were modified, and 48 were overturned. The cases included mostly terminations and unpaid suspensions and only a few public reprimands.

Mr. Young said it seems that tribunals produce erratic and inconsistent results. He said school superintendents are reluctant to pursue matters legitimately requiring discipline, due to cost and unpredictable results. The tribunal process could be modified and improved to provide a more efficient and effective method of preserving the due process rights of certified employees. He suggested using trained hearing officers instead of the current panel structure, and creating a separate process for cases that are based on poor job performance that would be tied to the evaluation and corrective action process that already exists in local districts.

Keith Davis, Superintendent, Bullitt County, said there are a few teachers who drag the education system down and give the public the perception that educators are not doing their jobs. He said that there needs to be changes to the tribunal process because the decisions can be to the detriment of the school system. The tribunal panel is not forced to explain the decisions or reasoning for overturning personnel actions. He gave an example from his school district of an elementary school teacher who was terminated for physically assaulting an elementary school child, but the tribunal reversed the decision and rehired the teacher as a substitute teacher in the high school at the same rate of pay.

Bill Scott, Kentucky School Boards Association (KSBA), said the KSBA insurance program has been increased from \$10,000 to \$100,000 a year to offset the growing monetary costs and legal fees associated with tribunals.

Wilson Sears, Kentucky Association of School Superintendents (KASS), said the tribunal issue is more about student achievement than the dismissal of personnel. He said Kentucky needs the best possible teachers in its schools to help students learn and have a positive educational experience.

In response to questions from Representative Collins, Mr. Young said the role of the hearing officer at the tribunal is for procedural reasons and to handle the motions. He was not sure if the hearing officers write the summary or the opinion of the tribunal. He thought the summary was written jointly. Mr. Davis said he had only experienced the tribunal once in his five years as superintendent. He did report the teacher incident of physical altercation with the student to social services, but no formal charges were filed. He said substitute teachers are more than babysitters, but are not as valuable to the student's learning as a full-time teacher.

Responding to Senator McGaha, Mr. Young said the majority of the 160 cases

dealt with misconduct issues rather than quality of teaching issues. Only 12 cases dealt with classroom performance issues or classroom management. The misconduct issues consisted of dishonesty, sexual misconduct, drug and alcohol issues, theft, or violation of laws or regulations. He will compile the data of the specific cases and distribute to the members.

Responding to Representative Rollins, Mr. Young said the Kentucky Commissioner of Education appoints the three tribunal members. He said many serve over long periods of time.

Responding to Senator Winters, Mr. Young said the lay member of the tribunal panel has received some training. Dr. Holliday, Commissioner of Education, clarified that the statute defines the training and all tribunal panel members receive the training.

Responding to Representative Waide, Mr. Young said some legislative language has been worked on in a small in-house group and reviewed by attorneys in the field. He hopes to have specific language ready in January 2012. Representative Waide encouraged the group to expedite the process and provide members with some specific language to review in early December. He said teachers are frustrated with the process, and superintendents seem to have their hands tied.

Mr. Sears said superintendents are very involved in the superintendent network, which is specifically directed at instructional leadership. He said there are also two new major committees in place in Kentucky. One is teacher effectiveness and the other is principal effectiveness. The new committees and tools should help to receive very definitive results about the performance of teachers and principals throughout the state. In turn, this will help to expeditiously eliminate subpar performance by teachers.

In response to Representative Graham, Mr. Young said there is often a mental or physical problem with the individuals involved with tribunal cases. He noted that substance abuse issues and things of that nature have to be treated as a disability. Representative Graham said someone should be on the panel that is trained at identifying mental health issues.

Responding to Representative Wuchner, Mr. Young said the scores are not weighted during the tribunal review process. Generally, the votes come out 3-0 or 2-1. He said tribunals often tend to want to give something to all parties involved.

In response to Representative York, Mr. Young said the steps or corrective actions for each tribunal case are different each time. He has seen monetary settlements as well as the employee returning to work under different working conditions. He said all the details are not available from each case, particularly the older cases.

Representative Belcher said principals and superintendents do not have any support. She said it is the legislature's responsibility to help administrators eliminate abusive or ineffective teachers. She looks forward to seeing the proposed legislation.

Senator Givens noted only one in five cases goes to tribunal. Mr. Young said

some employees resign and other cases are settled with an agreement outside the tribunal process.

Other Business

Senator Winters announced that the Interim Joint Committee on Education would meet on Monday, December 12, 2011, at 1:00 p.m. in Room 154 of the Capitol Annex to hear the Career and Technical Education Taskforce report.

With no further business before the committee, the meeting adjourned at 3:40 p.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education

Minutes of the 3rd Meeting of the 2011 Interim

November 14, 2011

Call to Order and Roll Call

The 3rd meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, November 14, 2011, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Ted Edmonds, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators Jack Westwood and Ken Winters; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Marie Rader, Carl Rollins II, Wilson Stone, Alecia Webb-Edgington, and Jill York.

Guests: Melissa Lentz, Principal, Anderson County Early Childhood Center; Matthew Koger, School Psychologist, Anderson County Early Childhood Center; Robert Rankin, Anderson County parent; Dale Winkler, Office of Career and Technical Education, Kentucky Department of Education; Jim Thompson, Education and Workforce Development Cabinet; Clyde Caudill and Wayne Young, Kentucky Association of School Administrators; Dr. Doug Whitlock, President, Eastern Kentucky University; Dr. Wayne Andrews, President, Morehead State University, Representative Kim King, Representative Rita Smart, and Representative John Will Stacy.

LRC Staff: Ben Boggs, Janet Stevens, and Marlene Rutherford.

Approval of the Minutes from August 1, 2011 Meeting

Representative Collins moved approval of the minutes, Representative Carney seconded, motion carried.

Chair Edmonds opened by stating that the transition from high school to college or career is too often a giant leap for many of graduating students. Several school districts, with support from postsecondary education institutions, are using a variety of programs and practices to help students be college or career ready. He noted that Mr. Tommy Floyd, Superintendent of Madison County Schools, and Mr. Bert Hensley, Superintendent of Estill County Schools, were present to discuss the partnerships and programs they have implemented in their school districts and the challenges they face in making every child college or career ready.

Representative Smart introduced the

guest speakers from her district Tommy Floyd and Dr. Doug Whitlock, President, Eastern Kentucky University.

Chair Edmonds introduced Bert Hensley and Dr. Wayne Andrews, President, Morehead State University.

Chair Edmonds also noted that, in addition to serving as the President of Eastern Kentucky University, Dr. Whitlock also serves on a local school board.

College and Career Readiness Programming: Successes and Challenges

Mr. Hensley stated he appreciated the Presidents of Eastern Kentucky and Morehead State Universities for being in attendance because much of what the local school district is offering its students is the result of how the universities are working with the high schools. He said that one of the great changes as a result of the passage of Senate Bill 1 is the importance of the senior year. He discussed the automaticity program implemented a couple of years ago through Eastern Kentucky University's Math Department. It was determined that seniors were not prepared to take college math and the university allowed the school to teach the developmental, noncredit class in high school. Students were doing poorly in math on the ACT because of the time limits within the test and the students did not know simple math quickly and were dependent on their using calculators. The automaticity program is for K-8 students.

Mr. Hensley said that currently Estill County High School has sixteen college dual-credit classes with Eastern Kentucky University and Morehead State University in eleven different courses, compared to seven years ago when there were none. The courses range from English, high math, Spanish, to Biology. These classes are provided by the universities at little to no costs to students. Grants have paid for textbooks and tuition.

Mr. Hensley also stated that Estill County participates in a pilot program called "Excellence for All" which is designed to bring American high schools up to global standards. Kentucky is one of four states participating in this program. There are five school districts in the state participating, Estill, Bourbon, Franklin, Todd, and Logan Counties. This program begins with freshman students who will take five tests at the end of the year. If a student passes these tests, then the student will take five tests at the end of the sophomore year. He pointed out that the tests are standards-based, and the courses are rigorous. In the freshman year the examinations are in Algebra I, English, World History, and Biology. In the sophomore year the examinations are in Geometry, English II, Chemistry, U. S. History, and the Arts. If the student passes all these examinations, they are considered high school graduates and receive a high school diploma. They are free to seek employment, stay in school and take college classes, attend trade schools, or whatever they choose. He said there are 41 freshmen in this program this year in Estill County, and that students and parents have been very receptive of the program. There are 21 schools in the four states that are participating in this program which is funded by the Gates Foundation and other organizations.

Mr. Hensley pointed out that one of the areas in which Estill County struggles is the lack of a vocational school. Students attend the Madison Area Technology Center for vocational classes which is approximately an hour away. Female students in particular do not like to be bused this distance. Another challenge for Estill County is the Science, Technology, Engineering, and Math (STEM) initiative which is to be operational by 2014. He stated that access to districts is a question that will have to be addressed for small rural schools especially in the field of engineering. He also noted that the vocational schools or Area Career and Technical schools (ACTs) are operated by the Department for Workforce Investment and the ACTs have difficulty changing course offerings because of the lack of flexibility.

In response to a question by Representative Carney concerning the financial literacy class offered for all seniors, Mr. Hensley indicated that it is a required class for all seniors. The Credit Abuse Resistance Education (CARE) program is provided in Estill County by a local judge in addition to using Dave Ramsey literature. He said that he has received positive feedback that the students enjoy the class and the knowledge they receive is substantial. Mr. Hensley suggested if a district is interested in providing this class it should contact the Kentucky Bar Association.

Representative Carney asked if Mr. Hensley was aware of the aviation program offered. He noted that students in his district appear to be engaged in this program which helps the students with engineering classes. He said he would be happy to provide contacts to discuss the program if Mr. Hensley felt it would be something in which students in his area would be interested.

Mr. Hensley pointed out that teachers have been very supportive of the changes which have been made thus far and understand the changes are in the best interests of the students.

In response to questions by Representative Collins, Mr. Hensley stated that credits are waived for those students who participate in and pass the examinations in the "Excellence for All" program. Mr. Hensley also indicated that most students that receive the early diploma will continue or stay in school for various reasons such as athletics or band programs. However, those students will have the option of taking the classes they want to take rather than classes they are required to take. This allows the student to pursue his or her interest. Mr. Hensley also said that Estill County has an alternative school and that students are there not only because of discipline problems or custody issues but for credit recovery. Mr. Hensley stated that it is important to find an individual niche and interest for a child and he or she will be successful.

In response to a question by Representative Collins concerning the ACT, Mr. Hensley said that as an educator you must provide every opportunity for students. At sixteen year of age, students do not always know what they are going to do in life. Having all students take the Act is a positive element in helping to keep their options open. With regard to

special education, you have to distinguish between FMD students and others. He said in one situation, a student with a reading disability did not do well on the ACT because of time constraints and that a waiver was granted to afford the student more test time. As a result of the additional time, the student subsequently performed well ACT and went on to graduate from college and is very successful today.

In response to questions by Representative Stone concerning the "Excellence for All" program, Mr. Hensley stated this is the first year of the program and that all participating students are freshmen. The program was opened for all students and a meeting held with both the parents and students to decide if they wanted to participate. At that meeting, it was clarified that a student can withdraw from the program at any point in time. He also said that those students who receive a diploma at the end of their sophomore year can take other courses in their junior and senior years but that those classes would be college classes.

Representative Stone asked if students who participate in the "Excellence for All" program take the ACT. David Cook, Director, Innovation and Partner Engagement, Department of Education, clarified some statements concerning the program. He said that very few students opt for the early graduation option. He stated the more important part of this program is the rigor that students are getting their first two years of high school, and that opportunities they have in their junior and senior year are greatly expanded. Because classes such as U. S. History are offered in the sophomore year, more advanced placement courses, more college credit, dual-credit courses, and more international baccalaureate programs can be taken during the junior and senior year. He said the ACT is still a requirement.

Thomas Floyd, Superintendent, Madison County Schools, discussed the challenges facing education. He said his district is working hard to identify and address fundamental need areas such as providing clinics, dental care, targeted interventions for student populations that the system was losing. One of the successes of the district has been "Project Succeed" which is a drop-out prevention program specifically designed for teen parents in Madison County. The program's main focus is to remove any barriers a student may face as a new parent in order for them to pursue higher education. The program provides teen parents services including baby clothing and supplies, parenting classes, resources for benefits, monthly group sessions, home visits, and one-on-one mentoring. These young parents are also educated in drug abuse, violence prevention, and life skills.

He said that his district is using the Measurement of Academic Progress (MAP), Northwest Evaluation Association (NWEA), as well as other countless tools to help make decisions. He stated the focus on getting students ready for school is coming back to a common sense approach or effort to help kids identify their niche and interests so they feel comfortable and confident that they can succeed.

He stated that the transitional math and English classes began in Madison

County. He also said that the reading assessment is being done using the Coyote Test, the on-line testing exam for math developed at the University of Kentucky, and the Nelson-Denny Reading Test. These non-credit bearing math classes have been accomplished through the partnerships with Eastern Kentucky University.

He discussed Middle College which is another partnership program with Eastern Kentucky University. Middle College establishes an avenue for students that might be at risk of not finishing high school. It allows students who are not engaged in school the ability to earn up to eighteen college-credit hours while earning a high school diploma. This gives those students the confidence they need to prepare for the college environment.

He also discussed Focus and Finish. This program is designed for seniors who are most at risk of not graduating. It provides additional support such as having the same teacher for multiple classes, electronic resources, credit recovery, mental health services, and counseling for postsecondary education. The program helps these students identify their strengths what they want to set as goals in terms of postsecondary education.

He said that there is an extensive effort underway in Madison County to listen to the students. The Student Voice, now in its fifth year, is an initiative that initially was an effort to get feedback and advice from high school students on specific issues in their school. The program has grown to include student voice groups at middle schools as well. Members of this program meet in the fall with the principal and in the spring with the superintendent to help direct the school and district in decision-making.

Mr. Floyd also stated that the schools have partnered with the Richmond and Madison County community to develop a mentoring group that specifically targets the African-American male population. Now in its second year, the program gives students an opportunity to strengthen skills in building relationships and in leadership. Members of this focus group are paired with mentors from the community who have been trained to help guide students in homework assignments and leadership skills. The "Sisters of Color United in Leadership" is the female counterpart to the program.

Working on next generation learning opportunities, the Department of Education has worked with his district on project-based learning which is community, project-based ideas for learning at middle and high schools.

Mr. Floyd also noted that his Board of Education just recently voted to expand introduction to health careers through which up to sixty students may obtain certified nursing assistant certificates, which is the entry level certification for healthcare workers. He stated that the district had recently received a Gear-up grant targeted at the middle schools.

In closing, Mr. Floyd thanked the Legislature for listening and keeping education on the forefront. He said that in order for Kentucky's communities to accomplish what is needed to provide the quality of life we all want for our kids, it is going to take partnering with higher education, businesses, daycare providers,

and others all working together.

Dr. Whitlock asked Mr. Floyd to discuss briefly the district's early childhood initiatives. Mr. Floyd said that not all kids in a community can attend pre-school and head start programs. Madison County has targeted those children by offering every daycare director in the county an opportunity to partner with the school system. through this effort, the Madison County Early Childhood Advisory Council was formed. They now have fourteen partnered daycares with kindergarten, pre-school, and head start teachers working together to provide training to all daycare workers on kindergarten readiness standards adopted by the state.

Chair Edmonds was very complimentary and thanked both the superintendents and the university presidents for working hand-in-hand with the K-12 school systems.

Senator McGaha complimented both Mr. Hensley and Mr. Floyd on their approach to educating kids. He also indicated that it was refreshing to hear the comments offered today because there has been such a change in the role of the superintendent over the last several years. He said the leadership of the superintendent is key in educating kids in Kentucky and that he was very encouraged to see superintendents as educational leaders.

Dr. Andrews said that the work of the superintendents can be characterized by the work partnerships. He said he and Dr. Whitlock work closely between two institutions in serving 44 counties in east and southeastern Kentucky. He said that children's education begins with teacher preparation. The colleges of education are vital to the success that students have in public schools. He also said that partnerships with local schools are important. Both Morehead State and Eastern Kentucky Universities are in the public schools delivering content to students and working to enhance the professional development of public school teachers. He said that another word to describe the work being done is "focus." He stated that Senate Bill 1 was an excellent piece of legislation because it caused educators and administrators to focus on the alignment of P-12 with higher education. He reiterated the statements made by Mr. Floyd that not every student would go to college, but that every student needs to finish high school and be ready for a career post high school and that is why it is important for every child to be able to read at a reasonable level, perform problem solving at a reasonable level, and be able to contribute to society. He indicated that it has been discovered that if the content is delivered in high school five days a week taught by high school teachers using standard curriculum with reinforcement, the students pass the tests at a higher rate than if they go to college and take the developmental work.

Dr. Andrews briefly commented on the early college program. He said that Morehead State wants to advantage those children that believe they are on the track to go to college so that while they are in high school they can earn as much as 24 hours of college credit. Much of that credit is delivered by appropriately prepared high school teachers working with mentors at Morehead State University using the

curriculum, textbooks, and evaluation processes, etc. with the goal being that those children that are able to perform this work to have the opportunity to earn college credit while in high school.

Dr. Andrews indicated that the General Assembly is appropriately focused. The educational system appreciates the leadership in both the executive and legislative branches to try and protect education and to give educators the flexibility to work within the parameters that are established to do the best for the children.

Dr. Whitlock indicated that although there have been cuts in funding, there is an unprecedented level of partnership and collaboration in the state as it relates to education. Much of this is due to the work and actions of the Legislature. He said that three large requirements were the expectation that by 2014 there would be a reduction in the percentage of students requiring remediation by half; that over a five year period, the success rate of students who still need remediation would be increased by three percent per year; and the expectation that the colleges and universities work with the school systems for interventions such as transition courses. He said the math transitions course in the Madison County saved about \$250,000 in tuition expenses. He also said that automaticity is big part of the program. The ACT is critical because it is the diagnostic which identifies the students that need the transition courses in math and the language arts. He said the faculty at Eastern Kentucky University had identified 111 courses that should be aligned with either the core standards or with courses in teacher education programs. Those teachers have been in the process of revising those curricula and are about 53% complete. He also pointed out that Kentucky is receiving a lot of recognition for being a head of the curve. Dr. Whitlock too thanked the Legislature for empowering educators and providing then with the tools and ability to move Kentucky's educational system forward.

Senator Winters indicated he was elated to hear the comments relayed and stated that Senate Bill 1 is a piece of legislation of which everyone can be proud. He said it is important that everyone work together and he is very proud that language was crafted in such a way that the Kentucky Board of Education, the Professional Standards Board, and the Council on Postsecondary Education must work together in moving education forward in Kentucky and that the recipients of that cooperation is 800,000 children.

Although not an item on the agenda, Chair Edmonds afforded Representative Kim King and guests the opportunity to discuss early childhood education in her district. Representative King introduced Robert Rankin, a parent of the Anderson County Early Childhood Center student, Melissa Lentz, Principal, Anderson County Early Childhood Center, and Matt Koger, School Psychologist, Anderson County Early Childhood Center.

Mr. Rankin relayed how early childhood education had helped his daughter with learning disabilities in addition to other children in Anderson County. He said his daughter had learned to socialize with other children, had

learned the structure of the classrooms, and had opened up to adults. He stated that because of her time in pre-school and the speech programs she is now easier to understand. When a child leaves pre-school they now know their letters, numbers, basic shapes and colors, and can usually write their name. He invited everyone who can make time in their schedules to visit the Anderson County Early Childhood Center or any pre-school to observe a class. He said that he would like to see pre-school offered or accessible to all children in Kentucky whose parents are willing to send them. He stated that Kentucky's children need to be placed ahead of some of the other special interest projects.

Ms. Lentz updated the committee on the Anderson County Early Childhood Center stating that it has been in existence since 1996 with the focus on early childhood learning. There is a pre-school and kindergarten with 480 students between the ages of 3, 4, and 5 years old. She said the center appreciates the support of the Legislature and the county Board of Education.

Mr. Koger stated that two years ago Anderson County received a grant through the Kentucky Board of Education for a collaborative early childhood project. The purpose was to work on developing relationships between daycares, head starts, and pre-school programs. Through those relationships, about one-third of the students are now entering school on grade level at the beginning of kindergarten. He said that last year 90% of the children finished kindergarten reading on grade level. The key to continuing those relationships is funding. Within the past three years school districts have been required to implement response to intervention for incoming pre-school students. He said the pre-school is only for those students meeting eligibility through special education services and those students determined at risk or up to 150% of the poverty level at age four. With the response to intervention having to be implemented at the pre-school level, school districts have seen the number of eligible students through special education decrease which impacts the ability to serve those students within the pre-school program. During the last legislative session there was a proposal to reallocate the funding at the pre-school level. He said that the negative adjustment in the current funding regulation penalizes school districts where numbers of students identified in special education have decreased, when this reduction is due to the intervention. This has put a burden on the pre-school program.

Chair Edmonds indicated that there would be no subcommittee meeting in December, but that approval has been received for an Interim Joint Committee on Education meeting to be held on December 12, 2011.

There being no further business, the meeting adjourned at about 11:45 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education

Minutes of the 3rd Meeting

of the 2011 Interim

November 14, 2011

Call to Order and Roll Call

The third meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, November 14, 2011, 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: Representative Reginald Meeks, Co-Chair; Senators Gerald A. Neal, R.J. Palmer II, Mike Wilson, and Ken Winters; Representatives Leslie Combs, C. B. Embry Jr., Bill Farmer, Kelly Flood, Donna Mayfield, Ryan Quarles, Jody Richards, Tom Riner, Carl Rollins II, and Rita Smart.

Legislative Guests: Representative Arnold Simpson

Guests: Anthony Ogden, University of Kentucky; Ted Farrell, Education Kentucky, Inc.; Chris Bierwirth, Kentucky Institute for International Studies; Analy Scorsone, Kentucky Community and Technical College System; Jim Thompson, Education and Workforce Development Cabinet; Erin Klarer, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation; Clyde Caudill, Kentucky Association of School Administrators and Jefferson County Public Schools; Mason Dyer, Association of Independent Kentucky Colleges and Universities; and Sue Cain, Council on Postsecondary Education.

LRC Staff: Kenneth Warlick, Jo Carole Ellis, Sandy Deaton, and Lisa W. Moore.

Kentucky's Postsecondary Education Student International Initiatives

Dr. Ted Farrell of Education Kentucky, Inc. discussed the benefits that international students bring to the Commonwealth. International students contributed \$92.4 million dollars in 2010 and \$114.6 million dollars in 2011 to Kentucky's economy. Dr. Farrell said that international students graduate at higher rates than their American peers, and one study has shown that American students who spend significant time with international students also graduate at higher rates. While in Kentucky, many international students will make lifelong friends, connect to Kentucky companies, and go home to have distinguished careers with Kentucky business partners. Although Kentucky benefits from international students, the state is lagging in national and regional averages in the number of enrolled international students.

Dr. Anthony Ogden, Chair of the Kentucky Council on Education Abroad and Director of Education Abroad at the University of Kentucky, discussed the passage of 2002 Regular Session Senate Concurrent Resolution 142, which encouraged students, teachers, administrators, and educational policy makers to participate in international study, along with educational programs and other activities that advance cultural awareness and promote mutual understanding and respect for citizens of other countries. Kentucky was one of the first states to

have a resolution of this nature. In the 2009-2010 academic year, only 270,604 United States students studied abroad for college credit. This number is less than two percent of college students in the United States. Kentucky has some model institutions such as Berea, Centre, and Transylvania that are graduating greater proportions of their students with international education experience. Over 70 percent of Centre students have studied abroad.

Dr. Chris Bierwirth, Executive Director of the Kentucky Institute for International Studies (KIIS), said that over the last three years KIIS has sent 8,700 students from Kentucky to study abroad. These students are not looking for glorified tourism but are serious and looking for something of value. They are vocationally oriented and are looking for ways to enhance their education so they can have successful careers. One of the biggest obstacles for students wanting to study abroad is the cost. The least expensive KIIS program costs around \$2,500 dollars, not including airfare for a month-long program during the summer. Dr. Bierwirth described the benefits of studying abroad. The results of a 10-year study at the University of Georgia showed that students in study abroad programs showed improved grade point averages. Those students also showed higher graduation rates and at-risk students showed improvement as well. Dr. Bierwirth said that study abroad gives students the opportunity to act as positive ambassadors for the United States and Kentucky.

Former Governor Martha Layne Collins said that Kentucky has made some strides but must do a lot more to compete for business. The future for Kentucky is with international markets because the U.S. markets are saturated. Kentucky has an advantage over other states because everyone has heard about Kentucky, whether through Kentucky Fried Chicken, Kentucky Bourbon, Muhammad Ali, or My Old Kentucky Home. She said that Kentucky should take advantage of every opportunity to bring more companies into the state, and Kentucky has many good products and services that other countries want. Governor Collins said education and economic development go hand-in-hand, and international study programs can lay the groundwork to help Kentucky be more prosperous. Companies are interested in working with states that invest in their people. It is important to have an educated and trained workforce to attract companies.

In response to Chairman Meeks' question regarding how attitudes about other cultures can be changed, Governor Collins said young people are more willing than adults to experience other cultures, and Kentucky needs to provide more opportunities for them to do so. Dr. Bierwirth said sometimes parents are reluctant to allow students to participate in study abroad because of safety concerns. He said KIIS developed policies and procedure to ensure safety. Dr. Ogden said that Kentucky needs to remove barriers, particularly financial, and deal with all obstacles students are facing. Dr. Farrell said that Kentucky should lay a foundation for partnerships for international study

programs.

Representative Smart noted the importance of having global language skills in today's world. Representative Flood commented about her experiences living abroad while her parents were in the military and the benefits of being exposed to different cultures.

In response to Representative Richards's question regarding the possibility of funding, Dr. Ogden mentioned The Senator Paul Simon Study Abroad Foundation Act. He said the legislation did not pass but could serve as an example of a funding model for Kentucky.

In response to Senator Wilson's question regarding financial assistance, Dr. Bierwirth said his school has identified two dozen sources of funding for students, and the sources are published on the KIIS website. One idea to increase funding is to add a \$5 to \$10 fee to all students' university fees. The money would be placed in an international fund to be used for scholarships. Dr. Ogden said that the University of Kentucky (UK) has a similar fee, and the student body just voted to raise the fee by \$1. About 80 percent of the fees are used for education abroad, and 20 percent are used to bring international students to UK.

In response to Chairman Meeks' question, Dr. Bierwirth said that a typical KIIS program is during the summer and lasts about one month. To be eligible for the KIIS program, students must have at least a 2.0 grade point average, and those with a 2.5 or better are given preference. Nationally, about 38 percent of students will study abroad for one semester and another 35 percent will study abroad for eight weeks or less.

Approval of Minutes

With a quorum being present, Representative Richards moved to approve the minutes of the August 1, 2011, meeting, and Representative Combs seconded the motion. The minutes were approved by voice vote.

Statewide High School Assessment Results: the Postsecondary Education Perspective

Dr. Aaron Thompson, Senior Vice President for Academic Affairs, Council on Postsecondary Education (CPE), said one of the best things to happen to education in Kentucky has been connecting K-12 with higher education through 2009 Senate Bill 1. Over the past two years, Kentucky has made dramatic progress in implementing a college readiness agenda, and postsecondary and K-12 are responding to and reacting together regarding K-12 test results.

Dr. Sue Cain, Coordinator, College Readiness and Developmental Education, CPE, discussed how Kentucky was a lead state in the alignment of college readiness standards. The unified strategy mandated in 2009 Senate Bill 1 has made the direction very clear about what Kentucky needs to do to improve test scores. One of the first steps was developing high school senior year transitional courses in reading, writing, and math. Dr. Cain said CPE is working on building middle school transitional courses, and has built a college and career readiness kit for middle school and high school teachers. Everything being done at the postsecondary level has

included K-12 and adult education.

Dr. Thompson reported on the implementation of three assessment academies in eastern Kentucky, western Kentucky, and northern Kentucky. These academies are partnerships with K-12 and two-and four-year institutions to help target professional development based on student assessment information.

Dr. Cain mentioned national partnerships Kentucky is participating in for college and career readiness. Two of the grants Kentucky received are Complete College America and Learn on Demand.

Dr. Cain and Dr. Thompson discussed high school assessment scores and said there is a gap persisting for students of color. They said additional efforts are needed to focus on closing these gaps. The statewide target for college readiness is 81 percent by 2014, which would be a 31 percent change from 2008. The rate of improvement in Kentucky between the years 2000-2009 leads the nation. They noted that the total degrees and credentials awarded by public and nonprofit, independent institutions from 2001 to 2010 increased 84 percent.

Responding to questions from Senator Neal, Dr. Cain said transfer students have a higher graduation rate than non-transfer students. Dr. Thompson said there is a movement nationally to track completion rates instead of graduation rates.

Responding to questions from Representative Smart regarding transitional courses, Dr. Cain the courses are already online, free, and fully implemented across the state. They are available to any school, and middle school transitional courses will be online by April. Dr. Thompson said these transitional courses are producing 80 percent college readiness.

In response to Chairman Winters comments regarding his concerns with remediation needs, Dr. Cain said CPE is addressing the issue with tools like diagnostic assessments and offering remediation courses in shorter time periods.

Responding to a question from Chairman Meeks regarding issues that could be brought to the General Assembly, Dr. Thompson said Kentucky has to focus on closing the achievement gaps at a much deeper level and put some emphasis on Kentucky's adult learners. He said there needs to be ways to educate all of Kentucky's students to the point of being impactful citizens.

With no further business before the committee, the meeting adjourned at 12:02 p.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 6th Meeting of the 2011 Interim November 18, 2011

Call to Order and Roll Call

The 6th meeting of the Special Subcommittee on Energy was held on Friday, November 18, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith,

Co-Chair; Representative Keith Hall, Co-Chair; Senators Ernie Harris, Ray S. Jones II, Bob Leeper, Dorsey Ridley, Katie Kratz Stine, Johnny Ray Turner, and Robin L. Webb; Representatives Dwight D. Butler, Leslie Combs, Will Coursey, Jim Gooch Jr., Wade Hurt, Thomas Kerr, Fred Nesler, Sannie Overly, Tom Riner, Kevin Sinnette, John Will Stacy, Fitz Steele, and Brent Yonts.

Guests: Daniel Ferreira, President, Renier Pierantoni, Vice President, Natural Gas Solutions, LLC.; Jason Cho, President, Nevico Co., Ltd.; Will Graham and Kenny Graham, Cumberland Valley Resources.

LRC Staff: D. Todd Littlefield, Sarah Kidder, and Susan Spoonamore, Committee Assistant.

The October 21, 2011 minutes were approved, without objection, by voice vote upon motion made by Representative Steele and second by Senator Harris.

Discussion Only - 2012 BR 368

Representative Keith Hall explained 2012 BR 368, which relates to the distribution of coal severance tax revenues. Representative Hall said that \$19 million is being taken off the top of coal severance revenues and put into the Benefit Reserve Fund instead of Workers' Compensation. 2012 BR 368 would stop the purging and withdrawal of coal severance revenues that were being transferred to Workers' Compensation.

Liquefied or Compressed Natural Gas as a Transportation Fuel

Mr. Renier Pierantoni, Senior Vice President, Natural Gas Solutions, LLC. (NGS) stated that NGS is a minority owned company that focuses on natural gas products and services throughout the United States. Mr. Pierantoni introduced Daniel Ferreira, President of Natural Gas Solutions, LLC. and Jason Cho, President of Nevico Corporation, Ltd. Mr. Pierantoni explained that Nevico Corporation, Ltd. is a Korean applied technologies and natural gas infrastructure company that specialized in converting and re-powering heavy duty diesel powered used vehicles. Nevico Corporation designs and installs filling stations and provides technical assistance and training for local engineers, technicians, mechanics and drivers of natural gas vehicles.

Mr. Pierantoni stated that Kentucky should go to natural gas for transportation fuel because natural gas is cleaner, cheaper and will continue to be so in the future. He explained that piggybacking on the natural gas pipeline infrastructure already in place would be a boom for Kentucky's economy and people. The 13 million cars in the world that run on natural gas are vehicles either purchased or re-powered by replacing the gasoline engine with a natural gas engine. NGS and Nevico were focused on natural gas conversions for diesel vehicles and explained that retrofitting a diesel vehicle would require a Nevico conversion kit that would modify diesel engines to burn compressed natural gas.

Daniel Ferreira, President of Natural Gas Solutions, LLC. explained that the electrical control unit (ECU) would work with liquid natural gas (LNG) and compressed natural gas (CNG). Through the ECU, drivers are able to adjust the torque for difficult, which is something that other conversion kits are unable to do. Natural gas in the United States is

much cheaper than diesel and gasoline. The average cost of a gallon of diesel is \$3.89. The price of natural gas ranges from \$1.25 to \$2.50, but the average price, nationwide, for CNG is \$1.50 and \$1.75. Natural gas prices are not driven by world markets, meaning that the United States can control the price. Utah's state law provides an income tax credit, a 50 percent credit on converting a vehicle, a grant or loan program to assist businesses and government entities with the cost of conversions, public access to CNG fueling stations, and certified CNG fuel system inspections. In addition, Utah passed legislation that resulted in a 57 percent drop in installation costs associated with CNG conversion kits.

Mr. Pierantoni discussed the amount of recoverable shale gas in the United States. Devonian shale in Kentucky contains an estimated 63 to 112 trillion cubic feet(tcf) of natural gas. Recovering shale gas would be a valuable economic impact for Kentucky in terms of employment and revenue.

In response to Representative Hall, Mr. Cho stated that the conversion technology was originally developed by NASA. He said that Nevico's conversion technology is being used in 22 countries, specializing in diesel conversions to LNG and CNG. Kentucky owns 32 CNG vehicles that are being fueled by private filling stations.

In response to Representative Hall, Mr. Cho said it would cost approximately \$14,000 for the CNG conversion kit to convert a diesel truck. It is possible to recover costs in approximately 3 months. There are two different conversion kits available for heavy diesel trucks: repowering, which would be to put in a new engine or taking the old engine and put an ECU kit on it. If an owner wants a new engine, it would cost approximately \$32,000, and would take 9 months to recover that cost.

In response to Senator Leeper, Mr. Cho stated that a 100,000 hp engine could be converted. Nevico is not able to convert a 16 cylinder yet. Mr. Ferreira also stated that 200 trucks a day could be filled up with LNG, if the 1.2 million cubic feet of natural gas located in Knox County could be tapped.

Meeting adjourned at 11:05 p.m.

INTERIMJOINTCOMMITTEE ON HEALTH AND WELFARE

Minutes of the 5th Meeting
of the 2011 Interim

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 16, 2011, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 1:05 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Tom Buford, David Givens, Denise Harper Angel, Alice Forgy Kerr, Dennis Parrett, Joey Pendleton, and Jack Westwood; Representatives Julie Raque Adams, Kelly Flood, Jim Glenn, Brent Housman,

Tim Moore, Ruth Ann Palumbo, Susan Westrom, and Addia Wuchner.

Guests: Cindy Heine, Associate Executive Director, Prichard Committee for Academic Excellence; Dr. Ruth Ann Shepherd, Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services; Ralph Bouvette, Ph.D., J.D., Executive Vice President, American Pharmacy Services Corporation; Jonathan Van Lahr, Pharmacist, Brandenburg Pharmacy; Michael A. Minor, State President, and Mike Ridenour, Senior Director of External Affairs, WellCare of Kentucky; Bill Strein, Medco Health Solutions; Barb Witte, CEO, and Jim Giardina, Vice President of Clinical Services, CoventryCares of Kentucky; Dr. Whitney Jones, President, Colon Cancer Prevention Project; George E. Foster; Joseph Eiler; Chandra Venetozzi, Office of Health Policy, Cabinet for Health and Family Services; Michele Blevins and David T. Meredith, Division for Behavioral Health, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Karen Thomas Lentz; Jan Gould, Kentucky Retail Federation; and Anne Joseph, CKKF/KTFH.

LRC Staff: DeeAnn Mansfield, Miriam Fordham, Ben Payne, Jonathan Scott, Katie French, Gina Rigsby, and Cindy Smith.

Minutes

A motion to approve the minutes of the October 19, 2011 meeting was made by Representative Buford, seconded by Representative Burch, and approved by voice vote.

Colon Cancer Prevention Project

Representative Jim Glenn stated that he and Representative DeWeese have requested legislation that would fund colon cancer screenings for uninsured individuals between the ages of 50 through 64 years. The legislation requests \$3 million in FY 2012 and \$5 million in FY 2013.

George Foster, colon cancer patient from Owensboro, stated that in 2009 he was diagnosed with colon cancer. He has had a prior colonoscopy ten years ago as recommended by his doctor. There is not enough information available to people about colon cancer screening, the symptoms of the disease, and what will happen if someone has colon cancer. His insurance company has spent over \$1 million in healthcare costs since his diagnosis.

Dr. Whitney Jones, Clinical Professor at the University of Louisville, and President, Colon Cancer Prevention Project, stated that colon cancer is the number one cause of cancer deaths in non-smokers in the United States and Kentucky. Each year 150,000 Americans are diagnosed with colon cancer and of that amount 50,000 Americans will die from the disease. Approximately 2,700 Kentuckians will be diagnosed with colon cancer in 2011 and 800 will die from the disease. Louisville is the fourth worst largest metropolitan city for colon cancer nationally. Colon cancer deaths are 90 percent preventable with appropriate screening and removal of polyps. In 2001, Kentucky was the worst state with colon cancer, but is currently twenty-third in

the nation. Kentucky has gone as far as it can without further funding. House Bill 415 passed in the 2008 Regular Session relating to the colon cancer screening program, but the program still remains unfunded. By funding the program, local health departments can provide education, prevention, and early detection of colon. The funding will provide thousands of screenings for uninsured Kentuckians. While the Affordable Care Act will address health insurance issues for some individuals in Kentucky, it will not solve the problem for the uninsured. The colon cancer screening program has a budget in place, has a program manual, and it needs now is funding.

In response to questions by Representative Flood, Dr. Jones stated that there will be a blended program where some people will receive testing for blood in the stool, others colonoscopy. People who are high risk need to be screened by a colonoscopy. Family history is the single most important determination of someone who is at high risk of developing colon cancer. Approximately 80 percent of Kentuckians are average risk. In 2008 and 2010, the National Behavior Risk Factor Survey listed the preparation for a colonoscopy as the fourth highest reason for someone not getting a colonoscopy.

In response to comments by Senator Buford, Dr. Jones stated that there is no more cost effective preventative measure than colon cancer screening in public health.

Consideration of Referred Administrative Regulations

201 KAR 22:020 – establishes the criteria for eligibility, methods, and procedures of qualifying for a credential to practice physical therapy in Kentucky; 201 KAR 29:050 – delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses of the Kentucky Board of Respiratory Care; 900 KAR 6:030 – adjusts the expenditure minimums for capital expenditures and major medical equipment in the Certificate of Need (CON) program; 900 KAR 6:080 – establishes the guidelines for alleviating an emergency circumstance for the orderly administration of the CON program; 902 KAR 100:019 – provides standards for the protection of the user and general public against radiation exposure and establishes standards for protection against ionizing radiation resulting from activities conducted by persons issued licenses or registrations by the cabinet; 902 KAR 100:022 – establishes procedures, criteria, terms, and conditions upon which the cabinet issues licenses for the land disposal of radioactive wastes received from other persons; 902 KAR 100:040 – establishes general provisions for the issuance of radioactive material licenses to possess, use, or transfer radioactive material within Kentucky; 902 KAR 100:042 – establishes requirements for decommissioning and financial assurance of radioactive material licensees; 902 KAR 100:100 – provides radiation safety requirements for industrial radiographic operations and shall apply to licensees or registrants who use sources of radiation for industrial radiography; 921 KAR 2:050 – establishes the time and manner of payments for the Kentucky Transitional Assistance Program (K-

TAP) and the Kentucky Works Program (KWP) in conformity with the Social Security Act 42 U.S.C. 601-619, and federal regulations; and 922 KAR 1:490 – establishes the procedure by which the cabinet shall conduct background checks for caretaker relatives, kinship caregivers, or applicants seeking to provide foster or adoptive services. In response to a question by Senator Givens, Jim Graves, Protection and Advocacy, stated that 922 KAR 1:490 establishes the procedure that the cabinet will use to conduct background checks for caretaker relatives, kinship caregivers, or applicants seeking to provide foster or adoptive services. The administrative regulations were amended to require an address check of the Sex Offender Registry. A motion to accept the administrative regulations was made by Senator Buford, seconded by Representative Burch, and accepted by voice vote.

Legislative Hearing on the FFY 2012-13 Unified Mental Health and Substance Abuse Prevention and Treatment Block Grant

A motion to accept the block grant was made by Senator Buford, seconded by Representative Flood, and accepted by voice vote.

Subcommittee Reports

Representative Burch, Co-Chair of the Families and Children Subcommittee, reported that the subcommittee met and heard presentations on the First Steps Program from Dr. Ruth Ann Shepherd and Paula Goff, Cabinet for Health and Family Services. The program is a statewide early intervention system that provides services to children from birth to age three who have developmental disabilities and their families that serves over 14,000 individuals annually.

The subcommittee received a second presentation on Family Assistance Programs facilitated by the Cabinet for Health and Family Services. Dr. Shepherd reported on the Special Supplemental Nutrition Program for Women, Infants, and Children that serve 136,000 Kentuckians monthly. Jason Dunn, Cabinet for Health and Family Services, continued the assistance programs presentation and discussed the cabinet facilitated programs of Temporary Assistance to Needy Families, K-TAP, Supplemental Nutrition Assistance Program, K-CHIP, Child Care Assistance Program, and the Low Income Home Energy Assistance Program (LIHEAP). The eligibility requirements and accessibility for all programs were detailed.

The final presentation was from the Kentucky Department of Education (KDE) and three Kentucky Schools regarding the status of physical activity in schools. Jamie Sparks with the department reported on the Coordinated School Health Project programs. The subcommittee learned that these are organized sets of programs, policies, and activities that individual schools may voluntarily choose to implement. KDE has received funding for the development and implementation of these programs from the Centers for Disease Control and the Robert Wood Johnson Foundation Obesity Prevention Project. Tates Creek Middle School in Fayette County, Shannon Johnson Elementary School in Madison County, and Campbell Ridge Elementary School

in Campbell County testified on the specific physical education activities they have implemented in their schools and the successes they have experienced.

Senator Denton, Co-Chair of the Health Issues and Aging Subcommittee, reported that the subcommittee met and heard a presentation by Mary Crowley-Schmidt, Jan Day, Molly Dobson, and Polly Troxell on home and community based services for the elderly and disabled. Kentucky, like the rest of the United States, is facing an increasing number of seniors. Over 419,000 older adults, grandparents, and persons with disabilities received services including meals, transportation, and in-home care in fiscal year 2010-2011. Total spending, including federal, state, and local funds, was about \$61.3 million, at an average cost of about \$135 per person. The number of individuals on the wait list for meals, transportation, and in-home care has steadily increased. The services provide an economic impact to the local communities and help maintain the health and safety of older adults and the disabled by reducing costs associated with providing additional care for falls, poor health, and malnutrition. The Personal Care Attendant Program (PCAP), one of the first of its kind to be established in the United States, continues to provide valuable services to individuals with disabilities and also faces a decrease in funding.

Susan Campbell Turner, Commissioner Hall, and Natalie Kelly, Cabinet for Health and Family Services, testified about providers' procedural concerns with the IMPACT Plus program. The program provides services to children with severe emotional disabilities who need intensive services to stay in their home. Ms. Turner highlighted issues related to due process in the termination of providers.

Amy Head, Commissioner Neville Wise, and Karen Martin testified about the Acquired Brain Injury Medicaid waiver program. Ms. Head reported on the problems she has encountered in trying to get services for her brain injured husband. The committee also heard testimony from Mary Hass about the Money Follows the Person program. Ms. Hass highlighted problems encountered by individuals in trying to transition from nursing homes to community based services.

Independent Pharmacies Under Medicaid Managed Care

Jonathan Van Lahr, Pharmacist, Brandenburg Pharmacy, Ralph Bouvette, Ph.D., J.D., Executive Vice President, American Pharmacy Services Corporation, and Sam Willet, Duncan Prescription Center, Mayfield, stated that independent pharmacists are not just business owners, but are involved community leaders. There are 550 independent pharmacies in Kentucky. The provision of pharmacy services has changed dramatically over the years because health care and health insurance has changed so much. Instead of health insurers managing a person's pharmacy needs, most have turned these responsibilities over to pharmacy benefit managers (PBMs). The large out-of-state corporations are focused on cutting costs and creating profits for their shareholders by cutting pharmacy reimbursement so dramatically that it has created a

crisis for independent pharmacies in all communities and the well-being of patients. The PBM controls when it will reimburse the pharmacists for an increased price of medication. Insurance companies, managed care companies, and PBMs continue to see record profits while insurance premiums continue to increase and reimbursement to pharmacies continue to be cut to devastating lows. The PBMs are reducing the reimbursement for drugs, and often times the reimbursement is less than the cost of the drugs.

Pharmacists often lose money because they pay more for some drugs on the maximum allowable cost (MAC) list than they are reimbursed. The MACs are set by the PBMs and are confidential. The current Medicaid fee-for-service program allows pharmacists to look at the MAC list and make a determination whether they want to participate or not. The MAC list is updated monthly. The MAC pricing can be adjusted by a PBM without any notice making it difficult for pharmacies to know the pricing, sometimes until a claim is being adjudicated. While a pharmacist can appeal the price, the PBM makes the final decision. Under the contract, a pharmacist cannot refuse to fill a prescription for someone who is in the plan. While doctors are given incentives to send prescriptions electronically, the pharmacy has to pay an additional fee to receive the electronic prescription and another fee for refills. Kentucky Spirit offered pharmacists a Kentucky-specific contract that each pharmacy could accept or reject. Catalyst the PMB for WellCare, and Medco the PBM for CoventryCares, took an existing contract with the pharmacy purchasing groups and rolled the Kentucky Medicaid members into it and pharmacists were not given the option to accept or reject the terms of the contract. Even when pharmacists are willing to accept the same payment terms as a PBM-owned mail order and specialty drug pharmacies, unreasonable requirements are placed them.

One example is having a toll free number and a registered nurse on call 24 hours per day, seven days a week. The PBMs, including those being used by Medicaid, require members to use their specialty drug pharmacies for many drugs that the independent pharmacy has always provided. The independent pharmacy is allowed to fill a prescription initially, but not to refill the same prescription. When a community pharmacy closes, people lose their jobs, local governments lose taxes, and the communities lose access to high quality and personal health care. Sometimes an independent pharmacy is the only pharmacy for 30 to 50 miles. Pharmacy audits are conducted to find fraud, waste, and abuse. A pharmacy audit can take between 12 to 15 hours and takes away from pharmacists being able to help customers. Recommendations are to get the focus back on fraud, waste, and abuse, not require more stringent recordkeeping than what is required by law, and prohibit recoupment of a claim for a covered individual.

Tom Kaye, Pharmacy Director, Amy Williams, Vice President, Marketing Development, and Marty White, Vice President, External Relations, Kentucky Spirit Health Plan, stated that Kentucky Spirit was implemented on November 1,

2011. US Scripts, owned by Centene, is the PBM for the MCO. Kentucky Spirit is a Kentucky-based company and a subsidiary of Centene, a St. Louis-based company. Contracts have been tailored specifically to Kentucky. Kentucky Spirit has negotiated contracts with approximately 1,000 pharmacies in 1,200 locations statewide. The MAC schedule was shared with the associations in September to get feedback from associations. Kentucky Spirit has contracts with independent organizations as well as large national organizations and have tailored the contracts so neither has an advantage nor a disadvantage as far as reimbursement levels are concerned. Because of the any willing provider law, any pharmacy will be offered a contract. Kentucky Spirit is an integrated healthcare delivery system that includes the medical and pharmacy components.

Barb Witt, CEO, and Jim Giardina, Vice President of Clinical Services, CoventryCares of Kentucky, stated that because a large percentage of healthcare dollars is spent on pharmacy, there have to be changes in order to achieve savings. Pharmacy audits and MAC pricing reimbursement have been around before Medicaid managed care. Since implementation on November 1, 2011, 175,000 prescriptions have been filled totaling \$7.5 million. CoventryCares has not initiated any mail order policies. There is not a four-prescription limit per member per month as there was in the fee-for-service plan. There is a proposal to increase dispensing fees. Another part of the proposal is a pay for performance program that will engage the College of Pharmacy to better educate the pharmacists to make sure everyone has the same level of education. This would help patients who do not take medications regularly or patients who should be on specific medications but are not filling the prescriptions.

Michael A. Minor, State President, and Mike Ridenour, Senior Director of External Affairs, WellCare of Kentucky, stated that the company is looking at ways to improve healthcare delivery, quality, and access of care to the most vulnerable citizens of Kentucky as efficiently as possible. WellCare is committed to maintaining a disciplined approach to assure a competitive cost structure which is critically important in light of challenging fiscal conditions every state is facing. Since implementation on November 1, 2011, 68,500 pharmacy claims have been processed, 20,000 calls have been fielded from members and providers assisting in the transition, member identification cards and welcome kits have been mailed to approximately 116,000 members, over 75,000 health risk assessment calls have been initiated, and hospital and physician reimbursements four times per week and pharmacy reimbursements weekly have been processed.

Several member forums have been scheduled statewide to get direct feedback from Medicaid recipients. The company coordinates and integrates medical, behavioral, and pharmacy services for eligible Medicaid recipients. The focus is on improving healthcare outcomes and care coordination while promoting wellness and healthier lifestyles to lower the overall cost of healthcare. A mail order

pharmacy has not been implemented nor was the four prescription limit per member per month. Pharmacists can administer and be reimbursed for flu vaccines not previously covered services under the Medicaid fee-for-service benefits. Of the 1,115 contracted pharmacies, there is one pharmacy located within 15 miles for most members. Catalyst, PBM for WellCare, has committed to address all Kentucky MAC appeals daily and to adjudicating drug pricing for pharmacy providers in real time. Once the appeals are reviewed and prices are adjusted in real time, the price adjustments will be retroactive back to November 1, 2011. Pharmacies have to provide drug invoices to make retroactive adjustments. WellCare wants to have many qualified in-network pharmacists who will be available to plan members.

In response to a question by Representative Wuchner, Mr. Willett stated that under Medicare Part D, the dispensing fee is \$6.50. Mr. Van Lahr stated that the fees for private insurance are similar to the MCO fees which are about 85 percent less than the previous fee-for-service reimbursement.

In response to questions by Senator Bowen, Mr. Van Lahr stated that whether the medication is dispensed by an independent pharmacy or a chain, the state spends the same amount of money on purchasing a drug.

In response to a question by Senator Givens, Mr. Van Lahr stated that the pharmacies were not involved in the initial negotiations of the cabinet's request for proposals (RFP). After the contract had been signed by the pharmacists, the cabinet's response was that you signed it, deal with it. Mr. Bouvette stated that the Kentucky Pharmacists Association had discussion with the Governor's staff and cabinet Medicaid staff, but there was a breach left at the end of the discussions. Mr. Minor stated that as data is collected, the MCO and providers will be able to see if the outcomes were accomplished.

In response to a question by Representative Adams, Mr. Minor stated that all required reports, including financial reports, will be filed with the Department of Insurance by the MCOs.

In response to a question by Representative Moore, Mr. Van Lahr stated that the pharmacy contract is with the PBM not the managed care organization.

Representative Stacy stated that big pharmacies, hospitals, and doctors get the prices they want and do not have to come to Frankfort to discuss any problems. Independent pharmacists were not allowed to see the contract before being required to sign it. The contracts with the PBMs will put small pharmacies out of business because they cannot afford to stay open.

In response to a question by Senator Denton, Bill Strein, Vice President, Retail Network Management, Medco Health Solutions, stated that he is not aware of the policy that a pharmacist is required to have a toll free number or RN available to dispense specialty drugs. Mr. Giardina stated that specialty drugs are covered under the pharmacy and medical benefits depending on who is administering the medication. Self-administered drugs are covered under the pharmacy benefit and provider administered drugs would typically be under the medical benefit.

CoventryCares does have a requirement that specialty pharmacies meet certain criteria. Mr. Kaye stated that any retail pharmacy has the ability to dispense any specialty drug with a national drug code (NDC) number, for initial and refill prescriptions. Susan Burgess, Legal Counsel at Catalyst, stated that she is not aware of any specific requirements for retail pharmacies to dispense specialty drugs. Mr. Gaye stated that there are different criteria for Medicare Part B.

In response to a request by Senator Denton, Mr. Strein, Medco Health Solutions, Mr. Wolfe, Catalyst, and Mr. Gaye agreed to be contact persons to answer questions from the pharmacists.

In response to a question by Representative Burch, Mr. Gaye stated that Kentucky Spirit had provider representatives who solicited participation and worked with the Kentucky Pharmacists Association to reach out to the pharmacists. Mr. Wolfe stated that generally the pharmacists belong to a pharmacy services administration organization (PSAO) that allows them to contract with entities on their behalf.

In response to a question by Representative Stacy, Mr. Wolfe stated that Catalyst contracts with a PSAO who can legally sign on behalf of a group of pharmacists. Ms. Burgess stated that Catalyst worked with the PSAOs about the reimbursement rate for independent pharmacies. Catalyst also sent a letter to the independent pharmacies not included in a PSAO asking them to participate. Mr. Van Lahr stated that US Scripts was the only PBM that has a Kentucky Medicaid specific contract with pharmacists. Medco and Catalyst rolled the pharmacists into existing contracts that may not be a Kentucky Medicaid specific contract and has been in place for years. Mr. Wolfe stated that the Catalyst pharmacy contract to participate in WellCare is a national contract specific only to Medicaid. The reimbursement rates, including the MAC rate, are the same in any state that WellCare does business. Mr. Gaye stated that US Scripts worked directly with pharmacies as well as the Kentucky Pharmacists Association.

In response to a question by Representative Housman, Mr. Gaye stated that pharmacists are being exposed to the evolution of the market. Mr. Wolfe stated that independent pharmacists are incredibly important in trying to get healthcare costs under control. Mr. Strein stated that the over the past four years, the marketplace has been commoditized. Payors need to recognize the value of the clinical services that can be delivered through a pharmacy network.

Adjournment

There being no further business, the committee adjourned at 3:50 p.m.

INTERIMJOINTCOMMITTEE ON HEALTH AND WELFARE Subcommittee on Families and Children

Minutes of the 1st Meeting of the 2011 Interim November 16, 2011

Call to Order and Roll Call

The 1st meeting of the Subcommittee

on Families and Children of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 16, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Tom Burch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Tom Burch, Co-Chair; Senators Perry B. Clark, David Givens; Representatives Julie Raque Adams, and Brent Housman.

LRC Staff: Ben Payne, Jonathan Scott, and Cindy Smith.

First Steps Program Update

Dr. Ruth Ann Shepherd, Director of the Division of Maternal and Child Health for the Cabinet for Health and Family Services, and Paula Goff, First Steps Coordinator in the Division of Maternal and Child Health in the Cabinet for Health and Family Services presented information on the First Steps Program. The program, which began in 1994, is a statewide early intervention system that provides services to children from birth to age three who have developmental disabilities and their families. The program serves over 14,000 individuals annually. First Steps is administered by the Department for Public Health within the Cabinet for Health and Family Services. The program offers a variety of early intervention services that meet a child's developmental needs through coordination with a variety of community partners and agencies. The challenges of the program include continuing to improve results for families and children; improving child find; incorporating changes due to new federal regulations; anticipated decrease in federal funding and tobacco funding; and continuing to do more with less money.

In response to a question by Senator Givens, Ms. Goff responded that every child gets a five area assessment. This is updated annually and the report reflects the entry and exit data of the children. Specifically, the exit data reflects children that have aged out or left the program early.

In response to a question by Senator Givens, Ms. Goff responded that some children are mildly impacted, and some are more severely impacted, while others are good with social development. All three areas are examined to get the whole effect on the child. The data is looked at item by item and gets analyzed over time. This data factors into the entry and exit data pool of the child.

In response to a question by Senator Givens, Ms. Goff responded that the cabinet has been measuring data since 2007, with a small data pool. Some data was thrown out for a variety of reasons, but now every piece of data is getting into the KEDS system. Their target numbers are now based on 125 children, while the original target numbers were only based on data from 75 children.

In response to a question by Senator Givens, Ms. Goff responded that Kentucky will not be able to compare data with other states because not all states use the same information to determine the data.

In response to a question by Representative Housman, Ms. Goff responded that the big difference in the numbers of participants in the programs between 2010 and 2011 was mainly due

to the implementation of the TOTS system which enabled them to get better, more accurate data.

In response to a question by Representative Housman, Ms. Goff responded that screening usually helps to show eligibility of the child for the programs. Not all delays make the child program eligible.

In response to a question by Representative Housman, Ms. Goff responded that the revenue data was not correct on the charts and she would have that data looked at and get the correct numbers back to the committee.

Family Assistance Programs

Dr. Ruth Ann Shepherd, Director of the Division of Maternal and Child Health for the Cabinet for Health and Family Services and Jason Dunn, Family Support Division Director in the Cabinet for Health and Family Services spoke about Family Assistance Programs. Dr. Shepherd reported on the Special Supplemental Nutrition Program for Women, Infants, and Children that serve 136,000 Kentuckians monthly. The first WIC program began in Kentucky in 1974. Funding for the program is provided to each state in two categories: Nutrition Services Administration; and Food Funds. Kentucky WIC funding for 2010-2011 was \$116,982,559. Mr. Dunn continued the assistance programs presentation and reported that the cabinet facilitated programs of Temporary Assistance to Needy Families, K-TAP, Supplemental Nutrition Assistance Program, K-CHIP, Child Care Assistance Program, and the Low Income Home Energy Assistance Program. The eligibility requirements and access ability for all programs were detailed.

In response to a question by Senator Givens, Dr. Shepherd said that the WIC program is completely federally funded, and the \$5 million per month amount sounds right.

In response to a question by Senator Givens, Dr. Shepherd said the income guidelines are all federally defined, and there is no state input.

In response to a question by Senator Givens, Dr. Shepherd said that the 185 percent of poverty level is a concern and that some look at it as a disincentive to work, but the state does not set the level and the federal government may not want to increase the level.

In response to a question by Representative Housman, Dr. Shepherd said there is an average of \$40 per participant, per month in Kentucky.

In response to a question by Representative Housman, Dr. Shepherd said the WIC program is completely separate from the Food Stamp program.

In response to a question by Senator Givens, Mr. Dunn said that KTAP benefits do accumulate toward the income limit and this may also be the case in the Low Income Home Energy Assistance Program.

In response to a question by Senator Givens, Mr. Dunn said that every state, not just Kentucky, is struggling and experiencing huge caseloads.

In response to a question by Representative Housman, Mr. Dunn said he will prepare a one page sheet on all the programs and will provide that information

to the committee.

School Physical Activity Initiatives

Jamie Sparks, Coordinated School Health Project Director in the Kentucky Department of Education spoke about School Physical Activity Initiatives along with Maria Conger, IB Coordinator and Sara King, Physical Education Instructor, both from Bates Creek Middle School in Fayette County; Lee Anne Browder, Principal, and Kathy Todd, Physical Education Instructor, both from Shannon Johnson Elementary School in Madison County; and Anthony Mazzei, Principal, and Amber Evans, FRYSC Director, both from Campbell Ridge Elementary School in Campbell County. Mr. Sparks reported on the Coordinated School Health Project programs. The subcommittee learned that these are organized sets of programs, policies, and activities that individual schools may voluntarily choose to implement. KDE has received funding for the development and implementation of these programs from the Centers for Disease Control and the Robert Wood Johnson Foundation Obesity Prevention Project. Bates Creek Middle School in Fayette County, Shannon Johnson Elementary School in Madison County, and Campbell Ridge Elementary School in Campbell County testified on the specific physical education activities they have implemented in their schools and the successes they have experienced.

In response to a question by Senator Givens, Ms. Browder and Ms. Todd reported that the information on the child's BMI is not available on the infinite campus website, but a report goes home to the parents with that information.

Adjournment

The meeting was adjourned at 12:20 p.m.

INTERIMJOINTCOMMITTEE ON HEALTH AND WELFARE Subcommittee on Health Issues and Aging

Minutes of the 2nd Meeting of the 2011 Interim November 16, 2011

Call to Order and Roll Call

The second meeting of the Subcommittee on Health Issues and Aging of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 16, 2011, at 10:00 a.m. in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 10:10 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Senators Joe Bowen, Denise Harper Angel, Dennis Parrett, and Jack Westwood; Representatives Tim Moore, and Addia Wuchner.

Guest Legislators: Senator Jimmy Higdon, and Representatives Jimmie Lee and Terry Mills.

Guests: Mary Crowley-Schmidt, Assistant Director, Bluegrass Area Agency on Aging and Independent Living; Jan Day, Executive Director, Center for Accessible Living; Molly Dobson, Contracts and Budget Planner, Kentuckiana Regional Planning &

Development Agency (KIPDA); Polly Troxell, Tri-County Community Action Agency, Henry County; Amy Head, family member; Susan Campbell Turner, Children and Family Counseling Association, Inc. and IMPACT Plus provider; Steve Hall, Commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Eric Friedlander, Deputy Secretary, and Natalie Kelly, Cabinet for Health and Family Services; Niel C. Turner, Children and Family Counseling Association, Inc.; Lee Guice and Mary Begley, Office of Inspector General; Ellen Kershaw and Debbie Tobin, Alzheimer's Association.

LRC Staff: Miriam Fordham, Katie French, and Gina Rigsby.

Minutes

A motion to approve the minutes of the October 19, 2011, meeting was made by Senator Bowen, seconded by Senator Harper Angel, and approved by voice vote.

Discussion of Home and Community-Based Services (HCBS) for the Elderly and Disabled

Mary Crowley-Schmidt, Jan Day, Molly Dobson, and Polly Troxell presented testimony on home and community based services for the elderly and disabled. Kentucky, like the rest of the U.S., is facing an increasing numbers of seniors. Over 419, 000 older adults, grandparents, and persons with disabilities received services including meals, transportation, and in-home care in fiscal year 2010-2011. Total spending, including federal, state, and local funds, was about \$61.3 million, at an average cost of about \$135 per person. The number of individuals on the wait list for meals, transportation, and in-home care has steadily increased. The services provide an economic impact to the local communities and help maintain the health and safety of older adults and the disabled by reducing costs associated with providing additional care for falls, poor health, and malnutrition. The Personal Care Attendant Program (PCAP), one of the first of its kind to be established in the U.S., continues to provide valuable services to individuals with disabilities and also faces a decrease in funding.

In response to questions by Senator Bowen, Ms. Dobson stated that there are 15 Area Agencies on Aging and, in Kentucky, are placed within the Area Development Districts. Bids for services are taken on funds received from the state, and a service provider network is established in each of the communities. Each Area Agency on Aging has its own network of providers that provide specific services.

In response to a question by Senator Harper Angel, Ms. Dobson stated that the federal Centers for Medicare and Medicaid Services (CMS) through the Affordable Care Act, has set a policy on how the civil and monetary penalties (CMP) in each state are to be handled. The funds have to be returned to CMS. In Kentucky, some of the CMP funds have been designated toward assisting in the support of the state Long-Term Care Ombudsman. The Department for Aging and Independent Living has been in contact with CMS to find out how Kentucky can retain the CMP funds.

In response to statements by Representative Wuchner, Ms. Dobson stated that there is coordination with community ministries who can provide more resources and support.

Susan Campbell Turner, Children and Family Counseling Association, Inc., Commissioner Steve Hall, and Natalie Kelly, Children's Branch Manager, Division for Behavioral Health, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, testified about providers' procedural concerns with the IMPACT Plus program. The program provides services to children with severe emotional disabilities who need intensive services to stay in their home. Ms. Turner highlighted issues related to due process in the termination of providers.

In response to comments by Senator Higdon, Ms. Turner stated that her agency obtained legal counsel who sent two certified letters asking for dispute resolution meetings, but they have not received a reply from the cabinet.

In response to questions by Senator Denton, Deputy Secretary Friedlander stated that when a provider signs a contract, the provisions are binding on the cabinet and the contractor. The provisions in the contract are clear about what remedies and rights are available. The cabinet believes that it abides by the terms of the contract as well as the contractors. The cabinet has a concern for children receiving services and expanding the provider network and shares concerns about adequate access to services. There are internal audits conducted when it is determined a provider needs to be terminated to ensure it is in the best interest of the program, and the children that are being served by the cabinet. Ms. Kelly stated that once an audit is completed, a report is submitted within 45 days. The 45 day timeframe is not in policy, but one the cabinet has placed upon itself. Unless there is a case where deficiencies have to be taken to a different level, the report may or may not be submitted. Within the past five years, only two providers have not received a 45 day post audit report. Deputy Secretary Friedlander stated that any time the cabinet performs a review and it receives a great deal of scrutiny, it looks at its processes and ways to make improvements. Any changes in the terms of a contract entered into between the cabinet and a provider would need an amendment to the contract.

In response to questions by Senator Parrett, Deputy Secretary Friedlander stated that the terms of the contract are accepted and signed by the contractor and cabinet, and each entity has to comply with the contract provisions.

In response to a question by Senator Westwood, Deputy Secretary Friedlander stated that he would provide the subcommittee with the reasons why the cabinet did not respond to two certified letters sent from Ms. Turner. Senator Westwood stated that the cabinet needs to be more proactive in responding to requests and letters from providers.

Senator Denton stated that every provider has the right to know what accusations have been reported about them and have the opportunity to defend itself against the allegations. Every person

is entitled to due process. She questioned why the cabinet contracts with Eastern Kentucky University to conduct the audits.

Representative Mills stated that the cabinet should use this case as an example on how to deal with providers and how the auditors handle cases.

Senator Harper Angel expressed concern that the IMPACT Program does not have a grievance or appeals process, and that the cabinet has no time requirement after a review of an audit is finished to send a report to providers.

Amy Head, wife of Marty Head who has an acquired brain injury, Commissioner Neville Wise, and Karen Martin, Department for Medicaid Services, Cabinet for Health and Family Services, testified about the Acquired Brain Injury Medicaid waiver program. Ms. Head reported on the problems she has encountered in trying to get services for her brain injured husband. Ms. Hass testified about the Money Follows the Person program and highlighted problems encountered by individuals in trying to transition from nursing homes to community based services.

Commissioner Wise stated that there are appeal rights for any member in any Medicaid service when the member has had a denial from the peer review organization even in the new Medicaid managed care organizations. Ms. Martin stated that the cabinet has not denied services to Mr. Head but is trying to find services for the supports he needs.

In response to a question by Senator Denton, Ms. Hass stated that no one who made the decision to deny Mr. Head services is medically qualified. Ms. Martin stated that the cabinet is held accountable for budget neutrality. The four goals that the cabinet looks at when making decisions are equity, efficiency, liberty, and security.

Adjournment

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

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 6th Meeting of the 2011 Interim December 9, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Judiciary was held on Friday, December 9, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Tom Jensen, Chair, called the meeting to order, the secretary called the roll, and a quorum was present.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Ray S. Jones II, John Schickel, Dan "Malano" Seum, Katie Kratz Stine, and Robin L. Webb; Representatives Jesse Crenshaw, Joseph M. Fischer, Kelly Flood, Sara Beth Gregory, Joni L. Jenkins, Mary Lou Marzian, Michael J. Nemes, Tom Riner, and Steven Rudy.

Guests: Chief Justice John D. Minton, Jr.; Laurie Dudgeon, Leslie Brown, Leigh Anne Hiatt, Administrative Office of the Courts; and Marti White, Kentucky Spirit.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, Ray DeBolt, and Rebecca Crawley.

The minutes of the October 7, 2011 meeting were approved without objection by voice vote.

Representative Tilley noted Representative Yonts was absent from the meeting because he was participating in the State Leaders' National Forum on Reentry and Recidivism in Washington D.C.

State of the Judiciary Report

Chief Justice John D. Minton, Jr., Kentucky Supreme Court, presented the 2011 State of the Judiciary Report. He introduced members of the Court of Appeals, Circuit Judges, Family Court Judges, District Judges, Circuit Clerks, and the staff of the Administrative Office of the Courts, who were attending the meeting. The Chief Justice complimented the General Assembly for placing him on the Task Force on the Penal Code and Controlled Substances Act, giving each branch of government representation in the development of 2011 HB 463.

Chief Justice Minton began his presentation by describing achievements of the Court of Justice, including implementation of 2011 HB 463, which required fundamental culture changes in the courts. Implementation included developing new legal forms, a revised accounting manual, pretrial and other procedures, and the training of judges, clerks, pretrial officers, and other participants in the court system on the provisions of HB 463 and its implementation. The Chief Justice complimented Senator Jensen and Representative Tilley for making themselves available for these training sessions and responding to questions about the bill.

The Chief Justice described the successes of HB 463 in the first five months of its implementation, including a 15 percent decrease in arrested defendants, four percent increase in the overall release rate, 50 percent to 67 percent increase in non-financial releases of low-and moderate-risk defendants prior to trial, a 738 person decrease in pretrial jail population, and no increases in the number of persons not appearing for trial or committing new crimes while on pretrial release. There has been an increase in the number of pretrial releasees being placed on monitored conditional release by 1,285 persons, resulting in 4,493 defendant call-in reports, 3,934 additional curfew checks, 2,642 additional drug tests, and 6,737 additional office visit reports, resulting in much higher levels of activity for pretrial release officers. The Chief Justice indicated a need for 25 additional pretrial release officers and an increase in pay for the existing officers who are leaving for higher paying jobs with the Department of Corrections.

Other successes included a reorganization of the Jefferson District Court which has increased case dispositions, decreased waiting times for trial, and evened the caseloads for judges who hear 400,000 cases per year, new uniform rules for Family Court practice which were developed under the guidance of Deputy Chief Justice Mary Noble, the initiation of a Best Practices/Model Court initiative for improving outcomes

for out-of-home care of children by the Department of Juvenile and Family Services of the Administrative Office of the Courts which is now active in seven counties, the increase in the eWarrants system to 113 counties with the assistance of the Attorney General, Department of Kentucky State Police, Kentucky Office of Homeland Security and Open Portal Solutions, implementation of a statewide jury management system, and the Day on the Bench program which encourages judges to invite legislators to view court activities for a day to have a better understanding of the court system.

The Chief Justice described the needs of the courts as including redistricting of Supreme Court districts to be more equal in population and caseload, which would also include the Court of Appeals since it uses the same districts, and dealing with needs of the winding down and eventual elimination of the senior status judge program which allowed retired judges to fill in for judges who could not hear a particular case or were covering dockets for them and to assist judges in reducing caseloads.

Budget items for the new biennium include a compensation plan for court employees, a new technology system which will link all 120 counties in one system replacing 120 separate obsolete systems which will provide for improved case management and record keeping at a cost of \$2.2 million in debt service each year, adding twenty-five new pretrial officers and improving pretrial officer salaries, full funding for the Judicial Form Retirement System which was not fully funded in the last budget cycle at a cost of \$10.8 million each year, adding new Family Court judgeships in two circuits, converting one District Court judgeship to a Family Court judgeship, and building new judicial centers in Henry County and Nicholas Counties.

Senator Jensen complimented the Chief Justice on his presentation and implementation of HB 463.

Senator Gibson asked about reported problems with the test for persons desiring to run for Circuit Clerk. Laurie Dudgeon, AOC Director, responded there were problems with some test booklets containing answers written in and others where the answer sheets did not have the same number of available answers as did the questions. She told the committee there will be retesting at several locations. In response to a question from Representative Crenshaw, she said the cost of additional pretrial officers would be about \$2.1 million each year of the biennium. Senator Webb complimented the Chief Justice on the implementation of HB 463 and expressed approval of the Senior Status Judge program. Senator Jensen asked about population changes and caseloads affecting the Circuit Courts and the District Courts, and the Chief Justice responded the court system is working on the issue. He noted there are great caseload disparities but the issue is complicated because each change in Circuits Districts also affects the Commonwealth's Attorney.

The meeting adjourned at 11:55 a.m.

INTERIMJOINTCOMMITTEE ON JUDICIARY

Minutes of the 7th Meeting of the 2011 Interim December 16, 2011

Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Judiciary was held on Friday, December 16, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, the secretary called the roll, and a quorum was present.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Jerry P. Rhoads, Dan "Malano" Seum, Katie Kratz Stine, Robin L. Webb, and Jack Westwood; Representatives Jesse Crenshaw, Joseph M. Fischer, Kelly Flood, Sara Beth Gregory, Jeff Hoover, Joni L. Jenkins, Thomas Kerr, Mary Lou Marzian, Michael J. Nemes, Darryl T. Owens, Tom Riner, and Steven Rudy.

Guests: Tanya Fogle, Bluegrass Area Development District; and Lauren-Brooke Eisen, Vera Institute of Justice.

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

Vera Institute of Justice

Lauren-Brooke Eisen, Program Associate, Center on Sentencing and Corrections at the Vera Institute of Justice, presented an update on Vera's role assisting Kentucky with the Justice Reinvestment Initiative Phase II. She described Vera's role in Kentucky as a liaison between the Bureau of Justice Assistance and the state in facilitating the state's application for up to \$400,000 to implement the justice reinvestment portions of HB 463 in cooperation with the Administrative Office of the Courts, Department of Corrections, and other state agencies. Ms. Eisen indicated a JRI working group has been established involving state and local agencies and the courts to set goals and identify areas of need for the pass-through funding application. Identified areas of need include assistance to the Department of Corrections in designing a system to estimate savings, assistance in implementing evidence-based practices, working with judges to understand new policies and training Circuit Clerks and pretrial officers. Several areas of need were identified which were beyond the initial funding goals, including technology issues at the Administrative Office of the Courts, and implementation of the sentencing information system for victims and others by the Department of Corrections to be implemented by July 2013. Ms. Eisen indicated Vera staff has created data monitoring spreadsheets to assist the Administrative Office of the Courts and the Department of Corrections in their data collection and monitoring efforts.

Results First Pilot Project

Mike Clark, LRC Economist, reported on the results of the pilot project for using the Results First program to evaluate criminal justice and other needs based on a model from the Washington Public Policy Institute. Mr. Clark said from a research perspective, Results First might not be adequate as the sole determinant for identifying and selecting corrections programs which have the

most potential to provide net benefits. The Washington model focuses on recidivism and potential savings from less crime in the future. Some limitations include the amount of Kentucky data available, the short duration of most recidivism studies, which is three years to five years, and does not provide a long-term evaluation for treated versus untreated offenders. Mr. Clark indicated it would be difficult to justify the assumptions for long term effects based on short-term data for crimes avoided. Data on correctional costs, for instance is easier to estimate, but one must differentiate between fixed costs such as debt service, and variable costs such as lowering the cost of incarceration medical care and food service costs with less crime. There is also a problem of effect size related to the type of crime which might be prevented. For example, a Washington state study found that a drug treatment program reduced the two year felony recidivism from 29 percent to 20.2 percent. However, the difference resulted from a reduction in drug felonies. There was no statistically significant reduction in nondrug felonies. Another factor was fixed costs in providing services such as criminal defense services by the Department for Public Advocacy which might reduce the caseload of public defenders, but not the costs of providing the defense, because the present caseload per public defender is so high. As far as a conclusion from the pilot study, the economist recommended caution in relying on the data, particularly in the area of marginal costs associated with avoided crimes. Further study of the Kentucky offender population is needed so that Kentucky specific results can be obtained and evaluated.

Discussion of Task Force on Penal Code and Controlled Substances Act Report

Chairman Tilley recognized the continuing efforts of the stakeholders in making suggestions to the task force and the committee during the past interim which greatly assisted both the task force and the committee in arriving at its report and recommendations.

Chairman Tilley told the committee how the recommendations in the draft task force report were developed and pointed out the initial revision of the penal code took four years, and that one interim period was insufficient for a full review and restructuring of the penal code. The report reflects general areas for further study during the next interim by a reconstituted task force. Chairman Tilley indicated the first part of the report details what has been done to implement the provisions of 2011 HB 463 and the items of need identified during the committee meetings.

Specific recommendations include:

1. Reform the Penal Code;
2. Reclassify offenses and modify the sentencing structure to include new classes of felonies, the possibility of a new high misdemeanor offense, and adjustments to parole eligibility for certain offenses;
3. Modify trafficking in controlled substances in the second and third degrees and the aggregation of drug transactions to achieve better results;
4. Create a generally applicable synthetic drug statute which Chairman Tilley indicated could anticipate further modifications to existing drugs;
5. Clarify the deferred prosecution

- provision;
6. Investigate methods for combating methamphetamine.
7. Investigate better methods for combating pill mills. Chairman Tilley indicated that there are already several prefiled bills on the matter which will be considered during the 2012 Regular Session;
8. Clarify various provisions in the drug court statute as recommended by the Court of Justice;
8. Clarify misdemeanor citation and arrest powers;
9. Clarify application of bail credits;
10. Clarify pretrial release provisions;
11. Reevaluate employment restrictions for felons;
12. Review challenges presented in misdemeanor expungement, particularly the one offense provision;
13. Create a uniform statewide gang database;
14. Ensure confidentiality for victims of sexual offenses;
15. Investigate better methods to combat human trafficking;
16. Ensure protection of child victims from Internet exploitation;
17. Ensure justice reinvestment;
18. Address issues relating to the electronic monitoring of offenders;
19. Create a task force to review juvenile justice matters;
20. Use the Results First cost-benefit model to allocate reinvestment funds to evidence-based programs;
21. Require detailed reporting on evidence-based programs;
22. Authorize expanded use of the Results First cost-benefit analysis.

Senator Webb suggested any reauthorized task force should have broader representation, particularly from members of the General Assembly, and the integrity of the committee process is important for proper input. Senator Webb also indicated that changes to the Drug Court program should be made by the Court of Justice and should include both entrance and discharge provisions. Chairman Tilley said previous legislatively based task force was unable to produce recommendations and that success was achieved by the utilization of a task force consisting of representatives from all three branches of government. Senator Webb suggested the committee needed input on juvenile law issues. Senator Jensen commented the three branches worked well together on producing both 2011 HB 463 and this report and complimented the stakeholders on their continued interest, comments, and support.

The report, as amended by the Task Force on the Penal Code and Controlled Substances Act, was accepted by the committee for transmittal to the Legislative Research Commission. The meeting adjourned at 2:10 p.m.

JOINT MEETING OF THE INTERIMJOINTCOMMITTEE ON LABOR AND INDUSTRY AND THE INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Minutes of the 4th Meeting of the 2011 Interim October 20, 2011

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, October 20, 2011, at 9:30 AM, in the Rolex Stadium Hospitality Room at the Kentucky Horse Park. Senator Alice Forgy Kerr, Chair, called the meeting

to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Jared Carpenter, Denise Harper Angel, Ernie Harris, and Kathy W. Stein; Representatives C. B. Embry Jr., Richard Henderson, Wade Hurt, Thomas Kerr, Terry Mills, Michael J. Nemes, Tom Riner, and Brent Yonts.

Guests: John Nicholson, Executive Director, Kentucky Horse Park; Cheryl Norton, President, Kentucky American Water; Matt Sawyers, Deputy Secretary, Tourism, Arts and Heritage Cabinet; Hank Phillips, Deputy Commissioner, Department of Travel and Tourism; William Graeper, Certified Languages International; Terena Bell, Chief Executive Officer, In Every Language; Dwight Lovan, Commissioner, Department of Workers' Claims; and Melissa Beasley, Deputy Director, Division of Unemployment Insurance

LRC Staff: Adanna Hydes, Carla Montgomery, and Betsy Nickens.

Kentucky Horse Park

John Nicholson, executive director of the Kentucky Horse Park, updated members on the success of the park one year after the Alltech FEI World Equestrian Games (WEG). Based on an economic impact study commissioned by the Tourism, Arts and Humanities Cabinet, the games brought \$201.5 million to the state including \$45 million in wages, \$18.4 million in state taxes, and \$4.5 million in local taxes. In addition to the 70 national shows already held at the park annually, the state's investment in the park has resulted in 14 new equine events, twelve of which are annual events including the Alltech National Horse Show, which is the oldest and most prestigious horse show in America and was formerly held at Madison Square Garden. The economic impact of these new events is estimated at \$44.2 million. He noted that the cabinet is also currently conducting an economic impact study of the Horse Park.

Referencing *Chronicle of the Horse*, Mr. Nicholson quoted the equestrian sport publication's statements about the legacy the WEG left for United States horse sports. The park updates resulted in it being the "go to" location for national championships and other major equine events including the Junior Rider Championships and the National Horse Show. The benefits for the industry and the state will be measured for years to come.

Mr. Nicholson noted the park's museum will feature an exhibit produced by the American Museum of Natural History, titled *The Horse*, and one of the park's educational programs, the Kentucky Horse Park Literacy Project.

Representative McKee thanked Mr. Nicholson for his efforts in promoting the park and his work during the games.

Representative Edmonds commented that an associate from Deville, France said the Horse Park is now the finest equine facility in the world.

Responding to Representative Carney's question, Mr. Nicholson said that each equine event participating at the park makes provisions for veterinary services per park requirements, and that there are top veterinary hospitals near the park.

Department of Travel and

Tourism

Matt Sawyers, Deputy Secretary, Tourism Arts and Heritage Cabinet, noted the success of the World Equestrian Games and the dedication of Horse Park staff as well as the Department of Travel and Tourism.

Hank Phillips, Deputy Commissioner, Department of Travel and Tourism, outlined the agency's mission to promote travel to and within the Commonwealth. The vision is to enable the traveling public to understand and feel the uniqueness of Kentucky. In 2010, tourism resulted in an \$11.4 billion economic impact—\$2.5 billion in payroll and \$1.2 billion in local and state taxes, as well as 170,000 jobs. Mr. Phillips said the Southeast Tourism Society will announce that the department has been selected as the southeast state travel office of the year. Key to this award was "The Kentucky Experience" exposition at the WEG. The exposition was later moved to the Kentucky History Center and then to the state fair. Next year it will be a part of the *Travel South* conference in Louisville.

Mr. Phillips outlined other promotional efforts, which include commercials, the Kentucky Visitors Guide, and the award winning website launched in 2010. Upcoming events include the Civil War Heritage Trails Program, which is part of the Civil War Sesquicentennial; the Bill Monroe Centennial, the Kentucky Inaugural Sprint Cup Race, and the Senior PGA Championship.

Mr. Phillips explained the development of the new marketing campaign, "There's Only One Kentucky," which came about through the use of focus groups and input from tour companies. The campaign includes sites that are unique to the Commonwealth, such as "Horse Capital of the World," Mammoth Cave, and the National Quilt Museum.

Mr. Phillips said the use of "ten second spots" in television commercial production helped budget advertising funds. The commercials were produced by a Kentucky company. Radio advertisements will be released in the spring of 2012. Other advertisements include print and banner ads in the visitors guide as well as online and social media.

Responding to Representative Julie Adam's question, Mr. Phillips said \$1.3 million has been spent on advertising.

In response to Senator Stein's questions, Mr. Phillips said Miles Media, headquartered in Florida, published the 2011 Visitor's Guide. It was selected through the state procurement process. Advertisements that are affiliated with the Tourism Cabinet are purchased by outside entities. The guide is published at no cost to the state—revenue is derived through advertisements. If income exceeds a certain percentage, the state receives dividends, although that has not occurred since contracting with Miles two years ago.

Kentucky American Water

Cheryl Norton, President of Kentucky American Water (KAW), discussed what the company and its parent company, American Water, can do to help economic development in the area. Ms. Norton gave an overview of the company and its history. KAW, with approximately 150 employees, provides water and waste water services to approximately 500,000 people

in portions of 10 counties by producing 86 million gallons of water daily. During the World Equestrian Games, KAW saw its maximum usage with high temperatures being a contributing factor to increased demand. Ms. Norton said maintaining a substantial water supply has been an issue over the past 20 years. In 2008, KAW and the Public Service Commission agreed the best solution was a new 20 million gallon treatment plant and distribution system in Owen County. The facility was completed in 2010. Over 200 people were employed during construction. The project contributed more than \$1.1 million in new property and real estate tax revenue in the four counties involved, and the revenue supplied needed school funding during a period of cutbacks. Ms. Norton listed several of KAW's community project involvements. She noted how important having a sufficient water supply is to economic development, pointing out this was a major consideration when Toyota Manufacturing came to Kentucky.

Responding to Senator Stein's questions, Ms. Norton said Fayette Urban County Government pays \$38 per month per fire hydrant in maintenance fees. With the addition of the new plant, community growth is sustainable for the next 15 to 20 years. Ms. Norton said usage per customer has declined in recent years due to the economy and other issues such as rainfall and more efficient homes.

In response to Representative Hall's question about new Environmental Protection Agency (EPA) regulations of storm water systems and other utilities, Ms. Norton said the new EPA regulations, costing millions, are challenging and costly to communities and customers. Many of the regulations are not based on scientific evidence. She said it is important to address these issues in a logical manner.

Responding to Representative Palumbo's question, Ms. Norton explained that KAW's limit of 17 or fewer notifications is self-imposed. She said as EPA regulations get more difficult to meet, it is more of a challenge to avoid getting notices of violation.

Independent Contractor Issues for Interpreters and Translators

Mr. William Graeper, Certified Languages International, travels in sponsorship of legislation that will classify interpreters and translators as independent contractors as opposed to employees of language service agencies. He stated in 2001 his language services company was audited by its insurance company, resulting in the company's interpreters being classified as employees. He considers interpreters to be independent contractors and not employees. Certified Languages International fought the decision and won. Mr. Graeper sponsored legislation in Oregon exempting interpreters and translators who are performing work under language service agencies from unemployment insurance taxes and workers' compensation taxes. His intent was to present the issue in a broad fashion before it comes to the committee as legislation in 2012. He has worked for the past ten years in sponsoring legislation regarding this issue, which has passed in Oregon, New York, and state of Washington.

Interpreters and translators are

highly skilled workers. There are 7,000 individuals who are members of the American Translation Association. Most of those members are independent contractors and want to remain that way. These individuals are used by multiple language service agencies and not doing the work of the language service company itself, but of interpreting and translating for the various entities that hire them.

In response to questions from Senator Harris, Ms. Bell, Chief Executive Officer of In Every Language, a Louisville based company, stated that there are nine language service agencies in Kentucky. In Every Language provides services nationwide. There are 2,500 companies that provide translation and interpretation services in the United States. The translators and interpreters could be placed by multiple companies in order to maintain their work load.

In response to a question from Representative Nemes, Mr. Graeper explained how language services are constantly battling the issue of whether interpreters and translators are independent contractors or employees. More enforcement actions are taking place among the individual companies nationwide, but it is ultimately a strain on time and resources to fight each individual case. Therefore, Mr. Graeper feels that it is better to approach the subject on the legislative level.

Ms. Bell stated that the language service industry is a \$31 billion market globally. In the United States, companies spend \$17 billion annually on language services. With 2,500 language service companies in the nation, only nine are located in Kentucky. She said it is tempting to move her business to another state because Kentucky has not taken a stand for the industry.

Senator Kerr advised the committee that a summary of employee misclassification in the construction sector is available in the members' meeting folders from the Kentucky State Building and Construction Trades Council.

Senator Kerr introduced Commissioner Dwight Lovan and Deputy Director Melissa Beasley, who were present to answer questions regarding independent contractors as it relates to workers' compensation insurance and unemployment insurance. Commissioner Lovan explained that whether a worker is an independent contractor is determined through case law. In the Kentucky Workers' Compensation Act, there is no definition of independent contractor nor is there any reference to such. An independent contractor is not an employee; therefore, workers' compensation does not apply. The four predominate factors to determine whether a worker is an independent contractor are as follows: the nature of the work in relationship to the employer's business; the extent of the employer's right to control the work activity; the professionalism and unique skill of the worker; and the true intent of the parties. The exemptions in the Kentucky Workers' Compensation Act are in KRS 342.650 and an employee is defined in KRS 342.640.

In response to questions from Senator Harris, Commissioner Lovan said generally, a subcontractor who owns his or her own business and does business

for different people would be viewed as an independent contractor. Commissioner Lovan said he could only find one citation two years ago for a translation business, and the fine was minimal. He did not know if it was in regard to in-house employees or agency interpreters.

In response to questions from Senator Kerr, Ms. Bell clarified that she had been fined by the Department of Workers' Claims. She said the company paid the fine instead of contesting the citation.

Senator Kerr announced that the committee will meet on November 17, 2011 in Frankfort.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 5th Meeting

of the 2011 Interim

November 30, 2011

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Labor and Industry was held on Wednesday, November 30, 2011, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Denise Harper Angel, Jerry P. Rhoads, Tim Shaughnessy, Kathy W. Stein, Katie Kratz Stine, Jack Westwood, and Ken Winters; Representatives John A. Arnold Jr., Will Coursey, C. B. Embry Jr., Bill Farmer, Wade Hurt, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Mary Lou Marzian, Charles Miller, Terry Mills, Michael J. Nemes, Tanya Pullin, Tom Riner, and Jim Stewart III.

Guests: Representative Susan Westrom; Ben Kaufmann, Ben C. Kaufmann Agency; Cynthia Bohn, President, Equus Run Vineyard; Steve Bowlds, President, D-C Elevator Co.; Reni Ross, D-C Elevator Co.; Joe Meyer, Secretary, Education and Workforce Development Cabinet; and Larry Roberts, Director, Kentucky State Building and Construction Trades Council.

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

The minutes of July 21, 2011, September 13, 2011, and October 20, 2011 meetings were approved by voice vote.

Unemployment Insurance/ Employee Misconduct

Representative Westrom addressed the committee on the importance of small businesses in the Commonwealth. She stated that many small businesses are frustrated with the unemployment insurance (UI) system and should not be forced to bear the burden for bad employees. Even though an employee was guilty of misconduct, the employee still received UI benefits. Ben Kaufman, insurance agency owner, stated he had a small business that has approximately five employees. He stated every time he was forced to let someone go, the employee still received UI benefits. He stated that his head maintenance person had been with him for eleven years. Through a GPS

system, his agency found the employee was working for others but charging the agency for time. Mr. Kaufman also felt that the employee had taken a mini fridge from the company. The employee threatened members of the company. The employee was awarded UI benefits. After he was receiving benefits, the company saw his picture in the paper working on the sewer in Lexington. Mr. Kaufman reported this fraud to the UI agency, but nothing happened to the former employee.

Cynthia Bohn addressed three scenarios with the committee. A former employee was receiving benefits when Ms. Bohn discovered the employee was working. She reported the fraud to the UI agency and nothing happened. Ms. Bohn also discussed a good employee who had to be offered another job because of the economy and his position was being eliminated. He had to become a salesman and work weekends. He did not want to take this position. She felt that she should not have to pay UI benefits on him since she had offered him a good position. Her third scenario involved a current worker who has "gone bad." She has poor production. She threatens Ms. Bohn that if she is let go she will get UI benefits. Ms. Bohn feels she is stuck with a bad employee because she would still get UI benefits.

Steve Bowlds stated that his business averaged about 15 employees. He had some positive dealings with the UI agency, but had noticed a shift in the agency's attitude. Mr. Bowlds felt there was a shift towards a bias for employees. Mr. Bowlds asked for fairness in hearings and to have documentation of misconduct to be considered by the hearing officers. Mr. Ross stated that he had been told that he could not have an attorney at the UI hearing.

Secretary Joe Meyer addressed the committee and attempted to address the issues brought by the employers. Secretary Meyer discussed misconduct of an employee and how it can disqualify an individual from receiving unemployment benefits. In many instances, the disqualification of an individual depends on how the evidence is presented. It is decided on a case by case basis. In many instances, employers do not have sufficient evidence to prove misconduct of an employee.

Secretary Meyer indicated the statute requires that the employer has the burden of proving misconduct and the agency is required to follow the standard spelled out by statute. While the appeals process is informal, the burden of proof must be met by the employer and many fail to meet that burden. There is a current case before the Supreme Court of Kentucky that appeals a Court of Appeals ruling in which the court ruled a person with excessive tardiness is not guilty of misconduct.

Secretary Meyer said that employers have an absolute right to the assistance of attorneys at any time during the UI appeals process. The agency has expanded the referee staff and cut the delay of cases from six to eight weeks to three to four weeks. Secretary Meyer also said that remanded cases get priority.

In July, a pilot project was started to eliminate elements of surprise for the employer and employee by requiring the exchange of information prior to hearings.

Secretary Meyer discussed a training program put into place for employers which includes two mock hearings. Secretary Meyer indicated that many employers have a perception of bias in favor of the employee but in reality the employers won 70 percent of the UI cases in 2011.

Secretary Meyer said the standard in 1982 was changed to eliminate the requirement of intentional behavior in response to Senator Kerr. Senator Kerr asked if the statute could be adjusted to deal with people who are doing very little work. Secretary Meyer said he would have to give that issue some thought and look at how the rulings have been. Secretary Meyer mentioned the trainings for employers offered by UI in response to Senator Kerr. Senator Stein asked Mr. Kaufman if he had prosecuted the employee for theft and Mr. Kaufman replied no. Mr. Kaufman could not prove the employee had stolen anything. Secretary Meyer indicated that unsatisfactory work by itself does not constitute misconduct in response to Senator Westwood. Secretary Meyer told Representative Stewart that a legislator is allowed to sit in with an employee or an employer at a referee hearing.

Employee Misclassification in the Construction Industry in Kentucky

Larry Roberts, Director of the Kentucky State Building and Construction Trades Council (KSBCTC), addressed the committee on the issue of misclassification in the construction industry. Mr. Roberts stated that in the spring of 2005, a study in Massachusetts looked at the economic impact of misclassification in the construction industry and reported one in seven employers was misclassifying employees. In 2007, the governmental accounting office estimated that there were 10 million independent contractors in the United States, reflecting an increase of 2 million over a six year period. In a case of true misclassification, an individual is not an independent contractor but is an employee under the direction of an employer, who completes work with the employer's tools, maintains no investment, and no chance for profit or loss on the job. Mr. Roberts said that misclassification does not occur only in residential construction, but in industrial, commercial, public works construction, and projects of all sizes.

Mr. Roberts said during the 2008 General Assembly, a gentleman described the business model of a North Carolina company operating in Kentucky, Precision Walls. This testimony was presented before the House Committee on Labor and Industry. The employees of Precision Walls were designated as independent contractors who conducted the construction. The independent contractors received cash for their work. In 2009, Precision Walls was the subcontractor on the Kentucky Horse Park Indoor Arena.

Mr. Roberts presented a video which described two particular cases of workplace fraud. Workplace fraud occurs when employers misclassify their employees as independent contractors by providing them with a 1099 form instead of a W-2 for employees, or by paying with cash in lieu of withholding taxes. A recent study of Kentucky's construction industry found that approximately 25

percent of construction contractors engage of some form of workplace fraud. Ultimately, these contractors bypass paying state and local payroll taxes and avoid paying workers' compensation and unemployment insurance. In 2010, out-of-state contractors performed the cleanup after significant flooding occurred in Louisville. The Kentucky Labor Cabinet recovered over \$800,000 in unpaid wages for primarily immigrant workers who were treated as independent contractors. The general contractor in this case was forced to pay the employees through a payroll system which resulted in over \$100,000 in taxes being remitted to the local state and federal government. The company that was awarded the bid to complete all of the drywall work for the Kentucky Horse Park project in 2009 illegally paid its employees in cash. Local contractors could not compete for the bid because this company was conducting workplace fraud. When construction workers are misclassified, it undermines Kentucky's ability to have a sustainable workforce.

Mr. Roberts said contributing factors to the issue of misclassification include the unfair competition in construction contracting, which may result in willingness to take the risk to violate the law, and the high rate of unemployment in Kentucky and the Nation resulting in more legal workers and immigrant workers who may be willing to be classified as independent contractors and paid in cash regardless of the circumstances.

Michael Kelsay, Ph.D., and James Sturgeon, Ph.D., of the Department of Economics at the University of Missouri - Kansas City compiled a study based upon data retrieved from the audits of unemployment insurance agencies as required by the United States Department of Labor. For the years 2007 through 2010, the Kentucky unemployment insurance audits found on average 26.4 percent of construction employers misclassified workers. This translates to approximately 2,800 construction employers in Kentucky. In 2007, the study identified 1,488 misclassified workers. In 2010, at an increase of 113 percent, 3,010 misclassified workers were identified for all industries. Of the five sectors audited, Health Care and Social Assistance, Retail Trade, Professional Scientific and Technical Services, Other Services and Construction, the number of misclassified workers is substantially higher in the Construction sector than in other industries.

Mr. Roberts stated that the studies by Dr. Kelsay and Dr. Sturgeon show that Kentucky suffered a minimum loss of over \$6 million per year as a result of income tax that was not paid, a loss of \$5 million in workers compensation premiums and \$1.75 million in unemployment insurance, which is based only on those employers who issued 1099 forms to their misclassified independent contractors. Recommendations from the study include, increase the targeted audits on problem employers, develop meaningful penalties, encourage collaboration between labor, revenue, workers' compensation and unemployment insurance entities, and expand educational outreach amongst employers and employees. Mr. Roberts said on behalf of Dr. Michael Kelsay, he

would be available to further discuss the studies before the committee.

In response to questions from Representative Kerr, Mr. Roberts said administrative changes may be effective in order to increase the number of required audits conducted and in encouraging collaboration between entities. Certain confidentiality issues or restrictions may become apparent in the sharing of information. Classification under common law applies to unemployment insurance, workers' claims, and revenue. The statutes and regulations of employment law are within KRS Chapter 337 which the Labor Cabinet enforces. Legislation that did not pass through both chambers in 2008 may be revised to evaluate penalties incurred by employers who misclassify.

In response to questions from Senator Rhoads, Mr. Roberts said there is often no record of an employee when the person has been paid in cash or a 1099 form has not been filed and therefore there is no payroll to audit for workers' compensation purposes. Worker compensation carriers may be liable for premiums not paid on employees who have sustained an injury on the job and are ultimately determined to be employees, not independent contractors.

In response to questions from Representative Pullin, Mr. Roberts said in the workplace fraud case of Precision Walls, \$300,000 in wages was recouped through litigation, the company agreed to a six month debarment and would not to subcontract for a year,. Precision Walls is no longer operating in Kentucky, but may be considered for jobs in the future. By the model procurement code, companies up for bids are required to divulge information and the owner is supposed to determine the legitimacy of the subcontractor.

There being no further business the meeting adjourned.

INTERIMJOINTCOMMITTEE ON LOCAL GOVERNMENT

Minutes of the 4th Meeting
of the 2011 Interim

October 26, 2011

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Local Government was held on Wednesday, October 26, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Jimmy Higdon, Gerald A. Neal, R.J. Palmer II, Dan "Malano" Seum, and Johnny Ray Turner; Representatives Julie Raque Adams, Ron Crimm, Ted Edmonds, Richard Henderson, Brent Housman, Adam Koenig, Stan Lee, Tom McKee, Michael Meredith, David Osborne, Jody Richards, and Jim Wayne.

Guests: Mayor Susan Barto, Mayor Tom Bozarth, J.D. Chaney, Bert May, and Tony Goetz, Kentucky League of Cities; Denis Oudard, Solar Energy Solutions; Andy McDonald, Kentucky Solar Partnership; Ron Wolf, Associated General Contractors of America; Dawn Bellis, Department of Housing, Buildings

and Construction; Bryan Alvey, Kentucky Farm Bureau; and Dan Walton, Labor Cabinet.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Jessica Causey, Tom Dorman, Bryanna Carroll, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Henderson, seconded by Senator Jimmy Higdon, the minutes of the September 28, 2011 meeting approved.

Discussion of Solar Energy Issues relating to Local Governments

Denis Oudard, Project Manager of Kentucky Solar Partnership, told the committee that active solar systems can be distinguished into two large categories: thermal and electric. They work similar in that they both capture energy and that is done with collectors in the case of thermal. After the energy is captured it must be stored, and most of the time it is stored in the form of hot water in a storage tank.

The use of thermal solar energy is very simple. Domestic hot water is the typical use of solar hot water systems, but it can be used for heating and to warm or cool green houses. The heat can also be used to dry or dehumidify locations.

After solar electricity is captured, it can be stored or sent directly onto the grid. Batteries are the typical storage devices for electricity, but there are many ways to store electricity.

There are new uses for electricity that are currently being developed such as the electric car.

Regarding solar economics, the return on investment of a solar system is going to depend on many aspects. The cost of the alternative source of electricity is a major aspect of return on the investment since you have to compare the costs of the solar electricity with the cost of the electricity that is already being produced in the environment. Maintenance costs are very low, and taxes and incentives are crucial. Arizona only gets 44 percent more sun than Kentucky.

The cost of solar electricity is decreasing, while most other sources' costs are increasing. One day, the cost of solar power will equal market costs for the energy sources. After that it will be cheaper than other sources.

As of August, 2011, an estimated 100,237 people across the U.S. were classified as "solar workers," a 6.8 percent increase since August, 2010.

Examples of local government and solar energy are street lights, schools, affordable housing, municipal utilities, prisons, and transportation.

Recommendations to amend the net-metering statutes and a Clean Energy Opportunity Act will be made to the General Assembly.

Andy McDonald, Director of Kentucky Solar Partnership told the committee that Richlandsville Elementary School in Bowling Green, Kentucky is America's first net-zero energy school. The school opened in August of 2010, and has 72,285 square feet. It was designed to use 75 percent less energy than the average Kentucky school, and will meet its annual electricity needs with solar photovoltaics. The project cost per square foot was lower than the state limit for new school construction including the cost of

solar photovoltaics (PV). The school will not have utility bills so that money saved can be used for teaching and learning.

Solar photovoltaic power costs have fallen below 20 cents per kilowatt hour (kWh). When factored over 25 years, the lifecycle cost for solar PV power, without any incentives, is approaching the cost for conventional power. This is the fixed cost for the power for the next 25-plus years. Solar water heating delivers energy in the range of 6 to 11 cents/kWh, when factored over the 25-year life of the equipment. This is the fixed cost for the power for the next 25 years. Solar energy systems are proven to provide effective security against rising energy costs.

Twenty-nine states have Renewable Portfolio Standards driving the development of their renewable energy industries. Kentucky has no such state policies.

Referring to Richlandsville Elementary School, Representative Richards commented that Warren County Schools were able to do this because they received a grant from the state and federal government. The school was able this summer to sell electricity back to TVA because it was generating power when the school was not in session.

Representative McKee commented that solar fence panels are being used in agriculture.

In response to a question from Representative Wayne, Mr. Oudard replied that the reason the net metering law has not been expanded is because there was fear about four or five years ago that solar, because of its intermittencies--being on during the day and off at night. That fear has been proven unfounded.

Mr. McDonald commented that utilities should be talked to prior to the 2012 session.

In response to another question from Representative Wayne, Mr. McDonald said the utilities should take advantage of solar energy.

In response to a question from Senator Seum, Mr. Oudard said it is economically beneficial for an individual or government entity to install solar energy without a grant. Solar energy should be installed as an investment.

In response to another question from Senator Seum, Mr. Oudard said it was cheaper to install solar energy on new structures.

Senator Thayer announced that the next meeting of the committee would be November 30th and that KACo has been invited to present their legislative agenda for the 2012 session.

Presentation of Kentucky League of Cities' (KLC) Legislative Platform for the Upcoming 2012 Session of the General Assembly

Mayor Susan Barto, City of Lyndon and KLC First Vice President, told the committee that the League's number one issue on its legislative agenda was County Employees Retirement System (CERS) reform. On November 17, the Kentucky Retirement System's (KRS) Board of Trustees will set the employer contribution rates for cities, counties and other members of the CERS. Unfortunately, projections indicate that the rates are likely to increase dramatically again. Unlike the state, cities have no choice but to pay the full amount,

leaving many officials to decide between raising taxes, cutting basic services and/or personnel to pay for the mandated increase.

Cities contribute a rate of 18.96 percent for non-hazardous and 35.76 percent for hazardous to the retirement system. These rates have doubled since 2004. If the rates increase as projected by KRS actuaries, KLC estimates that the new CERS rates will cost cities around \$17.5 million in FY 2013. This is in addition to the \$17 million increase endured last fiscal year. Without reform, the rates are projected increase each year by similar amounts at least through FY 2030.

Lawmakers must balance the need for long-term financial stability in the retirement system and short-term affordability for cities that pay the bills for these benefits. KLC will seek retirement reform legislation that will: (1) adopt a defined contribution or hybrid plan for all new employees, while leaving existing employees in a defined benefit plan; (2) establish an 80-85 percent full funding standard, which is considered fiscally sound by actuarial standards; (3) make adjustments to automatic cost of living increases to retirees; and (4) implement reasonable changes to the health insurance benefit structure, which will address some of the ongoing increases in costs to the retirement system. Cities, counties and other employers, including state government, need reform passed this session that will provide both long-term stability for the system and immediate relief to the employers who must pay the required contribution rates.

The second issue of importance on KLC's legislative agenda is drug abuse. Almost every city official in Kentucky has first-hand knowledge of how drugs have harmed his or her community. Citizens ask officials for help finding treatment programs for loved ones. City police officers must focus tremendous resources to pursue drug crimes. City officials have also seen how drug abuse affects the local economy through absenteeism, lost productivity and increased use of medical and insurance benefits. Many city officials have also been told by local businesses that they struggle to find employees who can pass a drug test.

The negative impact on the quality of life in Kentucky cities is far reaching and it is certainly not just an issue for the abuser alone. City governments serve as a front line defense for citizens, and because of this role, cities absorb the trickle-down social, criminal and fiscal consequences of drug abuse.

To address this top priority, KLC seeks legislation that will: (1) require strict state oversight of pain management facilities; (2) require any medical provider who prescribes narcotics to participate in the Kentucky All Schedule Prescription Electronic Reporting (KASPER system). In addition, KLC supports federal and state legislation to create an interstate compact for prescription drug monitoring; and (3) require a prescription for the purchase of pseudoephedrine.

Mayor Tom Bozarth, City of Midway and KLC Second Vice President, told the committee that the League's third legislative agenda item was revenue issues and city classification. Cities continue

to struggle with restrictions based on a century-old classification system, which includes over 400 laws that affect public safety, alcohol beverage control, and revenue options.

In 1994, Section 156 of the Constitution was repealed and replaced by Section 156a to authorize the General Assembly to create classifications of cities as it deems necessary based on population, tax base, form of government, geography, or another reasonable basis. The General Assembly has not yet acted to change the population-based classification system.

Mayor Bozarth stated that he has chaired a task force of city officials dedicated to studying classification issues. The classification task force is composed of city officials representing all classes of cities, forms of government, and from all regions of the state. The task force examined the classification schemes in other states, and in the end, recommended the development of a new classification system that would provide all cities with the same options and powers currently limited to some, and it would largely eliminate many of the mandates that currently apply to only select cities. A change in classification should not harm any city by placing any mandates not currently applicable to the city or by removing any flexibility or options that are currently available to any individual city.

KLC will seek legislation that would comprehensively reform Kentucky's city classification laws as permitted by Section 156a of the Kentucky Constitution. KLC proposes the creation of two classes of cities based upon whether the city is part of a merged government.

The task force concluded that home rule for cities have largely removed the need for a complex system. The change would be a monumental undertaking and it would not be without controversy. The task force also recognized that specific issues will likely have to be dealt with on an individual basis.

As a part of this reform, KLC supports expanding the option of implementing a restaurant tax to all cities as a way to enhance local revenue flexibility. The restaurant tax legislation should permit all cities to consider using the restaurant tax in lieu of the collection of net profits or gross receipts taxes on restaurants. Cities could retain a maximum of 75 percent of the revenues generated from the restaurant tax (to be used for quality of life expenditures) with a minimum of 25 percent going to local tourism commissions.

The fourth issue of importance on KLC legislative agenda is the 911 funding shortfall. Local governments have the ability to assess fees for 911 service on land based telephone lines while the state sets, collects and distributes the 911 fee for cellular phones. The decline in popularity of landline telephones has left many local governments with decreasing revenues to support ever more expensive 911 services. To further complicate the issue, anecdotal evidence shows that as cell phone usage increases and these cell phones are more accessible to more people in emergencies, the demand on 911 services has increased.

The 911 funding shortfall has forced several cities and counties to

sharply increase the fee on the remaining landlines or supplement 911 services with general fund appropriations. To address this issue, KLC will: continue to oppose any measure that removes the ability of local governments to impose local fees for the option of 911 services; oppose any proposal that would reduce the total amount of state-generated revenue from the wireless fees as it would result in less funds coming back to local government and their public safety answering points; and support an increase in the current statewide wireless fee of \$0.70 per month to obtain additional revenue from wireless phones.

In response to a question from Senator Neal regarding home rule, Mayor Bozarth replied that KLC feels that city classification is antiquated and specifically with the issue of the restaurant tax, all cities should have the ability to impose a restaurant tax or be able to do things that other cities do.

Representative Riggs commented that Kentucky is one of a few states that have a classification system.

In response to a question from Representative Adams regarding the affect of the new classification system on Jefferson County in particular, and how it relates to Louisville Metro and the suburban cities, J.D. Chaney, Chief Governmental Affairs Officer for KLC, stated that there is no bill draft at this time and that is something that would have to be flushed out as the issue developed.

Representative Koenig encouraged the League and members of the committee to move forward with the classification issue. He stated that compromises were going to have to be made.

In response to a question from Representative Lee regarding contribution rates for hazardous employees, Mayor Barto stated that the city has to contribute 35.76 percent of the employee's salary to the retirement system.

In response to a question from Representative Richards, Mr. Chaney said his main tenants of a good classification system would be (1) minimizing the complexity by taking the classifications down from six to two; (2) extend flexibility to all cities alike; and (3) eliminate the mandates where possible.

Senator Higdon commented that the underfunding of retirement systems is an often-heard subject during campaign season. Last year teachers agreed to concessions regarding their retirement system. The changes became about, and he saw a report recently that the teachers went from three billion to one billion in their unfunded liabilities in just that short period of time. He did not know if that model would work for CERS, but it would be good if KLC and people in the system would help with a solution instead of the legislature mandating it.

Senator Higdon noted that he has filed the pill mill legislation again and hopefully it will get passed early in the session.

Senator Thayer stated that there is no doubt that the reclassification system is broken and does not work. It makes sense to simplify it but the four big issues that are going to have to be dealt with before a bill can move forward is the collective bargaining aspect, the alcohol and liquor

issue, the restaurant tax, and the public safety requirements.

Senator Thayer commented that he appreciated the fact that the League has stepped up to the plate and made pension reform its primary issue. It is his primary issue, and he will be filing SB 2 again.

In response to a question from Representative Wayne, Mr. Chaney said he believed the CERS return percentage for a ten year return was 18 or 19 but that figure would have to be verified with a representative from the retirement system. Representative Wayne commented that there are two issues that need to be addressed: one is the way that investments are managed, and the other is the moral, civic, and communal responsibilities that municipalities have to their workers.

Representative McKee thanked the League for making drug abuse its number 2 priority and asked that KLC help the legislature in getting legislation passed.

Senator Thayer commented that the employees in the private sector need to be considered as well.

There being no further business, the meeting was adjourned at 12:00 p.m.

INTERIMJOINTCOMMITTEE ON LOCAL GOVERNMENT

Minutes of the 5th Meeting
of the 2011 Interim

November 30, 2011

Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on Local Government was held on Wednesday, November 30, 2011, 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 Walter Blevins Jr., Jimmy Higdon, R.J. Palmer II, Dan "Malano" Seum, and Johnny Ray Turner; Representatives Julie Raque Adams, Ron Crimm, Mike Denham, Richard Henderson, Brent Housman, Adam Koenig, Stan Lee, Tom McKee, Michael Meredith, David Osborne, Jody Richards, Arnold Simpson, Kevin Sinnette, Rita Smart, and Jim Wayne.

Guests: Mayor Jim Gray, Stan Harvey, and Judy Taylor, Lexington-Fayette Urban-County Government; Judge John Wilson, Judge Tommy Turner, Denny Nunnelley, Shellie Hampton, Carolyn Belcher, and Tim Sturgill, Kentucky Association of Counties; Dawn Bellis, Department of Housing, Buildings, and Construction; Vince Lang, Kentucky County Judge/Executive Association; Richard Tanner, Kentucky Magistrates and Commissioners Association; Jerry Wagner, Kentucky Sheriff's Association; Ron Wolf, Associated General Contractors of America; William May, Kentucky County Clerks Association; J.D. Chaney, and Tony Goetz, Kentucky League of Cities; Jim Thompson, Education and Workforce Development Cabinet; Dan Walton, Labor Cabinet; and Phillip Hedrick, Boyd County Attorney.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Jessica Causey, Dave Nicholas, Bryanna Carroll, and Cheryl Walters.

Senator Thayer announced that this would be the final meeting of the interim.

Approval of Minutes

Upon the motion of Representative Henderson and second by Representative McKee, the minutes of the October 26, 2011 meeting were approved.

Lexington-Fayette Urban-County Government Legislative Briefing and Civic Center Project

Mayor Jim Gray, Lexington-Fayette Urban-County Government (LFUCG) said that Lexington was not asking for money, but was asking for collaboration and understanding. Lexington is working hard on three areas of urgency: (1) the joint project between Fayette, Jefferson, and 20 additional counties called the Bluegrass Economic Advancement Movement (BEAM); (2) solutions for its pension problems; and (3) the Rupp Arena Arts and Entertainment District. These initiatives are key strategies in the broad themes that are at work in Lexington which are to: (1) create jobs and the conditions for jobs; (2) run government efficiently; and (3) create a great American city.

The unemployment rate in Fayette County in September was 7.7 percent. Jobs were lost in professional, management, and real estate areas. High income job losses translate into declining or flat city revenues.

BEAM is designed to increase jobs in the area. The initiative recognizes some challenges that will have to be addressed including training mid-level workers and research and design workers; combating drug abuse; and making improvements in the "innovation ecosystem."

In response to a question from Representative Simpson regarding Northern Kentucky's exclusion from BEAM, Mayor Gray replied that the Brookings Institute, who has developed a template for models in other locations, recommended that Northern Kentucky, in terms of economics, was more oriented with Cincinnati. Mayor Gray noted that he has been meeting with the judges from Boone, Campbell, and Kenton Counties and are working together to address where the project influences Northern Kentucky and where there are common themes. This is the objective that Lexington intends to take.

Representative Simpson commented that he was concerned that Northern Kentucky would be competing against Lexington and Louisville. He added that Northern Kentucky wants to work with Lexington and Louisville.

Senator Thayer commented that he and Representative Riggs attended a meeting with Mayor Gray, Mayor Fisher from Louisville Metro Government, Judge Pendrey from Campbell County, Judge Arlinghaus from Kenton County and Judge Moore from Boone County as a first step toward more commonality and cooperation between the three important regions of the state. The micropolitan/metropolitan issues that are becoming more prevalent in Kentucky were discussed. The micropolitan/metropolitan areas themselves were also discussed, for example, the City of Bowling Green. These gentlemen are committed to working with the General Assembly on issues that are important to those regions. An invitation was extended to all five of those gentlemen

to come before the committee at any time, and it was suggested that one of the next steps they take is to meet with the regional caucuses.

Representative Riggs stated that LRC has approved the creation of a new subcommittee that will deal with metropolitan issues. Senator Thayer added Chairman Riggs and himself will be appointing members to that subcommittee in the very near future.

In response to a question from Representative Wayne regarding why no one on the BEAM Board of Directors has expertise in drug abuse, Mayor Gray stated that the composition of the board was really focused on private sector companies and public institutions which have a high level of familiarity with the advanced manufacturing challenges. The full structure of this working enterprise will include working committees with special disciplines to address the issues that emerge through the study.

In response to a question from Representative Wayne, Mayor Gray stated that while the BEAM Board of Directors has no union representative, the expectation is that a broad representation of interests through the working committees on the BEAM project will be included. He challenged the characterization of board members being anti-union because there are several of the manufacturing institutions represented there that have organized labor representation, such as Ford and General Electric. They are bringing a point of view of the working relationship. So it is the full intent to work with labor all across the board.

Representative Denham commented that as co-chair of the Rural Issues Subcommittee, he wanted everyone to remember the rural communities.

Representative Sinnette commented that Ashland has industrial parks and hard working individuals who are begging and looking for jobs. He told Mayor Gray if he finds situations where a manufacturer cannot fit in his local area that he would look beyond the bounds of those particular areas.

Mayor Gray continued his discussion by telling the committee that Lexington is facing challenges related to its pension system. The pension system is under statutory control by the state, but run by the local government. The 2008 legislature changed state administered systems, but left Lexington police and fire unchanged. Lexington's pension system is currently underfunded by roughly \$400 million for retirement and health insurance. Lexington bonded \$110 million during 2010 and 2011 with little impact because of lower than anticipated returns on investment. A pension task force made up of police, fire, administration, and community stakeholders are working to find compromises and solutions. Mayor Gray asked that as the legislature deals with reforming state retirement systems that it remembers Lexington.

Mayor Gray told the committee that Lexington is considering changes to Rupp Arena and will have a decision from a task force assisting with the process at the end of January. The new feasibility study about the future of Rupp Arena shows that it is still very possible to retain the extraordinary energy of Rupp Arena while

actually getting far more for the city for less money than a new arena would cost. There are four steps to changing the Lexington Center and Rupp Arena: (1) finalize task force recommendations; (2) secure state and private sector support; (3) create business plan and solicit consultants; and (4) begin design and engineering.

Regarding Lexington's workforce needs, Senator Seum commented that he noticed in looking at the BEAM Board of Directors that there are no public school superintendents on the board. He also commented that if something is going to be done about the drop-out rate in schools, a vocational school system would help because that is where the workers are going to come from. Kentuckians need to be thinking about a strong vocational system. Mayor Gray stated that at the first board meeting, Al Smith, a journalist and retired host of KET Comment on Kentucky, asked "Where are the teachers, where are the public schools represented, where are the vocational schools represented?" It is hoped that, through this project, Lexington will be able to work strategically on the problem.

Representative Richards commented that he had to speak up for Bowling Green, which is the third largest city in Kentucky. He said he was not opposed to what Lexington is doing but it needed to be remembered that northern Kentucky is a very important area and western Kentucky has been projected to be one of the fastest growing areas in the state. It is important to connect those two areas as well.

Representative Henderson commented that he supports the Rupp Arena project. In response to a question from Representative Henderson, Mayor Gray replied that it is premature to say if there was going to be a potential rate increase for the attendance of events.

Consideration of Referred Administrative Regulations

The committee considered referred Administrative Regulations 815 KAR 4:010&E relating to annual inspection requirements and fees for elevators; 815 KAR 4:025&E relating to the permitting and inspection fees for newly constructed, installed or altered passenger and freight elevators; 815 KAR 4:030&E relating to licensure requirements for elevator contractors; 815 KAR 4:040&E relating to licensure requirements and fees for elevator mechanics; 815 KAR 4:050&E relating to continuing education requirements for renewal, reinstatement, and reactivation of elevator licenses for elevator contractors and mechanics; 815 KAR 4:060&E relating to the approval of continuing education courses and the procedures for becoming approved elevator continuing education providers; 815 KAR 4:070&E relating to fee payments and refunds under the Kentucky Elevator Safety Act; 815 KAR 7:120 relating to the Kentucky Building Code; and 815 KAR 8:007 relating to the Board of Heating, Ventilation, and Air Conditional Contractors budget review and responsibility. Senator Thayer stated that a written report of the review will be submitted to the LRC.

Presentation of the Kentucky Association of Counties Legislative Platform for the Upcoming 2012 Session of the General Assembly

Judge John Wilson, Garrard

County Judge/Executive and President of KACo, first explained KACo's legislative committee process. Each affiliate organization of KACo has one vote on the legislative committee. There are ten affiliate organizations: Kentucky Circuit Clerks Association, Kentucky Commonwealth Attorneys Association, Kentucky Coroners Association, Kentucky County Attorneys Association, Kentucky County Clerks Association, Kentucky County Judge/Executives Association, Kentucky Jailers Association, Kentucky Magistrates and Commissioners Association, Kentucky Property Valuation Administrators Association, and Kentucky Sheriffs Association. In order for KACo's legislative committee to either support or oppose legislation, 75 percent of the members in attendance must vote to take that position.

Judge Wilson next discussed three of KACo's six legislative issues: (1) KACo and its affiliate members advocate for a strengthening of statutory options to further regulate the operators and the opening of pain clinics to separate the legitimate practitioner from those seeking only quick, illegal financial gain; (2) KACo and its affiliate members advocate a funding stream update for the continued operations and maintenance of Emergency 911 service. KACo awaits the results of 2011 SB 119, authorizing a study of all public safety answering points and current funding mechanisms in order to proceed with legislation; and (3) KACo and its affiliate members advocate removing all statutorily designated powers and duties from the Office of Constables.

Judge Tommy Turner, LaRue County Judge/Executive and KACo President-Elect, discussed the remaining three legislative issues: (1) KACo and its affiliate members advocate allowing the provisions of 2008 HB 1 more time to work before making significant changes to the retirement system; (2) KACo and its affiliate members advocate for local and state tax reform to be taken up as a whole. With limited options at the local level and an outdated tax code at the state level, much could be done to achieve a more efficient and equitable system. State and local governments can only make progress toward smarter tax laws by working simultaneously; and (3) KACo and its affiliate members advocate for additional funding of jails, enabling counties to reduce their deficits due to jail operations and maintenance.

Senator Thayer commented that as a strong proponent of pension reform, he does not think there is time for 2008 HB 1 to work. Kentucky has a \$30 billion unfunded liability in pension plans and in talking to local officials in his district, pension costs at the local level continue to cut into the dollars that they have available to provide the services that constituents receive. But he does understand the challenge KACo has in reaching a 75 percent threshold on a very controversial issue and respects its position.

Representative McKee commented that KACo presented a very precise legislative agenda. He was not sure how many of those goals the legislature could actually accomplish though.

Representative Koenig complimented KACo for getting the constable issue

through the process and was glad to see they were on board with it. He added that he stands ready to help them.

Representative Lee commented that constables were used quite a bit in Fayette County and would not want that to come to an end.

In response to a question from Representative Lee, Judge Turner stated that it would be difficult to say exactly what tax reforms KACo would advocate for because a lot would depend on what the state does. That is why the legislature and KACo have to work together.

Representative Lee commented that the state cannot afford to wait around any longer on the issue of retirement.

Representative Simpson commented that he recently attended a Banking and Insurance Committee meeting and it was stated that the sheriff's office is no longer sending out tax bills to lenders to facilitate the payment of the real estate taxes. In response to a question from Representative Simpson, Judge Turner stated that to his knowledge, the sheriff is required to send the tax bill to the entity who is the legal owner of the property and as a result the mortgage company may not be receiving it because they are not listed on the deed as the legal owner of the property. As a result, in some cases, the tax bill is going to the property owner of record and is not making it to the mortgage company. Jerry Wagner, Executive Director of the Kentucky Sheriff's Association, agreed with that assessment.

Senator Higdon commented that he has filed the legislation regulating retail narcotics sales again. Judge Wilson stated that KACo stands ready to work with him on that issue.

Representative Henderson commented that he was opposed to KACo's stance on constables. He said he was in favor of there being the option for counties to have constables.

There being no further business, the meeting was adjourned at 12:00 p.m.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 6th Meeting of the 2011 Interim November 3, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, November 3, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Joe Bowen, Ernie Harris, Ray S. Jones II, Bob Leeper, Katie Kratz Stine, Robert Stivers II, Johnny Ray Turner, and Robin L. Webb; Representatives Hubert Collins, Stan Lee, Marie Rader, John Short, Kevin Sinnette, Fitz Steele, Jim Stewart III, and Jill York.

Legislative Guest: Representative

Fred Nesler.

Guests: Bruce Scott and Tony Hatton, Energy and Environment Cabinet; George Siemens and John Voyles, LG&E; Kim Nelson, Kentucky Coal Association; Danny Gray, Charah, Inc.; and Dr. Jon Gassett, Mark Mangeot, and Margaret Everson, Kentucky Department for Fish and Wildlife Resources.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Kelly Blevins

Report from the Division of Waste Management on the future rules governing the disposal of coal combustion residuals

Commissioner Bruce Scott and Deputy Commissioner Tony Hatton testified on coal construction residuals (CCR). Kentucky deems CCRs as a special waste. There are 20 plants, 13 landfills, and 43 ash ponds in the inventory of regulated sites. There are currently five applications for new sites or the expansion of current sites. In 2008, there were 42 million tons of coal mined and that tonnage produced 10 million CCRs. Of the 10 million CCRs, 46 percent was disposed of in landfills, 34 percent in ash ponds, and 20 percent in beneficial re-use.

Commissioner Scott explained that at the federal level there is an open dump rule which sets general requirements and performance standards for disposal of CCRs. The United States Environmental Protection Agency (USEPA) determined CCRs are not hazardous waste; however, in June 2010 USEPA issued two different notices of proposed rulemaking under the federal Resource Conservation and Recovery Act (RCRA). One notice was under section C and the other under Section D. Section D would treat CCRs as a hazardous waste and at the time the notices were issued, it appeared USEPA would treat it as a hazardous waste. USEPA then created a new section "C" approach. If CCRs were treated as a hazardous waste then disposal would be treated very differently from how it is currently handled. It would force all waste to be landfilled. Ash ponds would be removed, and it would stop beneficial re-use of CCRs.

After the first notices, many states responded that the non-hazardous approach under section C was poorly detailed. Several agencies including Kentucky's environmental protection agency, the Environmental Commission of States, and state environmental commissioners submitted comments on the notices asking USEPA to address CCRs as a non-hazardous waste. All fifty states agreed that the section C approach was more desirable than deeming CCRs as a hazardous waste. There also was concern about the science and methodology that compelled USEPA initially to deem CCRs as hazardous.

In October, USEPA issued a new regulation that predicated on suspected mismanagement of CCRs across the nation which prompted each state to investigate their CCR disposal sites. Commissioner Scott noted that investigation did not disclose reasons for Kentucky to be concerned about its CCR sites. Congress passed House Resolution (HR) 2273 and Senate Resolution (SR) 1751. Each is supported by waste management directors across the nation. Commissioner Scott stated that this legislation would treat

CCR as a nonhazardous waste that must be disposed of in permitted landfills. All state waste management directors agree there should be more regulatory management of CCRs but not declare it a hazardous waste and prohibit beneficial re-use of the product. He noted the legislation would provide improvements and enhancement to regulate CCRs. Finally, Commissioner Scott stated there will be new requirements on the management of CCRs, but the best means of accomplishing the new requirements is through congressional action rather than executive branch regulation.

In response to a question on whether different kinds of coal contain different amount of ash, Commissioner Scott replied that to his knowledge there is no discernable difference in the amount of CCR in the different coal types. Commissioner Scott also remarked that there is a permitting process for the discharge of runoff from ponds to control for metal and toxicity in the environment.

In response to questions about the basis of the newest regulation that caused state environmental commissioners to investigate the CCR disposal sites, Commissioner Scott responded that there are 39 cases in which the Sierra Club has requested hearings on specific sites, and three of those sites were identified in Kentucky. Commissioner Scott stated that the Sierra Club is making a claim that the management of CCRs at those sites constituted a damage case. If the claim is successful, USEPA would be forced to regulate CCRs as hazardous.

In response to a question about the process for developing new federal rules and whether the process is the same as in the state of Kentucky, Commissioner Scott replied that federal rule changes and administrative regulation changes are the same in that each undergoes a fixed process of development, review and approval. However, the rulemaking process at the federal level is very complex and cumbersome. Commissioner Scott explained that the Congress does not oversee rule development.

In response to a question on whether coal ash was fed to livestock, Commissioner Scott said no. However, Commissioner Scott noted that research is currently being done using CCRs in gardening, and it could be considered a beneficial re-use.

In response to a comment on the breadth of ways CCRs are used by industry, Commissioner Scott agreed that CCRs are used in bioconversion and road construction materials. Those materials can save up to \$6 billion per year for the state of Kentucky. CCRs can also prolong the life of concrete.

Presentation from electric utilities regarding coal combustion residuals and utility concerns about the future regulation of coal ash ponds

Mr. George Siemens and Mr. John Voyles, representing Louisville Gas and Electric (LG&E), presented electric utility concerns about future regulation of CCRs. Mr. Voyles discussed the dike failure at the Kingston, Tennessee coal ash pond, and he believed that a ruling on that dike failure may come in 2012 or 2013. Regardless of whether USEPA deems CCRs as hazardous or non-hazardous,

there will be new regulatory controls over the waste. The main difference in the two notices is whether CCRs will be treated as hazardous. If CCRs are deemed hazardous then it would remove CCRs from beneficial re-use, increase federal oversight of CCR disposal sites, and require new financial assurance and bonding on permitted facilities.

Mr. Voyles stated that Kentucky has a beneficial use plan for CCRs. CCRs have been used in synthetic gypsum, roof granules, and mine stabilization. LG&E has had a 40 percent re-use of CCRs; however, after USEPA's rulemaking actions, the beneficial re-use has dropped to 20 percent. In the future, ash ponds will be required to have liners or will be closed; however it is more likely that CCRs will be disposed of in dry storage. As a state, Kentucky has gone towards new liners and better design of ash ponds and landfills. There will be a new process for water ponds which will require liners and new permitting requirements. LG&E would expend \$1.2 to \$1.3 billion on CCR management.

Mr. Voyles also noted that there are slight differences in coals based on ash, sulfur, external factors which can change the CCRs produced from its combustion. Coal ash content can vary from Wyoming coal to Kentucky coal.

In response to a question about whether the generators can burn coals with different sulfur characteristics, Mr. Voyles responded that plants can burn high sulfur coal at ten percent ash and three percent sulfur. LG&E's Trimble County plant burns less sulfur coal by permit.

Discussion on coal ash management and reuse by representatives from Charah, Inc.

Mr. Danny Gray, president of Charah, Inc., a coal ash recycling company based in Louisville, handles ash in 23 states. Mr. Gray explained that CCRs include fly ash, bottom ash, gypsum, and slag. Each one of those residuals is slightly different. CCRs can be used in wallboard, cement, and in forage crops. CCRs are a high volume waste, and Mr. Gray cautioned that approximately 140 million customers will stop using CCR recycled products as a result of CCRs being deemed a hazardous waste. There is a stigma with the designation. There are strict ASTM standards for re-use of CCRs.

In response to a question about the different types of residuals, Mr. Gray explained that when coal is combusted some particles are heavier and fall to the bottom of the boiler. Bottom ash is coarse and falls to the bottom of the boiler. Fly ash is a fine, powder-like residual that goes out with exhaust. Potted gypsum is beneficial to agriculture as a replacement for soil sulfur.

Representative York commented that CCRs are useful in concrete and will reduce other natural resources which are required to be mined.

In response to a question about where the recycled products from CCRs are used, Mr. Gray replied that CCRs are a commodity that Charah, Inc. does export to Panama and Puerto Rico.

There being no further business the meeting was adjourned at 2:30 pm.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 7th Meeting of the 2011 Interim

December 1, 2011

Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, December 1, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Senators Joe Bowen, Ray S. Jones II, Bob Leeper, Katie Kratz Stine, Robert Stivers II, and Johnny Ray Turner; Representatives Hubert Collins, Tim Couch, Keith Hall, Stan Lee, Reginald Meeks, Tim Moore, Marie Rader, John Short, Kevin Sinnette, Fitz Steele, and Jim Stewart III.

Guests: Drs. Rick Honaker, Andrew Walla, Braden Lusk, Tom Novak, and Kyle Perry, University of Kentucky Mining Engineering Research; Mr. Johnny Greene, Office of Mine Safety and Licensing; and Ms. Nina Cornett.

LRC Staff: Tanya Monsanto, Stefan Kasacavage, and Kelly Blevins.

A quorum being present Chairman Smith requested approval of the November meeting minutes. After a motion made by Representative Collins and a second by Representative Meeks, the minutes were approved.

Presentation from the University of Kentucky Mining Engineering Research Program

Dr. Rick Honaker gave an overview of the program's scholarship and research. Dr. Honaker noted that a 2002 study recommended the nation's mining industry needed 300 new mine engineering students, but at that time there were only 75 students. In response to that national need, the Kentucky General Assembly provided \$1.3 million in scholarship money to the University of Kentucky's mine engineering program between 2008 and 2012. The mine engineering program also has received additional private funds from major coal and mineral companies. The total amount of scholarship money available in 2012 will be approximately \$2.3 million consisting of both public and private dollars.

Dr. Honaker described the recruiting process and the test scores required for admittance into the mine engineering program. The mine engineering program receives approximately 180 applications, but the incoming class is only 60 students on average. Graduate placement is 100 percent with full time salaries beginning at \$65,000. There are summer internships available with pay starting at \$18 to \$28 per hour. The University of Kentucky is the fastest growing and largest mine engineering program in the nation. Students come from all regions of Kentucky, from other states, and from other countries. Dr. Honaker described student ACT scores and briefly profiled the incoming program academically. A student stays in the program 4.5 years in

order to graduate and must complete the 50 credit hour mine engineering schedule of classes.

In response to a question regarding the number of freshmen and sophomore students in the program, Dr. Honaker replied that oftentimes freshmen to not earn enough credits to graduate to sophomore status, and some students drop out of the program altogether.

In response to a question about the where prospective employers are located, Dr. Honaker replied that the companies employing mine engineering students are located in Kentucky, West Virginia, Pennsylvania, Wyoming, Northern and Central Appalachia, Tennessee, Illinois, Virginia, Utah, Florida, Colorado, New Mexico, and Arizona. Also, Dr. Honaker noted that there are mining engineering programs at Virginia Tech, Penn State, Montana Tech, the Colorado School of Mining, and the University of Alaska.

In response to a question about the amount of money raised by the Friends of Coal license plate, Dr. Honaker replied that the program has received \$75, 000 to date.

Dr. Honaker and Dr. Andrew Walla described the Appalachian Research Initiatives for Environmental Science (ARIES). ARIES is a research study that examines different spray patterns and treatments to reduce ambient dust in mines. Dr. Walla identified the students involved with the study and the funding support from the National Institutes of Health. Dr. Walla concluded that the study findings are important for improving safety conditions in underground mines.

In response to an inquiry about whether the ventilation in mines is improving, Dr. Walla responded that ventilation is not perceived as being very important. Industry does not recognize how significant the topic of ventilation is today. There is a need for a certified ventilation expert in each mine.

In response to a question about whether the research examined different spray tips, spray patterns, and surfactants, Dr. Walla responded no. The research being conducted now is in the beginning stages, but those particulars will be examined at a later date.

Dr. Braden Lusk described historical coal mine production trends. Coal production has been decreasing for several years, and there is a need to increase production. Advanced mining research is driven by industry stakeholders, but improvements in this industry affect the state and the nation. Advanced mine research would support mine emergency and mine technology as well as supplement federal health and safety research.

Dr. Lusk responded to a question about the location of companies that are working to support productivity improvements by stating that coal companies are not tied to Kentucky or Appalachia. However, the Kentucky Coal Association is active in Kentucky. Most groups are focused on health and safety.

Report on mine safety by the Office of Mine Safety and Licensing

Mr. Johnny Greene, Executive Director of the Office of Mine Safety and Licensing (OMSL), provided statistics

on Kentucky's mining industry and Kentucky's accident and safety record. Kentucky has approximately 19,000 coal miners. At the end of November, there were 454 licensed coal mining operations in Kentucky. Kentucky has the most mines of any state in the country. There are 267 surface mining operations and 187 underground mining operations. Mr. Greene explained that underground mines require four regular inspections and two electrical inspections each year. Surface mining operations receive two regular inspections annually. There are twelve mine rescue teams in the state. The Office of Mine Safety and Licensing (OMSL) have 174 employees, and 154 of those employees work in district offices across the state.

Mr. Greene expressed disappointment that there have been eight fatalities in the Kentucky in 2011. Accidents happen for two reasons: unsafe conditions and unsafe acts. Mr. Greene gave a complete description of each fatal accident, and identified specific changes that would prevent like or similar accidents in the future. Mr. Greene explained OMSL is working on draft legislation that will require proximity detectors on continuous miners which will help workers know when they are entering an unsafe or hazardous area which is commonly referred to as a "red zone." Currently, safety analysts are discussing the importance of red zones with the mining companies. Operators should not be in any designated red zone, and the company's failure to comply with orders to restrict activity in the red zone can result in harsh disciplinary measures. Other preventative measures include discussions to install harnesses in dozers which would provide greater safety in rollover accidents.

In response to a question regarding mine rescue training, Mr. Greene responded that there are twelve state teams trained by the Office of Mine Safety and Licensing. The most important training issue is developing a good command center. In an accident, the command center has to provide guidance to a number of first responders and the safety team itself.

Mr. Green clarified to members that Kentucky's mine rescue teams have never competed nationally; although, Kentucky's mine rescuers do participate in competitions as judges. Also clarified that while the mine rescue teams are always on alert and will respond to requests for assistance outside of the state, Kentucky's mine rescue teams have never been called to respond to an outside emergency.

Timber Theft

Ms. Nina Cornett addressed the problem of timber theft in Kentucky. There are valuable hardwoods in Kentucky that landowners are unable to easily monitor. The Department of Forestry is aware of the problem, but the department is powerless to enforce theft and only able to enforce water quality rules. Logging violations are not prosecuted or investigated in Kentucky. Rather logging violations are treated as civil claims. Ms. Cornett stated that if a landowner who is the victim of timber theft he or she is required to pay for a land survey and to hire a professional forester to determine the size of the loss.

Senator Stivers stated that if an individual can show a trespass and identify the property boundaries of the property then there is a basis for a lawsuit. However there are many situations of multiple heirs and improper boundaries. In those timber theft cases where there is a diminution of property and loss of timber, the victim can recover with treble damages, and most attorneys will take the case on a contingency basis.

Ms. Cornett responded that treble damages will only be on what is called "stump value." That is the value of the timber brought to the mill. The stump value is substantially lower than what the timber might sell for at another time. Treble damages on a low stump value are not adequate compensation.

Representative Collins noted that absentee landowners have been forced into tough circumstances with the theft of timber and copper.

Ms. Cornett proposed that the Department of Forestry be allowed to investigate timber theft. In response to a question about her qualification, Ms. Cornett responded that she is a member of the Woodland Owner's Association and has educated herself on the issue of timber theft. Ms. Cornett also stated that she is retired from the Department of Defense.

There being no further business the meeting was adjourned at 3:00 pm.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 6th Meeting of the 2011 Interim

November 16, 2011

Call to Order and Roll Call

The sixth meeting of the Interim Joint Committee on State Government was held on Wednesday, November 16, 2011, at 1:00 PM, in Room 154 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; Senators Jimmy Higdon, R. J. Palmer II, John Schickel, Dan "Malano" Seum, and Johnny Ray Turner; Representatives Kevin Bratcher, Dwight Butler, Larry Clark, Leslie Combs, James Comer Jr., Danny Ford, Derrick Graham, Mike Harmon, Jimmie Lee, Brad Montell, Lonnie Napier, Darryl Owens, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, John Will Stacy, Tommy Turner, and Brent Yonts.

Guests: Mark Sipek, Kentucky Personnel Board; Dinah Bevington, Personnel Cabinet; Steve Shannon, Kentucky Association of Regional Mental Health and Mental Retardation Programs; David Switzer, Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders; Susan Speckert and Greg Lamb, Kentucky Horse Racing Commission; Vince Gabbert, Keeneland Association, Inc.; Nelson Clemmens, AmWest Entertainment, Inc.; and Terence Meyocks, Jockeys' Guild.

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

Approval of Minutes

Due to lack of a quorum, the minutes

of the October 26 meeting were not approved.

Subcommittee Report

Senator Thayer, Co-Chair of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, reported on the November 15, 2011, Task Force meeting. The report was accepted as read, upon motion by Senator Thayer.

Administrative Regulation Review

The agenda included review of the following administrative regulations that were referred to the Committee on November 2, 2011, pursuant to KRS Chapter 13A:

PERSONNEL BOARD: 101 KAR 1:375 (*Employee grievances and complaints*)

PERSONNEL CABINET: 101 KAR 2:046 (*Applications, qualifications and examinations*); 101 KAR 2:056 (*Registers*); 101 KAR 2:105 (*Sick leave sharing procedures*); 101 KAR 2:106 (*Annual leave sharing procedures*).

Mark Sipek, Executive Director, Kentucky Personnel Board, and Dinah Bevington, General Counsel, Personnel Cabinet, briefly explained the regulations. There were no questions. Senator Thayer thanked the speakers and noted that the regulations had been duly reviewed by the Committee.

Regional Mental Health Programs—Retirement Issues

Guest speaker was Steve Shannon, Executive Director, Kentucky Association of Regional Mental Health and Mental Retardation Programs (KARP), the association of the Commonwealth's 14 Community Mental Health/Mental Retardation Centers (CMHCs). Mr. Shannon spoke about KARP's request for statutory change to allow the CMHCs to establish an alternate retirement plan for new employees hired after July 1, 2012. He provided a handout to the Committee relating to his testimony, which is summarized as follows.

Mr. Shannon said that the CHMCs served more than 178,000 persons in FY 2010. They employ about 9,000 individuals, and the 14 regional boards include approximately 310 members who volunteer their time. Through executive order, 13 CMHCs now participate in the Kentucky Employees Retirement System (KERS); Pathways, Inc., (Region 10) did not elect to join KERS.

The CMHCs will spend approximately \$104 million for retirement cost in the FY 2011-12 biennium—equivalent to the annual budget of four CMHCs. The additional expense due to the increase in the mandated employer contribution rate was approximately \$12 million in FY 2011 and is projected at \$18 million for FY 2012. Each one percent rate increase equates to approximately \$2.8 million for the 13 participating CMHCs, and since June 30, 2006, it increased from 5.89 percent to 19.82 percent. Additional increases are anticipated in FYs 2013 and 2014.

This escalating unfunded mandate poses a huge risk to the CMHCs and the individuals they serve and support. The large personnel cost hampers the ability to secure competitive grant funding and has resulted in the loss of grants. The CMHCs are concerned about the ability

to competitively negotiate with the three Medicaid managed care organizations. Service expansions to new markets and service diversification are restricted by having to account for a 20 percent—and increasing—employer contribution. There is reluctance to hire new staff, salary levels have become less competitive, and employee benefits such as tuition reimbursement are weakened due to the escalating KERS contribution.

The 13 participating CMHCs would like to thank the General Assembly for acting in 2010 to include additional funds for them in the state budget—\$2.5 million in FY 2011 and \$3.8 million in FY 2012. The budget also provided that the funding expansion could be used as a state match to draw down federal dollars through the Kentucky Medicaid program. Unfortunately, to date, the CMHCs have not realized any of the additional funding or an increased match rate in the Medicaid program. They are committed to using the appropriation as state match for additional federal dollars, and they have been working with the Kentucky Department for Medicaid Services to submit the state plan amendment required for an increase in Medicaid rates—which have not increased since 2001.

The CMHCs are proposing the KRS 61.520 be amended to treat them the same as regional universities, by allowing them to offer an alternative retirement plan, such as a 401(k), to new hires after July 1, 2012. Their first choice, however, would be receipt of the previously budgeted expanded funding. In absence of those additional dollars, the proposed statutory solution would not require a general fund appropriation, would not harm current employees or KERS, and would provide both short-term and long-term relief to the CMHCs. Without relief, hiring practices may be implemented that will exclude new employees from participation in KERS.

Representative Lee spoke about the need to lower costs so that the regional mental health agencies can continue to provide a safety net for Kentuckians in need. He said he hopes the General Assembly will address the problem in the 2012 legislative session.

Senator Thayer said that the issue is of importance and worth the Committee's consideration. There were no further questions, and he thanked Mr. Shannon for his testimony.

Advance Deposit Wagering

By way of background, Senator Thayer explained that the Kentucky Thoroughbred Development Fund (KTDF) was established by the General Assembly in 1978. It is funded through the state parimutuel tax on wagers made in Kentucky and is used to supplement purses for certain races at Kentucky tracks. Only registered Kentucky-sired Kentucky-foaled horses are eligible to share in fund purse supplements. The fund was created to stimulate the demand for Kentucky-breds and to keep them racing in Kentucky. He also explained the mechanics of advance deposit wagering (ADW), which allows customers to set up accounts and place wagers by telephone, text message, or via the internet. Several ADW operators are based in Kentucky—Keeneland Select, AmWest Entertainment, and Churchill Downs' Twin Spires.com.

Senator Thayer said he is very disappointed that Churchill Downs—a major player in the horse racing industry and ADW—declined his request to send a representative to testify before the Committee. He stated that the growth in parimutuel wagering is coming primarily from ADW wagers, which are not taxed in Kentucky. Therefore, the amount of money going into KTDF is decreasing. There is a willingness in the General Assembly to address this, as evidenced by House Bill 368, introduced in 2010, and Representative Larry Clark's House Bill 387, which was enacted in 2011 to require licensing of ADW providers by the Kentucky Horse Racing Commission (KHRC). Senator Thayer said that he and Representative Clark have been discussing ways to direct a portion of ADW wagers into purse supplements for Kentucky-bred horses.

Guest speakers from KHRC were Susan Speckert, General Counsel, and Greg Lamb, Supervisor of Parimutuel Wagering. They provided a handout containing information on sites that conduct wagering on Kentucky races, the division of wagering dollars in Kentucky, and ADW wagering handle and taxation in Oregon. Also included in the handout were copies of administrative regulation 811 KAR 1:285 (Advance deposit account wagering) and the KHRC license application for ADW.

In summary, Ms. Speckert and Mr. Lamb explained that approximately 760 sites were conducting wagering on Kentucky races between January 1 and November 9, 2011. Based on total handle (see page 7), five of the top 10 sites are ADW sites; the TwinSpires and TVG ADWs rank third and fourth, respectively, in total handle. 811 KAR 1:285 provides that any ADW operating prior to November 4, 2011—the effective date of the administrative regulation—has a 60 day period in which to make a license application, with the deadline being January 3, 2012. Both TwinSpires and TVG will be able to continue operating until completion of the licensing process, but ADWs not operating prior to November 4 cannot begin operating in Kentucky until licensed. Any ADW that offers its services to Kentucky residents will be required to be licensed.

On the list of wagering sites, "Total Handle" includes the amount wagered both in Kentucky and on Kentucky races. The \$135,490,843 million handle for Churchill Downs includes wagering from 36 other tracks around the country. "Commission" is the total amount deducted and includes profit to the track, purse money, and the parimutuel tax. After deduction of commissions and adjustments, "Runner Pay" is the amount paid to the public. Currently in Kentucky, if a track is handling more than \$1.2 million daily, takeout on a win/place/show bet is 16 percent and 19 percent on all other wagers. Senator Thayer noted that approximately 80 cents of every dollar wagered is returned in winnings.

Based on a 2009 report to the Governor on the status of racing in Kentucky and its future, KHRC's informational handout included several pie chart graphs to illustrate the portion of wagering money that goes to bettors, the state tax, KTDF,

Kentucky purses, Kentucky tracks, out-of-state tracks and purses, and ADW companies. When Kentucky residents bet on out-of-state races via ADW, the state of Kentucky, KTDF, Kentucky purses and Kentucky tracks receive nothing. Likewise, when Kentucky residents bet on races at Kentucky tracks via ADW, the state and KTDF receive nothing. Senator Thayer explained that purses are determined by agreement between the race tracks and the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Association.

The bulk of the ADW companies are located in Oregon. In the second quarter of 2007, Churchill Downs started receiving wagers through its TwinSpires ADW in Oregon, which had a total handle that year of more than \$88.5 million. By 2010, that total increased to more than \$405 million.

Responding to questions from Senator Thayer, Ms. Speckert said that, to date, no ADWs have yet applied for a Kentucky license. All have been in contact with KHRC, but the number that will apply is unknown. Once licensed, the ADWs must provide quarterly reports to the commission of both the amount of money wagered by Kentucky residents and the amount wagered on Kentucky races. Numbers will likely start being reported from the ADWs in early summer 2012. KHRC will have access to any information that the licensed ADWs file with other states or the Commonwealth of Kentucky.

When queried by Representative Owens and Senator Thayer, Mr. Lamb said that Oregon charges ADWs a daily license fee of \$200. He said the companies are given several options for payment of tax on gross mutuel wagering receipts. When first implemented, the tax rate was 0.125 percent of the first \$60 million in gross mutuel wagering receipts during the license period and 0.25 percent on receipts in excess of \$60 million. There was a cap of \$300,000 for the first year (FY 2006); the tax then increased in \$25,000 increments for FYs 2007 and 2008. Ms. Speckert said that, by law, KHRC may impose a license fee up to \$10,000 annually to cover administrative costs, but the annual fee for ADWs will be \$1,000, which is the amount that most states charge. KHRC will revisit the fee if annual regulatory costs exceed \$1,000.

David Switzer, Executive Director of the Kentucky Thoroughbred Association /Kentucky Thoroughbred Owners and Breeders (KTA/KTOB), spoke about the decline of funding for KTDF. The Committee received paper copies of his PowerPoint presentation, which charts sources and distribution of wagering revenue in Kentucky and the percentage decline in KTA purses and KTDF funding from 2005 to 2011. In summary, Mr. Switzer said that KTDF differs from similar funds in other states in that non-Kentucky-bred horses may run in KTDF-supported races. KTDF receives 0.75 percent of the parimutuel tax from "live on track" wagers; the fund receives two percent from live races in Kentucky wagered at another Kentucky facility (intertrack) or simulcast wagers made in Kentucky on races outside Kentucky. There is no parimutuel tax on ADW bets made by Kentucky residents. In addition to KTDF,

parimutuel tax revenue also supports the state's General Fund, equine drug research, the Kentucky Standardbred Development Fund, the University of Louisville Equine School, and the Higher Education Equine Fund. Due to the movement of wagering to facilities that do not participate in the parimutuel tax, KTDF has declined 36.82 percent since 2005, and KTA purses have declined 18.77 percent.

When Senator Schickel raised the question, Mr. Switzer and Senator Thayer explained that in order to know how much money would be generated by taxing ADWs, KHRC must first analyze the wagering data reported by the ADWs that become licensed in Kentucky. When Representative Harmon asked, Mr. Switzer said he does not know whether any federal restrictions apply to taxing of ADWs.

Senator Thayer asked whether KTA has an official position on the issue of taxing ADWs, and Mr. Switzer said that the organization supports the efforts of Representative Clark and Senator Thayer.

Next to speak was Nelson Clemmens, Chief Executive Officer of AmWest Entertainment, Inc., a simulcast service provider founded in January 2004 and headquartered in Prospect, Kentucky. Mr. Clemmens noted that he is an owner and breeder of horses in Kentucky. His presentation is summarized as follows.

Mr. Clemmens said that AmWest operations are in Portland, Oregon, where most ADWs are hubbed. He said he would welcome KHRC's embracing of competitive multi-jurisdictional hub legislation similar to that developed in Oregon, where it brings in a high volume of customers and significant tax revenue. As a horseman nothing would please him more than to have strictly on-track customers and wagers, with the stands filled every day; however, with few exceptions, the growing trend in wagering is mainly off-track, including simulcast. About 90 percent of wagers are now off-track, and about one-third of those are ADW.

AmWest has developed the most advanced wager pad in the industry, innovative marketing and promotional programs to attract customers, and has made a significant effort to bring additional revenue from international wagering into the U. S. market. AmWest is also supportive of taking advantage of the much larger source of revenue that is enjoyed by other major racing states—that is, supplements from casino racing.

Although it is true that interest in wagering has diminished because of the poor economy, much of the wagering has moved to offshore betting, which is primarily being operated by "book makers" with online sites. These piracy operations have become popular and have been detrimental to the horse racing industry. Since the trend is to wager more on the Internet, AmWest feels that the ADW model has a lot of merit when applied to horse racing. AmWest is a Kentucky company employing Kentucky residents and paying taxes in the state and, hopefully, driving overall handle. The company, which is licensed in Oregon, New York, Louisiana, and South Dakota, has interest in making the industry more competitive but has concern about imposition of additional taxes in an

industry that is already fractured. Mr. Clemmens concluded his opening remarks by suggesting that racing commissions in general need to put as much as possible on a common platform.

The next speaker was Vince Gabbert, Vice President and Chief Operating Officer of Keeneland Association, Inc. He thanked Senator Thayer and Representative Clark for their work on behalf of the industry. He said Keeneland is extremely supportive of KTDF and wishes to cooperate in the efforts to garner more information on the ADW network and find a solution to the taxing issue.

Mr. Gabbert said Keeneland is in the infancy of its ADW program, Keeneland Select, which was launched in August 2011. He said it is important to understand that operators of ADW companies bear all of the overhead, marketing, and staffing costs involved. With state tax structures in mind, Keeneland made the business decision to offer ADW wagering in only five states—Arkansas, Florida, Kentucky, Louisiana, and Ohio. Residents of other states, including New York and California, are not allowed to wager through the Keeneland Select platform because the fee structure would make it nearly impossible to realize the necessary volume to derive any income from wagers. This decision will be evaluated as the program progresses. Keeneland is very supportive of on-track wagering and during race meets turns off the public WiFi in order to encourage use of the betting windows. As a sales company, however, Keeneland Select needs to make alternate forms and avenues available for wagering so that all customers have an opportunity to participate, as wagers are increasingly being made through phones and online. The amount of money wagered through ADWs has continued to grow and represents the greatest potential for growth in the future.

Responding to questions from Representative Clark, Mr. Clemmens said that AmWest is a diversified operation that also has off-track betting facilities and offers other industry services. Handle has grown significantly since 2004. AmWest has grown competitively and is now one of the largest ADW providers in the industry. Routine procedures and controls exceed regulatory requirements, and financial statements are made available. He said that he personally supports and benefits from KTDF and is very keen on the growth and viability of the horse racing industry. He does not recommend specific percentages or a “silver bullet” but hopes to provide helpful feedback, as well as his full support. Representative Clark said that, with the baseline handle yet to be determined, he and Senator Thayer do not want to over-tax ADWs but want to see that a fair share goes to the industry. He said that the General Assembly needs and would appreciate any data and information that Mr. Clemmens is able to provide.

When Representative Clark inquired about Keeneland Select, Mr. Gabbert said that it has a partnership with TwinSpire.com to share technology and customer service. The call center is in Lexington.

Responding to questions from Representative Owens, Mr. Gabbert said Keeneland Select may be able to accept wagers from additional states in the future, but at this time, the costs of obtaining and

developing the necessary market share would be significant. Mr. Clemmens said that there are probably “30 or so” ADWs in the United States, but only about 12 are of significant size.

Senator Thayer asked whether it would be possible for Kentucky to have a hub that could compete with Oregon, which has only one racetrack and no breeding industry. Mr. Clemmens said he believes it would be possible. He thinks Kentucky would be an attractive location for a multi-jurisdictional hub and that AmWest would prefer to have its hub revenue going to Kentucky. He said that Kentucky’s racing commission is very capable and that it could be done by administrative regulation, since, as noted earlier by Senator Thayer, a statute is already in place. He added that he is a fan of regulatory compliance, although the involvement of multiple government agencies adds to the burden. The industry needs to compete with the offshore betting menace and also be competitive with sports betting and other forms of entertainment. When Senator Thayer asked about impact on the job market, Mr. Clemmens said that a hub in Kentucky would likely bring in hundreds of jobs initially, and the increased tax revenue could bolster purses and make them more competitive.

Senator Thayer spoke about the importance of making the KTDF logo more significant and solicited input from Kentucky’s racing industry regarding an appropriate rate to tax ADWs without hurting price competitiveness in the marketplace. Mr. Gabbert agreed on the need to make the KTDF logo and purse structure as significant as possible. He said Keeneland purses during the 32-day racing period average about \$600,000 daily, whereas daily purses during the winter at Turfway Park average only about \$60,000. Because New York racetracks now offer video lottery gaming, purses in claiming races at Aqueduct that were offered for \$10,000-\$15,000 a month ago have now grown to \$60,000-\$75,000. He said Keeneland would like to be helpful but that he does not have enough information from a business standpoint to recommend a specific tax rate. Keeneland had record attendance this past fall but still did not meet the \$1.2 threshold for daily live handle that would subject the track to a 3.5 percent tax. He lamented that the racetracks failed to realize the potential opportunity to place a hub in Kentucky when legislation passed almost eight years ago.

Representative Clark said his first concern is to capture more money for the industry to enhance purses. He said that KTDF is needed, but he voiced concern that the greater portion of those funds goes to three major horsemen in Kentucky and that not all race horse owners are allowed to participate. Senator Thayer clarified that Representative Clark apparently was referring to the Kentucky Breeders Incentive Fund, which is funded by the sales tax on stud fees that goes directly to successful breeders. He said KTDF would absolutely benefit “blue collar” horsemen that race at Kentucky tracks—particularly if the law is changed to permit KTDF funds to also support claiming races, as was proposed in the Senate version of House Bill 368.

The last speaker was Terry Meyocks, National Manager of the Jockeys’ Guild, and a third generation horseman, who signed up to testify. Mr. Meyocks said he hopes everyone will work together to do what is best to increase purses at Kentucky tracks and that the Kentucky General Assembly will do as much as possible to help the racing industry and horse breeders in Kentucky.

Adjournment

Senator Thayer said he looks forward to working with Representative Clark to develop appropriate legislation, and he encouraged input from the guest speakers. 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 6th Meeting of the 2011 Interim

November 15, 2011

Call to Order and Roll Call

The 6th 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 15, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Walter Blevins Jr., John Schickel, Dan “Malano” Seum, Robert Stivers II, and Johnny Ray Turner; Representatives Larry Clark, James R. Comer Jr., Joseph M. Fischer, Derrick Graham, Mike Harmon, and John Will Stacy.

Guests: Maryellen Allen, State Board of Elections; James Lewis, Leslie County Clerk; and Brian Miller, Executive Vice President, Home Builders Association of Northern Kentucky.

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

Approval of Minutes

The minutes of the meeting of October 25, 2011, were approved without objection upon motion by Senator Schickel and second by Representative Clark.

Local Referenda – Overview of Petition Requirements

The Task Force discussed the wide variety of permissible local referenda and their petition requirements. Maryellen Allen, General Counsel of the State Board of Elections, gave an overview of local referenda categories and some of the differing petition requirements. Ms. Allen also discussed the specific requirements in KRS 147.620 which concerns the dissolution of an area planning commission.

Brian Miller, Executive Vice President of the Northern Kentucky Home Builders Association, testified as to his organization’s petition under KRS 147.620 that was rejected by the Kenton County Clerk. Mr. Miller suggested that the number of required signatures be reduced and clear guidelines provided to county clerks on how signatures should be

verified.

James Lewis, Leslie County Clerk and Chair of the Elections Committee of the Kentucky County Clerk’s Association, testified that his organization supports efforts to amend the referenda statutes to require more information in petitions so that county clerks can more easily identify valid petition signatures.

Several members of the Task Force posed questions and voiced their opinions and concerns on local referenda petition requirements.

The folders distributed to the Task Force members included a document on local referenda petitions generally, as well as several court documents, news articles, and submitted letters relating to the Kenton County petition and litigation, copies of which may be found in the Legislative Research Commission library.

Business concluded, and the meeting adjourned at 2:40.

TASK FORCE ON THE PENAL CODE AND CONTROLLED SUBSTANCES ACT

Minutes of the 5th Meeting of the 2011 Interim

November 21, 2011

Call to Order and Roll Call

The 5th meeting of the Task Force on the Penal Code and Controlled Substances Act was held on Monday, November 21, 2011, at 1:00 PM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, the secretary called the roll, and a quorum was present.

Present were:

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

Guests: David Wallace, National Center for DWI Courts; Larry Chandler, John Cummings, Shannon Jones, Caroline Mudd, Neeka Parks, and Amanda Spears, Kentucky Parole Board; Matt Stanton, Beam, Inc.; Bob Stokes, Office of the Attorney General; Marti White, Kentucky Spirit; Bill Patrick, Kentucky Association of County Attorneys; Marylee Underwood, Kentucky Association of Sexual Assault Programs; Anne Hadreas, Kentucky Equal Justice Center; and Lynn Pryor, Commonwealth’s Attorneys Association.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, Ray DeBolt, Jr., and Rebecca Crawley.

The minutes of the October 7, 2011 meeting were approved without objection.

Commonwealth’s Attorneys’ Recommendations to the Task Force

Chris Cohron, Warren County Commonwealth’s Attorney, and Lynn Pryor, Christian County Commonwealth’s Attorney, presented their recommendations for the 2012 General Assembly.

Mr. Cohron said a serious review must be made of the classification of felonies and the sentencing structure surrounding them. Prosecutors, judges, and victims have no realistic concept of what kind of parole math is being used on defendants once they enter the Department of Corrections. The current sentencing structure and jail credit scheme makes

truth in sentencing meaningless and causes misinformation to crime victims. Many have suggested elimination of parole and the parole board and adoption of the Virginia system of determinate sentencing. He also suggested the addition of a Class E felony, but only if coupled with a third classification for felony offenses for parole eligibility purposes. The only two classifications for felonies are the 15/20 percent parole eligibility offenses versus the 85 percent parole eligibility offenses under KRS 439.3401. The addition of a third felony classification with 50 percent parole eligibility offenses should also include a limitation on jail credits earned while in custody of DOC.

Mr. Cohron suggested making Pseudoephedrine (PSE) available only by prescription. Cost savings would include an enormous decrease in Class B felony manufacturing methamphetamine cases. It would virtually eliminate smurfing, and the health care savings for counties and the state would be enormous.

Lynn Pryor, Christian County Commonwealth's Attorney, suggested revamping Kentucky's gang statutes to include a uniform statewide database to allow law enforcement to identify and track gangs and gang-related activities, forfeiture of gang assets, and sentence enhancements for gang related crimes. Gang activity is a growing statewide problem. Mr. Handy and Mr. True said gang activity is not a problem in their parts of the state.

Secretary Brown asked if there were any other HB 463 issues the task force needed to consider. Mr. Cohron said during educational sessions throughout the state, the most common problem has been widespread misinformation about the bill's provisions. He suggested prosecutors be given access to the KASPER prescription drug monitoring database to assist in drug prosecutions. Secretary Brown suggested delineating the difference between felony offenses based on whether the offense is one against property or one against a person. Mr. True said the problem of victim notification for parole hearings is not a problem of lack of statutory clarity. HB 463 calls for implementation of improved victim understanding about sentencing. Mr. True asked if prosecutors would agree to modification of the persistent felony offender statutes, and Mr. Cohron said prosecutors would only consider this upon adoption of determinate sentencing. Mr. True suggested the prosecutors meet with the Department for Public Advocacy and criminal defense attorneys to propose a compromise for consideration by the task force.

Representative Tilley suggested the task force look at legislation expanding prohibitions against synthetic drugs and the possibility of aggregating drug purchases to determine the difference between drug dealers and drug peddlers.

Parole Board Recommendations to the Task Force

Larry Chandler, Kentucky Parole Board, and Staff Attorney John Cummings suggested increasing the term of Parole Board members from four to six years, correcting an apparent conflict between KRS 439.355 relating to the inmate risk/needs assessment and KRS 439.3104, clarifying that supervision of parolees is

within the jurisdiction of the Department of Corrections, amending KRS 439.3406 to clarifying the Parole Board's authority to hold hearings relating to violation of pre-release supervision conditions, limiting pre-release supervision to those sentenced to more than five years, and clarifying the effect of nonpayment of restitution on final release from supervision by permitting release even though restitution has not been paid.

Mr. True said states that have eliminated parole have experienced increased incarceration costs even though sentence lengths were reduced. In response to a question from Mr. Handy about the board's failure to notify victims and prosecutors prior to the release of a person on parole from his county, Mr. Chandler responded they should have received notification prior to the release. Mr. Handy then asked why a parole hearing was scheduled for an inmate from Laurel County who is on death row, and Mr. Chandler said there was confusion about the state of the inmate's appeal of his conviction, and when the situation was clarified, the hearing was canceled and should not have been scheduled. He said it was not unusual for a victim or prosecutor to be notified of a parole hearing and not reply to the board before or at the parole hearing.

DUI Courts

Matt Stanton, Vice President-Public Affairs and Corporate Social Responsibility, Beam Inc., and David Wallace, Director, National Center for DWI Courts, discussed the benefits of implementing specialized DWI courts in Kentucky. Mr. Stanton said the most dangerous drunk drivers are hard core abusers of alcohol or drugs and are responsible for 70 percent of alcohol related accidents. These persons need actionable and measurable programs to address their alcohol problems. Mr. Wallace said Kentucky's current alcohol education programs along with incarceration do not address or correct the person's drinking problem nor change the person's behavior. He advocated an evidence-based long term treatment program with immediate sanctions for continued violation of the terms of participation in the program. Programs with intensive treatment and supervision have been proven to reduce recidivism, but take one to two years to yield tangible results. Mr. Wallace said a person who has successfully completed the DWI court program is nineteen times less likely to recidivate. Participants are placed on intensive supervised probation which allows them to continue working and maintain family contact, and are required to pay to participate in the program. When asked about the use of ignition interlock devices, Mr. Wallace said they might work for the occasional drinker but are less effective for the problem drinker who needs intensive treatment. In response to a question from Representative Tilley about requiring the defendant to plead guilty before entering a deferred prosecution program, he was told no one is doing this at present; the person is found guilty and the sentence is to the program following conviction.

Discussion turned to how the programs operate and what happens if the person does not show up for testing. Mr.

Wallace said that, during the early part of the program, it is expected that the person may fail an alcohol test, is then sentenced to a day in jail, and may require additional counseling. He said if the person continues to fail testing later in the program, an immediate sanction of two days in jail is imposed. He said short, immediate sentences work better than later, lengthy sentences without treatment. He stated that Kentucky's current drug and alcohol education programs may benefit a social drinker but are not effective for a person with an alcohol problem.

Results First Pilot Project

Mike Clark, LRC Economist, discussed the Results First project. This model was developed in Washington State to evaluate the potential effects of various program options in criminal justice and other fields. The program has been very effective in Washington and is currently being sponsored for adoption in other states by the PEW Center for the States. LRC has authorized the Staff Economist Office to conduct a pilot project for the task force to evaluate program options for the upcoming session of the General Assembly. The program will use nationwide data on various programs and those programs' levels of success to predict how program options might work in Kentucky.

Tara Klute, Chief Operating Officer, Division of Pretrial Services, Administrative Office of the Courts, reviewed statistics on arrests, pretrial release, failure to appear, and other issues following implementation of HB 463. The data showed fewer persons being arrested, fewer persons committing new crimes after arrest and prior to trial, a significant increase in the release of high risk offenders prior to trial on supervised release, and a reduction in failures of released persons and persons cited rather than arrested failing to appear for trial from ten percent to eight percent. Ms. Klute said the Administrative Office of the Courts will continue to study the impact of HB 463 and provide continuing data to the task force and the General Assembly.

Discussion of Final Task Force Recommendations and Next Steps

Representative Tilley said there is general sentiment to continue the task force for the 2013 session of the General Assembly and to add subjects including juvenile law and synthetic drugs to the mission. The next meeting is scheduled for the morning of December 16 in order to make recommendations to the Interim Joint Committee on Judiciary that afternoon. Representative Tilley urged members to submit their suggestions for the report as soon as possible so it can be prepared prior to the meeting.

The meeting adjourned at 3:20 p.m.

TASK FORCE ON THE PENAL CODE AND CONTROLLED SUBSTANCES ACT

Minutes of the 6th Meeting of the 2011 Interim

December 16, 2011

Call to Order and Roll Call

The 6th meeting of the Task Force on the Penal Code and Controlled Substances Act was held on Friday, December 16,

2011, at 10:00 AM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, the secretary called the roll, and a quorum was present.

Present were:

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

Guests: Anne Hadreas, Kentucky Equal Justice Center; Lauren-Brooke Eisen, Center on Sentencing and Corrections, Vera Institute of Justice.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, Ray DeBolt, and Rebecca Crawley.

Chairman Jensen called the meeting to order, and the minutes were approved by voice vote. Chairman Tilley arrived shortly thereafter and assumed the chairmanship of the meeting.

Comments of Chief Justice John D. Minton, Jr.

Chief Justice John D. Minton, Jr. indicated he would have to leave the meeting early due to another engagement and thanked the General Assembly for placing him on the task force as the representative of the Court of Justice. The Chief Justice described the appointment as a great learning opportunity and appreciated being able to present the views of the Court of Justice. The Chief Justice indicated he had reviewed the draft task force report and was in agreement with and fully supportive of the portions of the report related to the Court of Justice.

Vera Institute of Justice

Lauren-Brooke Eisen, Program Associate, Center on Sentencing and Corrections at the Vera Institute of Justice presented a progress update on Vera's role assisting Kentucky with the Justice Reinvestment Initiative Phase II. She described Vera's role in Kentucky as a liaison between the Bureau of Justice Assistance and the state in facilitating the state's funding request for up to \$400,000 to implement the justice reinvestment portions of HB 463 in cooperation with the Administrative Office of the Courts, Department of Corrections and other state agencies. Ms. Eisen indicated that a JRI working group has been established involving state and local agencies and the courts to set goals and identify areas of need for the pass-through funding application. Identified areas of need include assistance to the Department of Corrections in designing a system to estimate savings, assistance in implementing evidence-based practices, working with judges to understand new policies and training Circuit Clerks and pretrial officers. Several areas of need were identified which were beyond the initial funding goals which include technology issues at the Administrative Office of the Courts, and implementation of the sentencing information system for victims and others by the Department of Corrections to be implemented by July 2013. Ms. Eisen indicated the Vera staff has created data monitoring spreadsheets to assist the Administrative Office of the Courts and the Department of Corrections in their data collection and monitoring efforts. Senator Jensen asked Ms. Eisen if she was obtaining the needed information

to which she replied, yes. Mr. Handy asked about funding for the Administrative Office of the Courts technology upgrade and the Department of Corrections sentencing information system. Ms. Eisen said additional funding may come from the General Assembly and an additional request for federal funds might be made, but the 2013 implementation date for the Department of Corrections information website made the request less critical for the present funding request.

Results First Pilot Project

Mike Clark, LRC Economist, reported on the results of the pilot project for using the Results First program to evaluate criminal justice and other needs based on a model from the Washington Public Policy Institute. Mr. Clark indicated that from a research perspective, Results First might not be adequate as the sole determinant for identifying and selecting corrections programs that have the most potential to provide net benefits. The Washington model focuses on recidivism and the potential savings from less crime in the future. Some limitations include the amount of Kentucky data available, the short duration of most recidivism studies, which is three years to five years, and does not provide a long-term evaluation for treated versus untreated offenders. Mr. Clark said it would be difficult to justify the assumptions for long term effects based on short-term data for crimes avoided. Data on correctional costs, for instance is easier to estimate, but one must differentiate between fixed costs such as debt service, and variable costs such as lowering the cost of incarceration medical care and food service costs with less crime. There is also a problem of effect size related to the type of crime which might be prevented. For example, a Washington state study found that a drug treatment program reduced the two year felony recidivism from 29 percent to 20.2 percent. However, the difference resulted from a reduction in drug felonies. There was no statistically significant reduction in nondrug felonies. Another factor was fixed costs in providing services such as criminal defense services by the Department for Public Advocacy which might reduce the caseload of public defenders, but not the costs of providing the defense because the present caseload per public defender is so high. As far as a conclusion from the pilot study the economist recommended caution in relying on the data, particularly in the area of marginal costs associated with avoided crimes. Further study of the Kentucky offender population is needed so that Kentucky specific results can be obtained and evaluated. Mr. Gary Vanlandingham from the PEW Foundation, who is working with the Results First project, agreed the effect size is important and that more long-term Kentucky data would make the program more effective.

Discussion of Report

Chairman Tilley told the task force how the recommendations in the draft task force report were developed and pointed out the initial revision of the penal code took four years, and one interim period was insufficient for a full review and restructuring of the penal code. The report reflects general areas for further study during the next interim by a reconstituted task force. Chairman Tilley said the first

part of the report details what has been done to implement the provisions of 2011 HB 463 and the items of need identified during the committee meetings.

Specific recommendations include:

1. Reform the Penal Code;
2. Reclassify offenses and modify the sentencing structure to include new classes of felonies, the possibility of a new high misdemeanor offense, and adjustments to parole eligibility for certain offenses;
3. Modify trafficking in controlled substances in the second and third degrees and the aggregation of drug transactions to achieve better results. Mr. True indicated that he has concerns regarding aggregation and urged the task force not to include the provisions;
4. Create a generally applicable synthetic drug statute which Chairman Tilley indicated could anticipate further modifications to existing drugs;
5. Clarify the deferred prosecution provision;
6. Investigate methods for combating methamphetamine.
7. Clarify various provisions in the drug court statute as recommended by the Court of Justice;
8. Clarify misdemeanor citation and arrest powers. Mr. True and Mr. Handy agreed that nothing should be done to change the present statute;
9. Clarify application of bail credits. A wait and see caution was expressed by several members of the task force. County Judge Executive Turner recommended clarification as to what constituted a “day” in jail and further education of participants;
10. Clarify pretrial release provisions;
11. Reevaluate employment restrictions for felons;
12. Review challenges presented in misdemeanor expungement, particularly the one offense provision;
13. Create a uniform statewide gang database;
14. Ensure confidentiality for victims of sexual offenses;
15. Investigate better methods to combat human trafficking;
16. Ensure protection of child victims from Internet exploitation;
17. Ensure justice reinvestment;
18. Address issues relating to the electronic monitoring of offenders, to which several members commented that this is easier said than done;
19. Create a task force to review juvenile justice matters. Chairman Tilley complimented Representative Flood’s efforts in this area;
20. Use the Results First cost-benefit model to allocate reinvestment funds to evidence-based programs;
21. Require detailed reporting on evidence-based programs;
22. Authorize expanded use of the Results First cost-benefit analysis. Mr. Handy recommended the inclusion of efforts to control pill mills and this was approved by the task force.

The report, as amended, was approved for transmittal to the Interim Joint Committee on Judiciary and the Legislative Research Commission. The meeting adjourned at 11:45 a.m.

INTERIMJOINTCOMMITTEE ON VETERANS, MILITARY AFFAIRS, AND PUBLIC PROTECTION

Minutes of the 6th Meeting of the 2011 Interim November 10, 2011

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held

on Thursday, November 10, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Vernie McGaha, Dennis Parrett, Joey Pendleton, Tim Shaughnessy, Kathy W. Stein, and Mike Wilson; Representatives Royce W. Adams, Linda Belcher, Tom Burch, Dwight D. Butler, Larry Clark, Leslie Combs, Ron Crimm, Bill Farmer, David Floyd, Jeff Greer, Martha Jane King, Jimmie Lee, Terry Mills, Fred Nesler, Tom Riner, Carl Rollins II, Sal Santoro, Rita Smart, and Ben Waide.

Guests: Shedrick J. Jones, Sr. National Association of Black Veterans, Inc.; Rodney Brewer, Commissioner, Kentucky State Police; Shane Smith, Pretrial Services Officer, Administrative Office of the Courts; Phil Miller, Program Support Specialist, Employer Support for the Guard and Reserves, Kentucky National Guard; Col. Charles Jones, Kentucky National Guard; Robert Shepherd, U. S. Department of Labor; and Charlie Kendall, Vonja Grabeel, Cabinet for Health and Family Services.

LRC Staff: Erica Warren, Tiffany Opii, Kristopher Shera, Clint Newman II, and Rhonda Schierer.

Minutes

Representative Floyd moved to approve the October minutes. Senator Pendleton seconded the motion. The minutes were approved.

National Association of Black Veterans, Inc.

The Commander of the Kentucky Chapter of the National Association of Black Veterans (NABVETS) provided handouts to the committee members detailing the five year plan, the “Vets First” Job Program, and a proposal for a Veteran’s Enrichment Center in Louisville. Ft. Campbell will be the next location that would form a NABVETS chapter. NABVETS has active duty members as well as women members. The Commander will meet with a company that develops products known as finger sports, which are designed to assist veterans in rehabilitation from injuries sustained in combat.

Kentucky State Police

Rodney Brewer, Commissioner of the Kentucky State Police (KSP), testified on the organization’s new training center in Frankfort, Kentucky. The Department of Corrections transferred the former Frankfort Career Development Center to the KSP to use as a State Police Training Center. KSP has never had a dedicated training facility until they acquired this property. Use of this complex was helpful due to insufficient size and space available at their current facility. KSP will save between \$25,000 and \$30,000 because it will no longer have to rent additional training space. KSP has spent \$76,000 on the new training facility, which will require more upgrades to several buildings. He estimated the cost of all needed upgrades to be \$5 million to \$7 million dollars.

In response to a question from Representative Floyd, Commissioner Brewer stated that there are approximately 60-80 cadets per class per year. After KSP

is in the new facility, it will have the capacity to use a staggering system with multiple classes.

In response to a question from Chair Pullin, Commissioner Brewer stated that KSP has 16 officers deployed in the National Guard or Reserves and has had as many as 24 previously.

Pretrial Services and Veterans

Shane Smith, Pretrial Services Officer, Administrative Office of the Courts, testified on pretrial services for veterans. He detailed the number of arrests in each county, how many of those arrests were veterans, and how many had combat experience. Information is used to help identify veterans who may have issues such as post traumatic stress disorder that could be exacerbating their problems.

In response to a question from Representative Burch, Mr. Smith stated that of the veterans who have committed crimes, 90 percent have been misdemeanors such as minor theft, minor drug possession, and alcohol related offenses.

Employment Issues for National Guard and Veterans

Phil Miller, Program Support Specialist, Employer Support of the Guard and Reserve (ESGR), gave a PowerPoint presentation on employment issues for veterans. The unemployment rate among the Kentucky National Guard (KYNG) is 15.7 percent, and this figure would be around 25 percent if not for the deployment of the 149th Maneuver Enhancement Brigade. Mr. Miller presented a comprehensive four phase plan focused on assisting veterans with obtaining civilian employment to combat high unemployment among the KYNG.

In response to a question from Chair Pullin, Mr. Miller stated that the unemployment rate among veterans is high, and a reason for that is lack of knowledge in the corporate world. Mr. Miller stated that the corporate world is unaware of how skilled veterans are and what they have to offer the workforce. Mr. Miller added that veterans need to be trained on how to sell themselves to human resources people and that it needs to be a training process for both veterans and employers.

In response to a question from Senator Parrett, Mr. Miller stated that the ESGR participates in a state employer conference in Louisville and provides both support and constant education.

902 KAR 15:020 Administrative Regulation Review

Chair Pullin told members that the staff review of 902 KAR 15:020 was in their folders for their consideration. The committee took no action on the administrative regulation.

Other Business

There being no further business, the meeting adjourned.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

November 15, 2011

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, November 15, 2011, at 1:00 PM, in Room

169 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Representative Keith Hall; Bob Wiseman, University of Kentucky; John Hicks, Governor's Office for Policy and Management; Zach Couch, Division of Water; Scott Aubrey, Division of Real Properties; Debby Milton, Kentucky Infrastructure Authority; Brett Antle, Office of Financial Management; Tom Howard, Office of Financial Management; Andrew Hawes, Kentucky Housing Corporation.

LRC Staff: Kristi Culpepper, Jennifer Luttrell, and Christine Robertson.

Approval of Minutes

Representative Rudy made a motion to approve the minutes of the October 18, 2011, meeting. The motion was seconded by Representative Glenn and approved by voice vote.

Information item

Kristi Culpepper, Committee Staff Administrator, said one information item was available for members to review. In response to members' questions from the previous committee meeting, the Cabinet for Health and Family Services sent a report outlining security improvements made to Department for Community Based Services' properties. Representative Wayne requested that a copy of the report be sent to members of the Health and Welfare Committees.

Project Reports from the University of Kentucky

Senator Leeper asked Bob Wiseman, Vice President for Facilities Management at the University of Kentucky, to present two items. The first item was a scope increase of \$142,500 (15 percent) to renovate the Shively Sports Center. The project was first approved at the June 21, 2011, committee meeting with a scope of \$950,000. The revised project scope is \$1,092,500. The scope increase was required to address unforeseen electrical code deficiencies discovered during construction. Senator Carroll made a motion to approve the scope increase. The motion was seconded by Representative Glenn and passed unanimously by roll call vote.

Mr. Wiseman presented the second item, a lease renewal with a cost exceeding \$100,000 for rental of warehouse and office space housing artifacts for the College of Anthropology. Representative Glenn asked how much longer the university planned to occupy the facility. Mr. Wiseman replied that the department was expected to move the artifacts to another campus facility by July 2013, depending on the pace on renovations to that facility. In response to another question from Representative Glenn, Mr. Wiseman said he could not recall the exact measurements of the space. Senator Carroll made a motion to approve the lease renewal. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Report of Pool Project In Excess of \$600,000 from the Finance and

Administration Cabinet.

Senator Leeper asked John Hicks, Deputy Director, Governor's Office for Policy and Management, to report on pool projects in excess of \$600,000. The first item was a project funded for the Department for Environmental Protection from the Heritage Land Conservation Fund. An appropriation of \$1,767,000 was made for the Wild Rivers-Burnett Property land acquisition of approximately 1,100 acres in Wayne and McCreary Counties.

Representative Rudy asked from whom the department purchased the land. Zach Couch, Division of Water, Wild Rivers Program Coordinator, responded that Ms. Karen Burnett was the current owner. Representative Rudy expressed a concern about the impact of the purchase and similar purchases on the tax base of local governments.

Senator Carroll said he shared Representative Rudy's concerns and requested information about the amount of land owned by the Commonwealth by county. Mr. Hicks said the information was available through the cabinet and he would provide a report. Senator Carroll also requested that a copy of the report be sent to the Appropriations and Revenue Committee. Senator Leeper said that committee staff would work with the cabinet to provide the reports that members requested.

The second item presented by Mr. Hicks was a set of projects for the Kentucky Department of Fish and Wildlife Resources that have been funded from Fees-in-Lieu of Stream Mitigation Project pools. The first project was East Fork Little Sandy #3 in Lawrence County. The project was originally reported to the committee in March 2009, but the scope had increased by \$100,000, for a total scope of \$1,616,400. The second project was Trammel Creek in Allen County with a scope of \$712,500. The third project was Terry's Branch Ball's Fork in Knott County. This project was originally reported to the committee in January 2006, and updated in September 2008, but the scope has increased by \$80,000 for a total scope of \$738,500. The fourth project was at East Fork Little Sandy #5 in Lawrence County with a scope of \$775,000. No action was required.

Lease Report Submitted by the Finance and Administration Cabinet

Senator Leeper asked Scott Aubrey, Assistant Director, the Division of Real Properties, Finance and Administration Cabinet, to present a lease modification report. The division obtained two estimates to install a mechanical keypad and interior equipment on a staff entrance on a Health and Family Services building in Hopkins County, and the lower bid of \$1,835.60 was selected. Building modification costs will be amortized through the lease expiration date of June 30, 2016. No action was required.

Report from the Office of Financial Management

Senator Leeper asked Debby Milton from the Kentucky Infrastructure Authority to report a 2020 Program grant. Ms. Milton reported a \$52,500 grant to the Garrard County Fiscal Court for a feasibility study. The effort is jointly supported by the City of Danville and City of Lancaster, which currently have water compliance issues.

The study is intended to determine if the cities can afford to build a new plant new plant, upgrade their existing plant, or purchase water elsewhere. No action was required.

New Bond Issue Reports

Senator Leeper asked Brett Antle and Tom Howard from the Office of Financial Management to present two new bond issue reports. Mr. Antle presented a new bond issue report for up to \$160,000,000 of Kentucky Economic Development Financial Authority Hospital Revenue Bonds, Series 2011, for Baptist Health Care Systems. Mr. Antle said proceeds from this bond issue will be used primarily for a seven-story building at Central Baptist Hospital in Lexington. Representative Rudy made a motion to approve the new bond issue for Baptist Health Care Systems. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

Mr. Antle presented a second new bond issue report for \$1,540,000 of Kentucky Housing Corporation (KHC) multifamily Housing Revenue Bonds, Series 2012, (Garden Apartments of Bowling Green Project). Bond proceeds will be used to finance the acquisition, rehabilitation, and equipping of the existing multifamily housing Garden Apartments at 415 Trent Way in Bowling Green. All of the 48 units in the building will be reserved for households earning 40 percent or less of the area median income.

Representative Wayne asked if local legislators were informed of the project. Andres Hawes, Director of Multifamily Finance for KHC, replied that legislators from the area had been notified.

Representative Glenn asked what 40 percent of the area median income was for a family of four in Bowling Green. Mr. Hawes replied that he did not have did not have the figures for Warren County with him.

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

School Bond Issues

Mr. Antle presented five new school bond issues with School Facilities Construction Commission (SFCC) debt service participation with an estimated par amount of \$51,561,000. Senator Leeper made a motion to approve the school bond issues. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

Senator Leeper asked Ms. Culpepper to report three new local school bond issues. Ms. Culpepper said there were three local school bond issues with 100 percent locally funded debt service. No action was required.

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

A D M I N I S T R A T I V E REGULATION REVIEW SUBCOMMITTEE

Minutes of the November Meeting
November 7, 2011

Call to Order and Roll Call

The November meeting of the Administrative Regulation Review

Subcommittee was held on Monday, November 7, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Andy Crocker, Personnel Board; Joe R. Cowles, Personnell Cabinet; Jennifer Jones, Kentucky Retirement System; Richard Carroll, Board of Accountancy; Bill Adcock, Jim Grawe, Margaret Hazlette, Board of Social Work; Mark Brengelman, Sienna Newman, Board of Licensure for Orthotists, Prosthetists, Orthotists/Prosthetists, Pedorthists, or Orthotic Fitters; Margaret Everson, Rocky Pritchert, Department of Fish and Wildlife Resources; Don Dott, State Nature Preserves Commission; John C. Cummings, Verman R. Winburn, Parole Board; Allison Jessee, Patrick Shirley, Office for the Blind; Melissa Beasley, Clay Lamb, Office of Unemployment Insurance; Sandy Chapman, Russell Coy, Blanche Minor, DJ Wasson, Cecilia Webber, Maggie Woods, Department of Insurance; Stephanie Bell, Helen Helton, Public Service Commission; Jamie Eads, Tim West, Horse Racing Commission; Dawn Bellis, Lee Etta Cummings, Jerry Lunsford, George Mann, Department of Housing, Buildings and Construction; Michele Bushong, Matt McKinley, Curt Pendergrass, Marissa Vega Velez, Chandra Venetozzi, Cabinet for Health and Family Services; Steven Cook, University of Kentucky Center on Drugs and Alcohol Research; and Marty White, Kentucky Spirit.

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

The Administrative Regulation Review Subcommittee met on Monday, November 7, 2011, and submits this report:

Administrative Regulations
Reviewed by the Subcommittee:

PERSONNEL BOARD: Board

101 KAR 1:335. Employee actions. Andy Crocker, general counsel, represented the board.

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

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:210 & E. 2012 Plan Year Handbook for the Public Employee Health Insurance Program. Joe Cowles, deputy executive director, Office of Legal Services, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Section 1 to correct two typographical errors in the existing

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

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:440. Kentucky Retirement Systems Trustee Education Program. Jennifer Jones, interim general counsel, represented the systems.

In response to a question by Co-Chair Bowen, Ms. Jones stated that the Trustee Education Program was being amended at this time because of a recent audit. The amendments implemented changes recommended by the Auditor of Public Accounts.

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

GENERAL GOVERNMENT CABINET: State Board of Accountancy: Board

201 KAR 1:160. Peer reviews. Richard Carroll, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1, 2, 3, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Social Work: Board

201 KAR 23:050. Renewal, termination, reinstatement of license. Margaret Hazlette, executive director; James Grawe, assistant attorney general; and William Adcock, board member, represented the board.

In response to questions by Representative Lee, Ms. Hazlette stated that the requirements of this administrative regulation applied to social workers licensed by the board. Social workers employed by state government should not be impacted because they were exempt from licensure under KRS Chapter 335. The requirements only applied to those individuals if they chose to be licensed.

In response to questions by Representative Lee, Mr. Grawe stated that the \$100 penalty applied if a licensee renewed an expired license. Additionally, Ms. Hazlette stated that the board established the new penalty to simplify the renewal process for expired licenses. It replaced the previous penalty structure which titrated the amount of the penalty based on the length of expiration.

In response to questions by Co-Chair Bell, Ms. Hazlette stated that social workers employed by nonprofit agencies should not be affected by this administrative regulation either. They were also exempt from licensure and would only have to comply with the new requirements if they voluntarily obtained licensure.

201 KAR 23:075. Continuing education. In response to a question by Co-Chair Bell, Ms. Hazlette stated that the board amended the domestic violence education requirement to correct an error

and to comply with its current statutes.

Board of Prosthetics, Orthotics, and Pedorthics: Board

201 KAR 44:010. Fees. Sienna Newman, board chair, and Mark Brengelman, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to accurately reflect the name of the agency; and (2) to amend Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:020. Requirements for licensure as an Orthotist, Prosthetist, Orthotist/Prosthetist, Pedorthist, or Orthotic Fitter prior to January 1, 2013.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to accurately reflect the name of the agency; (2) to amend the RELATES TO paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend the material incorporated by reference to correct minor drafting errors. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:030. Alternative Mechanism Requirements for licensure as an Orthotist, Prosthetist, Orthotist/Prosthetist, Pedorthist, or Orthotic Fitter prior to January 1, 2013 for applicants in practice who are not currently certified.

In response to a question by Co-Chair Bowen, Ms. Newman stated that this administrative regulation implemented the new statutory licensure requirements for orthotists, prosthetists, pedorthists, and orthotic fitters. It established a pathway to licensure for professionals already working in those fields.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to accurately reflect the name of the agency; (2) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY FUNCTION AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Sections 1 through 5 to cross-reference a form that is incorporated by reference in 201 KAR 44:020. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:040. Professional Conduct and Code of Ethics.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to accurately reflect the name of the agency; and (2) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY FUNCTION AND CONFORMITY paragraphs and Sections 2 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:050. Per diem of board members.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to accurately reflect the name of the agency; (2) to

amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to match the statutory authority provided by KRS 319B.020(6); and (3) to amend Section 1 to delete the per diem compensation for board members in accordance with KRS 319B.020(6). Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:225 & E. Dove, wood duck, teal, and other migratory game bird hunting. Margaret Everson, general counsel, and Rocky Pritchert, migratory board program coordinator, represented the department.

ENERGY AND ENVIRONMENT CABINET: Office of the Secretary: Kentucky State Nature Preserves Commission: Commission

400 KAR 2:090. Management, use, and protection of nature preserves. Donald Dott, director, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 to specify that the provisions for vehicular access lanes only apply to internal access lanes; (2) to amend Section 18 to specify criteria for making decisions regarding permission for research or educational activities; (3) to amend Section 21 to add an incorporation by reference section incorporating the "Collecting/Access Permit" application and the "Research Permit" application; (4) to amend Sections 5, 6, 7, 10, and 15 to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; and (5) to amend Sections 6, 7, 8, 13, 15, and 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Parole Board: Board

501 KAR 1:030. Determining parole eligibility. Verman Winburn, board chair, and John Cummings, staff attorney, represented the board.

In response to a question by Co-Chair Bell, Mr. Winburn stated that some parole provisions in 2011 House Bill 463 had delayed effective dates such as changes to case management. However, the amendments to this administrative regulation implemented provisions regarding an inmate's parole eligibility date that were already in effect.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete unnecessary definitions; (2) to amend Section 2 to use statutory terminology; (3) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments

were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office for the Blind: Department for the Blind

782 KAR 1:020. Definitions for 782 KAR Chapter 1. Allison Jessee, director of consumer services, and Patrick Shirley, staff attorney, represented the department.

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

782 KAR 1:030. Scope and nature of services.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4, 5, 12, 16, 17, and 20 to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 4, 7, 12, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

782 KAR 1:040. Appeal procedures.

A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to make a CONFORMING AMENDMENT to correct an inconsistency between the currently effective regulation and the proposed regulation filed by the agency; and (2) to amend the RELATES TO paragraph and Sections 1, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

782 KAR 1:070. Certified driver training program.

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

Office of Employment and Training: Unemployment Insurance

787 KAR 1:210. Employer contribution rates. Melissa Beasley, assistant director, and Clay Lamb, staff attorney, represented the office.

In response to questions by Senator Givens, Ms. Beasley stated that there were 2,000 reimbursing employers in the state. Those employers submitted reports on a quarterly basis. Additionally, the administration of the unemployment insurance program was entirely federally-funded. Lastly, the office amended the rate notice form to update its terminology and to limit voluntary payments by employers to every other year. While the annual notice included information about making voluntary payments, the remainder of the form clarified that an employer was not eligible to do so each year.

In response to a question by Co-

Chair Bowen, Ms. Lamb stated that this administrative regulation was amended in response to recommendations by the Unemployment Insurance Task Force.

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

806 KAR 9:070. Examinations. Sharon Clark, commissioner; Maggie Woods, director; and Sandy Chapman, assistant director, represented the division.

Financial Standards and Examination Division: Captive Insurers

806 KAR 49:050. Captive Risk Retention Groups. Sharon Clark, commissioner, and Russell Coy, captive insurance manager, represented the division.

A motion was made and seconded to approve the following amendments: to amend the TITLE, STATUTORY AUTHORITY paragraph, and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: State Board on Electric Generations and Transmission SITING: Utilities

807 KAR 5:100. Board application fees. Stephanie Bell, deputy executive director, and Helen Helton, general counsel, represented the board.

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

807 KAR 5:110. Board proceedings.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 2, 3, 5, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to make CONFORMING AMENDMENTS to Sections 8 and 9 to correct inconsistencies between the currently effective administrative regulation and the filed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Horse Racing Commission: Thoroughbred Racing

810 KAR 1:090. Kentucky Thoroughbred Development Fund. Jamie Eads, director, Division of Incentives and Development, and Tim West, assistant general counsel, represented the

commission.

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; (2) to amend Section 1 to delete unnecessary definitions; (3) to amend the RELATES TO paragraph and Sections 1, 2, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments were approved.

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

815 KAR 7:125. Kentucky Residential Code. Dawn Bellis, general counsel, and George Mann, deputy commissioner, represented the division.

In response to a question by Representative Damron, Ms. Bellis stated that the division received one public comment regarding the new HVAC standards. While the new standards required HVAC systems to be programmed at a particular temperature, the requirement only applied at installation. After installation, the consumer could adjust the setting.

In response to a question by Senator Givens, Ms. Bellis stated that most programmable thermostats were already pre-set by the manufacturer and would be in compliance with the new standards.

In response to a question by Senator Pendleton, Ms. Bellis stated that the code requirements for tape used in duct work were not new requirements. The required tape was specially formulated for that particular use. It should also be readily available.

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

900 KAR 6:075. Certificate of Need nonsubstantive review. Michele Bushong, health policy specialist, and Chandra Venettozzi, health data administrator, represented the office.

In response to a question by Representative Lee, Ms. Venettozzi stated that the review requirements for psychiatric residential treatment facilities were not amended in response to the needs of any one facility. The changes resulted from comments the office received.

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

Division of Public Health and Safety: Radiology

902 KAR 100:142. Wire line service operations. Matt McKinley, radiation health branch manager; Curt Pendergrass, radioactive material section supervisor; and Marissa Velez, radiation health specialist, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 6, 7, 8, 9, 11, 12, 19,

20, 21, 22, 23, and 27 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. Steven Cook, research analyst, and Lee Etta Cummings, DUI program manager, represented the division. (This administrative regulation was discussed, and amended, prior to its deferral from the October 2011 Administrative Regulation Review Subcommittee meeting. That amendment summary was included in the October report of this Subcommittee.)

In response to a question by Senator Givens, Ms. Cummings stated that the division had submitted amendments for approval to resolve concerns discussed at the previous meeting of the Subcommittee. The amendments would enable the two programs that were currently using telecommunication equipment to deliver instruction to continue to do so. Additionally, evaluation studies would be conducted to determine if there was a difference in performance outcomes depending on the method of program delivery.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4, 6, and 8 to amend minor typographical errors; and (2) to amend Section 7 to establish a process to enable the programs that have delivered instruction via video telecommunication equipment on the effective date of this administrative regulation to continue to use that equipment in the delivery of instruction. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the December 6, 2011, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:180. Employee performance evaluation system.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Ad Valorem Tax; State Assessment

103 KAR 8:010. Watercraft allocation.

GENERAL GOVERNMENT CABINET: Real Estate Appraisers Board: Board

201 KAR 30:310 & E. Fees for registration of appraisal management companies.

201 KAR 30:320 & E. Surety bond.

201 KAR 30:330 & E. Application for registration.

201 KAR 30:360. Operation of an appraisal management company.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Reclamation and Enforcement: Surface Effects of Noncoal Mining

405 KAR 5:085. Enforcement.

405 KAR 5:095. Administrative hearings, informal settlement conferences, and general practice provisions.

General Provisions

405 KAR 7:091. General practice provisions.

Inspection and Enforcement

405 KAR 12:020. Enforcement.

TRANSPORTATION CABINET: Office of Transportation Delivery: Mass Transportation

603 KAR 7:080. Human service transportation delivery.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:420. Child fatality or near fatality investigations.

The Subcommittee adjourned at 2:00 p.m. until December 6, 2011.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the Meeting

November 15, 2011

Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, November 15, 2011, at 1:00 p.m., in Room 131 of the Capitol Annex. Senator Jack Westwood, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators Vernie McGaha, Gerald A. Neal, and Ken Winters; Representatives Linda Belcher and Bill Farmer.

Guests: Keith White, Office of Education Accountability; Jim Thompson, Education and Workforce Development Cabinet; Clyde Caudill, Kentucky Association of School Administrators and Jefferson County Public Schools, and Patty Dempsey, The Arc of Kentucky.

LRC Staff: Sandy Deaton, Ben Boggs, Jo Carole Ellis, Ken Warlick, Daniel Clark, and Lisa Moore.

Adopt Minutes of October 11, 2011, meeting

Senator Winters moved to adopt the minutes from the October 11, 2011, meeting and Representative Farmer seconded the motion. The minutes were adopted by voice vote.

Office of Education Accountability's Report "Appropriate Identification and Service of Students with Disabilities in Kentucky: Issues Associated with Special Education Eligibility, Funding, and Personnel Training"

Ms. Deborah Nelson, Research Analyst, Office of Education Accountability (OEA), said the process of determining a student's eligibility for special education, known as identification in OEA's report, has substantial consequences for students and fiscal consequences for states and districts. She said the report includes data indicating substantial differences among states and districts in the percentages of students identified for special education; results of the Kentucky Department of Education's (KDE) 2010 audits in 39 districts; recent declines in the number of students identified for special education; and OEA interviews with district staff.

Ms. Nelson said that at the preschool level, apparent differences exist among districts in the manner students are identified with disabilities which raise concerns about the equitable allocation of preschool funding to districts and to individual children. Reliable identification of young children with particular disabilities is challenging, especially in broadly defined categories such as developmental delay, which only applies to students up to age eight. The KDE has recently taken steps to improve the identification practices at the preschool level. She said further attention may be needed to ensure that preschool eligibility requirements are applied consistently.

Ms. Nelson said that at the elementary and secondary level, it is likely that some students with learning difficulties are identified for special education when they might be assisted more effectively and efficiently through existing support in general education. KDE is addressing this concern by supporting districts in the implementation of research-based interventions and by monitoring district eligibility determinations. She said the department could supplement these efforts with guidance documents that clarify specific terms used in determining disability and the level of training recommended for special education evaluators.

Ms. Nelson said that students with disabilities or learning difficulties who are assisted through special education services or supports in general education need access to personnel trained to recognize and address their specific needs. Special education teachers are not necessarily prepared with these specific skills in preservice training. She said districts should ensure the ongoing training of personnel to support students with learning difficulties or disabilities whether through special or general education. The Education Professional Standards Board (EPSB) and KDE might offer guidance on recommended training through professional development or ongoing education for rank change.

Ms. Nelson said districts are required to ensure that students with disabilities receive necessary services, regardless of cost. Districts may need additional funding to support the costs of educating students with disabilities whose needs can only be met through special education programs, especially those students who require unusually intensive supports. However, districts should also be encouraged to examine special education expenditures, which have reached record highs in Kentucky, to ensure that funded services are targeted directly at student needs. She said that, by increasing supports in general education, districts may reduce the need for special education and serve some students more effectively and efficiently. Wealthy districts may have greater fiscal flexibility than less wealthy districts to examine the relative merits of investments in general versus special education programs.

Ms. Nelson concluded that the OEA report identifies issues associated with the methods used to fund special education through the Support Education Excellence in Kentucky (SEEK) system and state preschool funds. These include a lack of alignment between funding

weights and costs of educating some students and possible fiscal incentives to identify students for special education. At the preschool level, in particular, the funding method may lead to inequities in the distribution of funds among districts, uncertainty in annual funding, and cumbersome processes required for district staff, parents, and children in the determination of preschool eligibility. She said the General Assembly may wish to request further study of both the SEEK and the preschool funding systems. The report also included seven specific recommendations that are included in the meeting folder in the Legislative Research Commission (LRC) library.

In response to questions from Senator Westwood, Ms. Nelson said some special education teachers may have adequate training to identify and support students with disabilities. However, she noted that adequate teacher preparation varies greatly by school district.

Ms. Nelson said 58 percent of special education students in Kentucky receive testing accommodations. She said that percentage is comparable to other states for the number of students receiving testing accommodations, but Kentucky permits the reader accommodation on the reading assessment, which differs from most other states. Ms. Marcia Ford Seiler, Director, OEA, said an administrative regulation was reviewed in the School Curriculum Assessment and Accountability Council (SCAAC) meeting that will be forthcoming in regards to testing accommodations.

Senator Westwood said he was delighted with the last report from the National Association of Educational Progress (NAEP) that showed Kentucky exceeding other states in its student reading growth. However, he would like to know how many of those students were allowed to use accommodations in their reading assessments, and if this skews the progress demonstrated.

Responding to Senator McGaha, Ms. Nelson said there could be a relation between an increased number of children enrolled in special education and drug abusing mothers. She said the children of drug abusing mothers may not need to be served in a special education program even if they require some special supports in the general education program. Senator McGaha said there should be specific requirements for a teacher to refer a student into a special education program.

Representative Farmer said some children may lack maturity because of age, and not necessarily need special services. He asked if districts might over-identify the younger students to get extra money. Ms. Nelson said school district expenditures for preschool exceed revenue, and therefore she does not see how districts are using the special education referrals to gain revenue. The policy varies by district, but some schools report that parents push to identify their child with a disability in order to get free preschool. She noted some children can be a year behind other students depending on their birthday and school enrollment cutoff dates. A larger issue is that the category of developmental delay is broad and hard to apply consistently. She noted preschool is a phenomenal expense and it can be a critical need for children living in

poverty. If fewer exceptional children were identified for free preschool, more money would be available to serve students living in poverty.

Senator Westwood said changes need to be made to broaden the definition of dyslexia. He noted that it can be very difficult, even for trained personnel, to diagnose a student with dyslexia. Ms. Nelson said the report addresses dyslexia specifically.

Senator Winters said he wants students diagnosed and identified correctly. He is not comfortable with the fact that students are placed in special education programs so that the school district can obtain additional money for teacher aides and/or transportation needs.

Responding to Representative Belcher, Ms. Nelson said it is correct to assume that there has been a push to identify students for special education even if the identification of the disability is unclear. She said an increasing number of students that fall into this gray area have been identified. She also noted that the federal definitions are very broad and there are states that identify children at a higher rate than Kentucky.

Ms. Nelson said many districts are leery of identifying children as needing special education after the audit conducted by the KDE. Representative Belcher noted there were 3,200 fewer students identified the year after the audit. Ms. Nelson said this closer look by school districts is important as students are set up for failure if not diagnosed and placed correctly.

Ms. Nelson said school districts vary greatly on practices for identifying students for special education. Representative Belcher suggested that instead of auditing the entire state, that assistance should be given to school districts not following the guidelines. Ms. Nelson emphasized that the audits should be viewed as a support for school districts instead of as a challenge.

In response to Representative Farmer, Ms. Nelson said the KDE uses multiple indicators to identify school districts for audits such as a disproportionate identification of minorities or a low graduation rate. The most recent change has included auditing districts that have high identification rates of special education students. However, KDE is looking at the method used to audit districts in the future due to personnel resources. She also said a problem cannot be identified just based on a number. One school district had a 20 percent identification rate and was audited and found to be completely in compliance.

In response to a question from Senator Neal, Ms. Seiler said OEA is directed by the Education Assessment and Accountability Review Subcommittee (EAARS) to provide a study agenda that identifies research topics for the next year. She said preschool funding could be identified as a study topic at the EAARS December meeting. It could also be directed as a study topic through legislation or by directing the KDE to report upon it.

Senator Winters moved to accept the OEA report “Appropriate Identification and Service of Students with Disabilities in Kentucky: Issues Associated with

Special Education Eligibility, Funding, and Personnel Training” and Senator Neal seconded the motion. The report was adopted by voice vote.

Senator Winters moved to accept the OEA reports “Kentucky State Testing for Education Accountability: An Examination of Security-related Threats to Valid Inference Making and Suggested Best Practices” and the “Kentucky Educational Excellence Scholarship” and Representative Farmer seconded the motion. The reports were adopted by voice vote.

Office of Education Accountability’s Report “Compendium of State Education Rankings, 2011”

Brenda Landy, Research Analyst, OEA, said this compendium of state education rankings is intended as a reference tool that compares Kentucky’s education indicators to those of the nation and selected peer states. While rankings are based on all 50 states and the District of Columbia, the data presented focus on Southern Regional Education Board (SREB) member states and other states adjacent to Kentucky.

Ms. Landy said rankings should be used with caution. A ranking on one measure is affected by state differences in other measures, such as student characteristics and costs of living. It is essential to examine the measures on which a set of rankings is based because rankings do not indicate how far apart states are from each other. When many states cluster closely together on a measure, small fluctuations can cause significant changes in rankings.

Ms. Landy said that, with more than one-fourth of students living below the poverty level in 2010, Kentucky’s student poverty rate was the seventh highest in the nation. Kentucky had the ninth highest proportion of students enrolled in rural schools. Although the number of Hispanic students has been increasing, they still make up only about three percent of students. In comparison, African-American students total eleven percent.

Ms. Landy said because of Kentucky’s small Hispanic population, only about two percent of students received services for limited English proficiency in 2010. However, Kentucky students had high rates of services for financially needy students; almost 84 percent were enrolled in Title I schools, compared to a national rate just under 65 percent, and about 55 percent were eligible for subsidized lunches, compared to 46 percent of the nation. Both of these measures have increased for Kentucky and the nation in recent years, after the economic downturn. The percentage of students with disabilities that required an Individualized Education Program (IEP) was about 16 percent, compared to a national rate of 13 percent.

Ms. Landy said even after adjusting for geographic cost differences, Kentucky ranked 37th in revenue per pupil and current spending per pupil in 2008; however, unlike most states, Kentucky does not include school activity funds when reporting revenues and expenditures. The state’s proportion of spending dedicated to instruction mirrored the nation. As a result of mandated pay increases, Kentucky’s ranking in average teacher salary rose

from 36th in 2002 to 25th in 2008, and was on par with the national average.

Ms. Landy said Kentucky’s student-teacher ratio in 2010 was 15.3 students per teacher. The slightly smaller ratio than the nation’s (15.8) suggests that Kentucky students have a few more opportunities for individual attention than students in many other states. As for other staffing, relatively high numbers of instructional aides per student are likely due to Kentucky’s high preschool enrollment and disability rates. High numbers of school administrators likely reflect the state’s small rural schools.

Ms. Landy said Kentucky’s grade four and grade eight NAEP reading scores were significantly above the national average in 2011. Kentucky was ranked 10th for grade four reading and 12th for grade eight reading. Scores did not improve significantly between the 2009 and 2011 administration of NAEP.

Ms. Landy said Kentucky’s average NAEPmathscores in 2011 were statistically on par with those of the nation for both grades four and eight, and Kentucky ranked 24th and 35th, respectively. Scores did not improve significantly between 2009 and 2011.

Ms. Landy said Kentucky students’ participation in Advanced Placement (AP) exams almost doubled between 2002 and 2010, from 12.6 percent to 24.4 percent. Similarly, the percentage of students earning qualifying scores almost doubled, from 6.5 percent in 2002 to 12.2 percent in 2010. Kentucky ranked 26th in AP participation and 30th in passing scores.

Since 2009, Kentucky’s average ACT scores have been lower than in previous years as a consequence of a new policy that requires all students to take the ACT exam, regardless of interest in postsecondary education. On the composite, which combines all subjects, Kentucky’s overall rank was 48th in 2011. The highest rank was 46th for the science portion of the ACT.

In 2009, Kentucky’s high school seniors had the 23rd highest Averaged Freshman Graduation Rate (AFGR), with an estimated 77.6 percent of students graduating, compared to a national rate of 75.5 percent. While Kentucky currently reports the AFGR, a cohort graduation rate will be reported beginning in 2014.

Responding to Senator Westwood, Ms. Landy said the number of Kentucky students utilizing reader accommodations is on par with the national average. However, Kentucky has more students being excluded. She will get more detailed information to the committee that compares Kentucky’s accommodations and exclusions data to national data.

In response to a question from Senator McGaha, Ms. Landy said she will review studies that other states have conducted on how students who are eligible to receive free and reduced lunch are determined. She said there is one federal provision, the community eligibility option, that eliminates collecting data on family income and feeding everyone in the school in an effort to reduce paperwork. Senator McGaha said the system is not accurate.

Representative Belcher said special education teachers have a difficult job and have to teach students on many different levels. She suggested offering monetary

incentives for special education teachers to enhance their experience through certification or specialization in dyslexia, autism, and other learning disorders.

Other Business

Representative Edmonds announced that the next EAARS meeting will be held on Monday, December 12, 2011, at 10:00 a.m. in Room 131 of the Capitol Annex. He commended Ms. Seiler and her staff for the tremendous job that the OEA does. Senator Westwood commended Ms. Seiler on her leadership of the OEA and said the committee appreciates the staff’s diligent work on the research studies.

Senator McGaha moved to accept the OEA report “Compendium of State Education Rankings, 2011” and Senator Westwood seconded the motion. The report was adopted by voice vote.

Adjournment

The meeting adjourned at 2:50 p.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE
Committee Minutes
November 8, 2011

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, November 8, 2011, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Paul Hornback; Representatives Jesse Crenshaw, Brent Housman, and Brent Yonts.

Guests: Connie Lester, Charlie Harman, Michael Dailey, Michelle Landers, Joe Crabtree, Jennifer Linton, Paul Gannoe, Diana Barber, Linda Sewell, Lisa Beran, Debby Milton, Kevin Mudd, Kathy Burke, Charles Kendell, Sandy Fawbush, Dr. Torrie Harris, Lee Colten, and Robert Duff.

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

Amotion was made by Representative Yonts to approve Minutes of the October 2011 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

DEFERRED ITEMS

Amotion was made by Representative Yonts to defer the following contract to the December 2011 meeting of the committee: NORTHERN KENTUCKY UNIVERSITY: Athletic Staffing & Consulting, LLC, 2012-594. Senator Carroll seconded the motion, which passed without objection.

Amotion was made by Representative Yonts to defer the following contract to the December 2011 meeting of the committee: EDUCATION, DEPARTMENT OF: National Academy Foundation,

1200000459. Senator Carroll seconded the motion, which passed without objection.

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:
Transitions Incorporated, 1200000529.

DEPARTMENT OF HOUSING, BUILDING, AND CONSTRUCTION:
Code Administrative Associates of Kentucky, 1200000607.

FINANCE AND ADMINISTRATION CABINET:
PFM Asset Management, LLC, 1200000628.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
EOP Architects, PSC, 1100002570.

FINANCIAL INCENTIVES, DEPARTMENT OF:
Miller & Wells, PLLC, 1200000474.

JUVENILE JUSTICE, DEPARTMENT OF:
Judy A. Harrison, 1200000631.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:
Center for Occupational Research & Development, 497.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:
Valenti Hanley & Robinson, PLLC, 12-001.

KENTUCKY HOUSING CORPORATION:
Honkamp Krueger & Company, P.C., 2012-1.

STATE POLICE, DEPARTMENT OF:
John E. Reid & Associates, 1200000743.

TRANSPORTATION CABINET:
Burgess & Niple Incorporated, 1200000614; Municipal Engineering Company, 1200000645; Vaughn & Melton Consulting Engineers Kentucky Incorporated, 1200000653; PB Americas Incorporated, 1200000666; Lochner H W

Incorporated Consulting, 1200000673; URS Corporation, 1200000728; Entran, PLC, 1200000790; J M Crawford and Associates Incorporated, 1200000792.

TRAVEL, DEPARTMENT OF:
Connect-Worldwide International Incorporated, 1000003780.

UNIVERSITY OF KENTUCKY:
Louis F. Cohn, PhD, PE, K12-130; Anderson Strickler, LLC, K12-131; S1 IT Solutions, K12-133.

UNIVERSITY OF LOUISVILLE:
Advances in Education, 12-023.

WESTERN KENTUCKY UNIVERSITY:

Ross Tarrant Architects, 111236; RPM Transportation Consultants, 111238; Stokes Production Services Incorporated, 111239.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Chrysalis House Incorporated, 1100001377; Hope Center, 1100001379; Gess Mattingly and Atchison, 1100001567.

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Christian Sturgeon & Associates, PSC, 1100002902.

BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:

Stout Farmer & King PLLC, 1000003137.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Kentucky Partnership for Families & Children Incorporated, 1100000203.

DEPARTMENT FOR INCOME SUPPORT:

Maureen W. Khalil, MD, 1000003696; Lynn A. Rosenzweig, Psy D, 1000003697; Dennis B. Penn, 1000003700.

DEPARTMENT FOR NATURAL RESOURCES:

ATC Associates Incorporated, 0900013190.

EDUCATION, DEPARTMENT OF:
Carol A. Klaber, 1000002697; Pleasant Green Baptist Church, 1000002750; Paul L. Whalen, 1000002948; Kentucky Science & Technology Corporation, 1000003001.

FINANCE AND ADMINISTRATION CABINET:

Cunningham Lindsey U.S. Incorporated, 1200000580.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services Incorporated, 0700003463; Bender Associates Architects, 0800011058; T H E Engineers Incorporated, 0800011306; Third Rock Consultants, LLC, 0900013200; Fitzsimons Office of Architecture Incorporated, 1000002919; GRW Engineers Incorporated, 1100001420; Ross Tarrant Architects Incorporated, C-06082726.

JUVENILE JUSTICE, DEPARTMENT OF:

PCA Corrections, LLC,

1000002848.
KENTUCKY HOUSING CORPORATION:
BLX Group, LLC, 2012-4.
PERSONNEL-OFFICE OF THE SECRETARY:
Blue & Company, LLC, 1000002245.
TRANSPORTATION CABINET:
Burgess & Niple Incorporated, 0700003876; QK4, 0700006089; Entran, PLC, 1100000683; American Engineers Incorporated, C-03074169; Gresham Smith & Partners, C-05260813.
UNIVERSITY OF KENTUCKY:
GBBN Architects, A061080.
WESTERN KENTUCKY UNIVERSITY:
Crowe Horwath, LLP, 101204.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:
ADMINISTRATIVE OFFICE OF THE COURTS:
Morehead State University, 1200000761; Morehead State University, 1200000763; Morehead State University, 1200000784; Morehead State University, 1200000785; Morehead State University, 1200000787.

AGRICULTURE, DEPARTMENT OF:
Multi, 1200000649.
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Community Action Kentucky Incorporated, 1200000584.
DEPARTMENT FOR PUBLIC HEALTH:
University of Kentucky Research Foundation, 1200000499.
DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

University of Kentucky Research Foundation, 1200000731.
EDUCATION, DEPARTMENT OF:
Pike County Board of Education, 1100002270; The Partnership for Successful Schools, 1200000299; Daviess County Board of Education, 1200000329; NKU Research Foundation, 1200000399; NKU Research Foundation, 1200000402; Kenton County Board of Education, 1200000469; McCracken County Board of Education, 1200000470; Spencer County Board of Education, 1200000471; Washington County Board of Education, 1200000472; Menifee County Board of Education, 1200000575; Fayette County Board of Education, 1200000664; Morehead State University, 1200000669; Clay County Board of Education, 1200000683; Johnson County Board of Education, 1200000691; Pike County Board of Education, 1200000695.

EDUCATION, OFFICE OF THE SECRETARY:
Council On Postsecondary Education, 1200000014.

FISH & WILDLIFE, DEPARTMENT OF:
Attorney General, 1200000215.
MILITARY AFFAIRS, DEPARTMENT OF:
City of Elizabethtown, 1200000487.
OFFICE OF HEALTH POLICY:
Insurance Health & Life, 1200000585.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:
Clay County Fiscal Court, 1200000286; Clay County Fiscal Court, 1200000287; Clay County Fiscal Court, 1200000288; City of Martin, 1200000478; City of Hyden, 1200000480; Madisonville Community College, 1200000596; City of Clay, 1200000599; Daviess County Fiscal Court, 1200000617; City of Beaver Dam, 1200000619; Mason County Fiscal Court, 1200000620; Ohio County Fiscal Court, 1200000624; Ballard County, 1200000629; Bell County Fiscal Court, 1200000639; City of Williamsburg, 1200000668; Johnson County Fiscal Court, 1200000722; Casey County Fiscal Court, 1200000734; Henderson County Fiscal Court, 1200000736; Pulaski County Fiscal Court, 1200000744; Troublesome Creek Environmental Authority, 1200000746; Troublesome Creek Environmental Authority, 1200000747.

WORKFORCE INVESTMENT, OFFICE OF:
Disability Resource Initiative Incorporated, 1200000445; Center for Accessible Living, 1200000446; Independence Place, 1200000449; Independence Place, 1200000450; NKU Research Foundation, 1200000601.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:
ADMINISTRATIVE OFFICE OF THE COURTS:

University of Louisville Research Foundation, 1000000777; Morehead State University, Control Room 207, 1100001371; Morehead State University, Control Room 207, 1100001372; Northern Kentucky Area Development District, 1100003075; Communicare Incorporated Adult, 1100003106; Mountain Comprehensive Care Center, 1100003121; Pennyroyal Mental Health, 1100003122.

AGRICULTURE, DEPARTMENT OF:
Multi, 0900011666; Multi, 1100001230; Murray State University, 1100002786.

DEPARTMENT FOR COMMUNITY BASED SERVICES:
University of Kentucky Human Development Institute, 1000003388.
DEPARTMENT FOR PUBLIC HEALTH:
University of Kentucky Research Foundation, 1100002514.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:
National Energy Education Development Project, 1000000141.
EDUCATION, DEPARTMENT OF:
Monroe County Board of Education, 1000002736; Monroe County Board of Education, 1000002736; Wolfe County Board of Education, 1000002771; Scott County Board of Education, 1100002598; Jessamine County Board of Education, 1200000095.

FAIR BOARD:
Louisville Fire Department, 1100002393.
FISH & WILDLIFE, DEPARTMENT

OF:
United State Fish & Wildlife Service, 1100001182.
INFRASTRUCTURE AUTHORITY:
City of Hazard, 1100001479; City of Salyersville, 1100001922; City of Corbin Utilities Commission, 1100002432.
OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:
Community Ventures Corporation, 1000000718; Muhlenberg County Fiscal Court, 1000001776; Letcher County Fiscal Court, 1100000845; Hopkins County Fiscal Court, 1100000846; Rockcastle County Fiscal Court, 1100001082; Lawrence County Fiscal Court, 1100001214; Rockcastle County Fiscal Court, 1100001365; Rockcastle County Fiscal Court, 1100001366; Christian County Fiscal Court, 1100001447; Rockcastle County Fiscal Court, 1100001622; Laurel County Fiscal Court, 1100001754; Laurel County Fiscal Court, 1100001755; Laurel County Fiscal Court, 1100001756; Laurel County Fiscal Court, 1100001757; Laurel County Fiscal Court, 1100001758; Laurel County Fiscal Court, 1100001759; Laurel County Fiscal Court, 1100001760; Laurel County Fiscal Court, 1100001761; Laurel County Fiscal Court, 1100001762; Laurel County Fiscal Court, 1100001763; Laurel County Fiscal Court, 1100001764; Laurel County Fiscal Court, 1100001765; Pike County Fiscal Court, 1100001927; Leslie County Board of Education, 1100003085; Floyd County Fiscal Court, 1100003087.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF
Multi, 1200000602. Connie Lester and Charlie Harman 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 with Representative Housman voting NO.

KENTUCKY EMPLOYERS MUTUAL INSURANCE
McCarthy Strategic Solutions, LLC, 12-MSS-001. Michelle Landers discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senator McGaha voting NO.
UNIVERSITY OF KENTUCKY
Exponent, K12-132. Joe Crabtree 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 PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING
Sherman Carter Barnhart, 0700003932. Jennifer Linton and Paul Gannoe discussed the contract with the committee. A motion was made by Representative Yonts to consider the

contract as reviewed. Representative Horlander seconded the motion, which passed with Senators McGaha and Hornback and Representatives Crenshaw and Housman voting NO.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION
Human Development Company Incorporated, 11-004. Diana Barber and Linda Sewell discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senator McGaha voting NO.

KENTUCKY HOUSING CORPORATION
Stierle & Stierle, Attorneys At Law, 2012-11. Lisa Beran discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF
Kentucky Valley Educational Cooperative, 1200000396; Kentucky Association of School Administrators, 1200000397. Connie Lester, Charlie Harman, and Michael Dailey discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

INFRASTRUCTURE AUTHORITY
Breathitt County Fiscal Court, 1200000719. Debby Milton discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Green River Regional Mental Health Mental Retardation Board, 1000001474. Kevin Mudd and Kathy Burke discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 1100002172; University of Kentucky Research Foundation, 1100002230. Charles Kendell, Sandy Fawbush, and Dr. Torrie Harris discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed unanimously.

DEPARTMENT OF ENERGY DEVELOPMENT AND

INDEPENDENCE

Economic Development, 1000000158. Lee Colten and Robert Duff discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

EXEMPTION REQUESTS

TRANSPORTATION CABINET:

The Transportation Cabinet requested exemption from the committee's routine review process for the KYTC's Aviation Economic Development Grant Agreements and will provide quarterly reports. A motion was made by Representative Yonts to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment Cabinet requested the following exemption from the two year contracting restrictions and an exemption from the committee's routine review process for Division of Abandoned Mine Lands Waterline Memoranda of Agreements and will provide quarterly reports. A motion was made by Representative Yonts to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

KENTUCKY STATE POLICE:

The Kentucky State Police requested an exemption from the two year contracting restrictions; 100% Federal Funds. A motion was made by Representative Yonts to approve the request. Senator Carroll seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:58 AM.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

November 10, 2011

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, November 10, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Fitz Steele, Co-Chair; Senators Perry B. Clark, Vernie McGaha, John Schickel, Dan "Malano" Seum, and Brandon Smith; Representatives Dwight D. Butler, Leslie Combs, David Osborne, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: Julian Tackett, Commissioner; Chad Collins, General Counsel; Kentucky High School Athletic Association. Brian Gupton, Chief Executive Officer; G. Henry Hunt, Chief Operating Officer; Datasam. Jamie Eads, Director of Incentives and Development; Marc A. Guilfoil, Deputy Executive Director; Tim West, Assistant General Counsel; Kentucky Racing Commission. David Switzer, Executive Director, Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders.

LRC Staff: Greg Hager, Committee Staff Administrator; Christopher Hall; Sarah Harp; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Cindy Upton; Kris Harmon, Graduate Fellow; Stella Mountain, Committee Assistant; Program Review and Investigations Committee Staff. Mike Clark; Perry Nutt; LRC Staff Economists Office.

Approve Minutes for October 13, 2011

Upon motion by Representative Simpson and second by Representative Butler, the minutes of the October 13, 2011 meeting were approved by voice vote, without objection.

Consideration of report *Kentucky's Community Mental Health System Is Expanding and Would Benefit From Better Planning and Reporting: An Update* (presented at October 13 meeting)

Representative Steele announced that consideration of the staff report on the community mental health system would be postponed until the December meeting.

Follow-up to 2009 report *Kentucky High School Athletic Association*

Commissioner Tackett updated the committee on the 2009 *Kentucky High School Athletic Association* report. Some changes recommended by the report were already in the process of being made when the report came out. As recommended in the report, the Kentucky High School Athletic Association (KHSAA) looked at the eligibility rules of other states and made three changes to the exceptions to the waiting period for transferring students. The divorce exception was expanded. The second change is that a student can transfer without eligibility penalties if the sport he or she plays at the varsity level is dropped by the school. The third change is that the student now has to sit out for a calendar year instead of for an entire school year. KHSAA declined the recommendation exception of a student getting married because that is rare and can be considered in the due process procedure. In April 2012, KHSAA will have a new rule that will allow it to put together educational guidelines for parents and other constituents on procedures for getting waivers without jeopardizing KHSAA's ability to enforce the rules.

Representative Steele asked what KHSAA considered the calendar year to be. Mr. Tackett said a calendar year for a particular student is one year from the last day that the student played in an athletic contest. Representative Steele asked if a student would have to sit out of athletics for one year if the parents had to move due to loss of a job. Mr. Tackett replied that moving to a new school district has always been an allowable exception. Changing schools without a change in residence requires that the student seek permission to participate in athletics immediately by going through the KHSAA due process procedure.

Representative Palumbo commended KHSAA for its work.

Senator Seum asked if KHSAA has any involvement with middle schools. Mr. Tackett said that the trend is toward more involvement related to health and safety issues. In response to a question from Senator Seum, Mr. Tackett said that

no association governs middle school athletics, which is locally controlled.

Senator Smith described a situation in his district in which two players at two schools switched schools. One was granted permission to play athletics immediately, one was not. He asked how this could happen. Mr. Tackett said that each case is considered separately. The process begins with schools exchanging paperwork with copies sent to KHSAA. He noted that KHSAA will move toward making this an electronic process as recommended by the Program Review report. There is an initial ruling, which may be appealed to a hearing officer, whose decision may be appealed to the commissioner. The commissioner makes the final ruling for KHSAA, which rarely goes against the decision of the hearing officer. Testimony and documentation may be different for cases that otherwise seem similar.

In response to a question from Senator Schickel, Mr. Tackett said that about one-third of high school students participate in athletics. Participation is likely to increase with three sports that KHSAA plans to add: archery, bowling, and competitive fishing.

Coal County Computing Program

Brian Gupton introduced the following school district personnel present at the meeting: Dr. Michael Kessinger, Assistant Superintendent and Director of Technology and Finance, Martin County Schools; Thomas Burns, Director of Technology, Lawrence County Schools; Sam Williams, Head Network Technician, Boyd County Schools; Jill Roden, Director of Technology, Whitley County Schools; Sandy Johnson, Superintendent, Hazard Independent Schools; and Charles Morton, Director of Technology, Harlan Independent Schools.

Mr. Gupton said the Coal County Computing Program is a partnership between Kentucky K-12 schools, Kentucky higher education institutions, and private sector technology interests. It provides workstations to schools in the coal producing counties in Eastern and Western Kentucky as a part of a competitive-based grant program. The program is voluntary and is available to both county and independent school systems.

Since 2005, the program has produced one of the largest computing infrastructures of its kind. The legislative foundation for Datasam is the Kentucky Postsecondary Education Improvement Act (HB 1), which created the Research Challenge Trust Fund and the Kentucky Innovation Act (HB 572). The program started in Princeton, Kentucky, funded by two grants totaling \$1.9 million through the Kentucky Economic Development Finance Authority (KEDFA). The General Assembly has appropriated \$2.5 million per fiscal year to the program since 2006. Datasam reports to KEDFA and Kentucky Department of Education twice annually, and its contract is renewable on an annual basis.

Participating school districts are mainly in Eastern and Western Kentucky. Some participating districts are not coal districts; they already had the technology and chose to participate. Datasam has created a computing infrastructure concept known as a grid by connecting

workstations in participating K-12 schools to a network, creating a virtual supercomputer. Over the past 6 years, over 15,000 workstations have been placed in coal-producing districts in response to grant submissions.

The research through the James Graham Brown Cancer Center at the University of Louisville is structure-based drug design focused on developing the next generation of chemotherapy treatments that only target cancer cells with no toxic side effects. There are 14 research teams with approximately 27 researchers at U of L that use the grid.

Datasam impacts approximately 100,000 students and 10,000 educators statewide. It partners with Morehead State University and Western Kentucky University. Datasam professionally certifies individuals to support the technology, which results in Kentucky having the largest number of certifications per capita in the nation. The new technology in the schools provides new curriculum opportunities such as multimedia and video editing. It allows the school systems to diversify their Perkins career and technical education programs. Datasam provides scholarships to students at U of L and Morehead State University. It also provides workshops for educators and supports the Governor's School for the Arts.

Senator Smith asked why the University of Kentucky is not a participant in the research program. Mr. Gupton said that UK is welcome to participate. In response to a question from Senator Smith, Mr. Gupton said that no technical and community colleges participate at this time.

Representative Combs asked why county school districts in her legislative district are not participating. Mr. Gupton said requests for proposals are sent to school districts each year. For districts that do not currently participate, Datasam contacts the technology officer and superintendent.

Representative Combs suggested that Datasam approach technical and community colleges to participate. Mr. Gupton agreed that this was a good idea.

Senator Smith noted that changing from PCs to Macintoshes has been perceived as a barrier. He asked if Datasam does the initial set-up. Mr. Gupton said that Datasam does a lot of the initial work. Districts are responsible for maintenance.

Senator Smith stated that switching systems should not be a large factor now, the upkeep is the obstacle. Mr. Gupton agreed, especially because the trend is toward Web-based technology. Senator Smith commented that this is a good use of coal severance funds. His only complaint is that more school districts should be participating. He reiterated his support for participation by technical and community colleges, even if this requires new legislation.

In response to a question from Representative Steele, Mr. Gupton said that training requirements depend on the needs of the districts and that districts generally take good care of the equipment. Datasam works with districts to resolve hardware and network problems. Mr. Gupton said that the computers provided

are mostly desktops because these are best for grid computing.

Senator Schickel asked for a breakdown on what each county has received. Mr. Gupton said that he would provide this information.

Staff Report: *The Kentucky Thoroughbred Breeding Industry and State Programs That Assist the Equine Industry*

Perry Nutt and Christopher Hall presented the report *The Kentucky Thoroughbred Industry and State Programs That Assist the Equine Industry*. Mr. Hall provided an overview of how Kentucky came to dominate the horse breeding industry. In the past, the success of a region’s horse industry has been tied to public sentiment and local laws. An example is the period when all states, except two, largely banned horse racing. For most of the industry’s history, the decisions of a few industry leaders largely determined the primary location for horse breeding in the US. This included the move away from and return to Kentucky by key leaders in the industry. After Kentucky’s return to industry prominence in the early 20th century, the state’s breeding industry has become increasingly intertwined with local economies.

Mr. Nutt summarized results of an LRC staff survey of more than 150 Thoroughbred horse breeding farms in the state. Half the farms have broodmares and do some boarding, 23 percent are boarding operations, and 27 percent are diversified. Sixty percent of the horses on the farms are owned by the farms outright or in partnership; 40 percent are boarded for others. The largest sources of income for the farms are stud fees (30 percent of income), equine sales (24 percent), and boarding fees (23 percent). For measures such as number of horses, income, and employment, a relatively small percentage of farms are predominant. For example, more than 65 percent of surveyed farms each has 50 or fewer horses. These farmers have about 24 percent of total horses on the farms. Farms with more than 100 horses are less than 13 percent of surveyed farms, but have nearly half the total Thoroughbreds.

Since 1991, the number of Thoroughbred mares bred in the US has declined. Mares bred in Kentucky increased for much of this period but have declined in recent years. The number of mares bred is shrinking but Kentucky remains the dominant state. From 1991 to 2011, the percentage of mares bred in the US that were bred in Kentucky increased from 23 percent to 43 percent. In 2010, 42.9 percent of mares bred in the US were bred in Kentucky, just less than the 43.7 percent bred in the nine next highest states. Data from the survey were used to estimate the direct economic effects of the Thoroughbred breeding industry on Kentucky’s economy. Staff used multipliers developed by the US Bureau of Economic Analysis to estimate the indirect effects. Estimated total Kentucky spending associated with its Thoroughbred industry in 2010 was \$1.58 billion (\$912 million direct, \$672.7 million indirect), estimated jobs were 17,657 (10,797 direct, 6,860 indirect), and estimated total earnings were \$352.7 million (\$167.9 million direct, \$184.8 million indirect).

Mr. Nutt summarized Kentucky’s incentive funds for the horse industry. Three breeders incentive funds provide financial awards to breeders or owners based on horses’ performance in races, shows, or contests. The Thoroughbred Breeders Incentive Fund receives 80 percent of the revenue from the sales tax on stud fees, the Standardbred Breeders Incentive Fund receives 13 percent, and the Horse Breeders Incentive Fund receives 7 percent. Development funds for Thoroughbreds; Standardbreds; and Quarter Horses, Appaloosas, and Arabian horses are funded by the pari-mutuel tax. As the number of mares bred and stud fees have decreased, revenue for the breeders and development funds has declined.

Statute requires that the Kentucky Horse Racing Commission promulgate regulations establishing the distribution of funds from the Kentucky Standardbred Breeders Incentive Fund. No such regulations have been issued. Recommendation 2.1 is that the commission do so.

Representative Osborne asked whether staff analyzed the Canadian horse industry. Mr. Nutt said that is a growing market but that it was not considered for the report.

Representative Palumbo asked about the calculation of employment. She said that it seemed low. Mr. Nutt said that the estimate of direct employment was derived from the responses to the survey. The multiplier determined the indirect employment. Other studies have looked at the broader industry. The Program Review report only covers the Thoroughbred breeding industry.

Mr. Switzer asked that legislators pay particular attention to the section of the report on taxes that Kentucky collects but that competing states do not.

Representative Osborne asked staff from the Racing Commission to address the lack of regulations from the Standardbred Breeders Incentive Fund. Mr. West said that money from the incentive fund was merged with money in the Standardbred Development Fund and the distribution has been governed by the regulations for the development fund. He agreed that the Racing Commission would promulgate the regulation as recommended in the report.

The meeting was adjourned at 11:51 a.m.

**PROGRAM REVIEW
AND INVESTIGATIONS
COMMITTEE**

Minutes
December 8, 2011

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, December 8, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Vernie McGaha, John Schickel, Dan “Malano” Seum, Brandon Smith, and Katie Kratz Stine; Representatives Dwight D. Butler, Leslie

Combs, Terry Mills, David Osborne, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Legislative Guests: Representative King.

Guests: Preston P. Nunnelley, M.D., President; C. William Schmidt, Executive Director; Michael S. Rodman, Assistant Executive Director; Kentucky Board of Medical Licensure. Joe Barrows, Executive Director; Dale Edmonson, Chairman; Commercial Mobile Radio Service Emergency Telecommunications Board. Major Keith A. Peercy, Chief Information Officer, Kentucky State Police. Stephen R. Hall, Commissioner; Betsy Dunnigan, Deputy Commissioner; Natalie Kelly, Manager, Division of Behavioral Health, Program Development Branch; Department for Behavioral Health, Developmental, and Intellectual Disabilities, Cabinet for Health and Family Services.

LRC Staff: Greg Hager, Committee Staff Administrator; Christopher Hall; Sarah Harp; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Cindy Upton; Stella Mountain, Committee Assistant.

Approve Minutes for November 10, 2011

Upon motion by Senator Schickel and second by Representative Mills, the minutes of the November 10, 2011 meeting were approved by voice vote, without objection.

Consideration of report *Kentucky’s Community Mental Health System Is Expanding and Would Benefit From Better Planning and Reporting: An Update* (presented at October 13 meeting)

Senator Higdon announced that there would be no vote today on the report on the Kentucky’s Community Mental Health System report.

Consideration of report *The Kentucky Thoroughbred Breeding Industry and State Programs That Assist the Equine Industry* (presented at Nov. 10 meeting).

Upon motion by Representative Palumbo and second by Representative Osborne, the report was adopted by roll call vote.

Selection of Study Topics for 2012

Senator Higdon announced that the committee would not vote on study topics today. A meeting will be scheduled for January for consideration of study topics.

Kentucky Board of Medical Licensure’s Use of KASPER Data

Dr. Nunnelley provided background information on the Kentucky Board of Medical Licensure (KBML). The board has requested 1,100 KASPER reports since 2005, including more than 250 in 2011. KASPER reports are used in investigating complaints and in monitoring compliance. After the August 2011 testimony before Program Review and Investigations, board officials met with officials with the Cabinet for Health and Family Services (CHFS). The board now looks at quarterly trend reports. If there is a bump in an area, the top 10 prescribers are analyzed. The board has opened five investigations based on trend reports. The board has modified the application for physicians to include questions on whether the physician participates in a pain clinic and whether the physician prescribes chronic pain medications. Over time, 14 percent of complaints have been for inappropriate

prescribing. For these complaints, 132 actions were taken. Since September 1, the board has opened 28 new prescribing cases. There were three referrals from law enforcement in the past week. Since 2008, the board has participated in 18 training sessions with CHFS. There is a need to work on making KASPER real time. Physicians should be able to delegate authority within the office to use KASPER. The existing criminal penalties for releasing KASPER reports should be reconsidered. The board will be reviewing the recommendations of the governor’s task force on KASPER.

Senator Higdon asked what percentage of doctors use KASPER. Mr. Rodman said that CHFS would have that information. Dr. Nunnelley said that usage is low.

In response to a question from Senator Higdon, Dr. Nunnelley said that he did not know why CHFS postponed the KASPER alert program mentioned in the documents submitted by KBML.

Senator Stine asked whether the top 10 prescribers list is based only on the number of prescriptions or whether it takes into account the number of patients of a practice. Dr. Nunnelley said that it is based on the number of prescriptions. As part of the investigation, the board will look at volume and the specialty of the physician.

Senator Stine asked what kind of drugs nurses are prescribing. Dr. Nunnelley said that nurses must have collaborative agreements with physicians to prescribe and are excluded from writing prescriptions for the most addictive drugs.

Senator Stine asked about coordination between KBML and the Board of Nursing. Dr. Nunnelley said collaborative agreements go the Board of Nursing. KBML gets a list of physicians with collaborative agreements, not the agreements themselves.

Senator Stine expressed her concern that the physicians are being closely monitored while nurses may not be. A physician could be using an agent for activities for which the physician would be monitored. Dr. Nunnelley said that someone from the Board of Nursing testified at the previous KASPER task force meeting. He thinks the board is doing a good job of policing.

Senator Stine commented that there appears to be a lack of coordination. Dr. Nunnelley said that KBML has no supervision of advanced nurse practitioners. Advanced nurse practitioners can practice in Kentucky without supervision. The only requirement is for them to have a collaborative agreement for prescribing medications.

Representative Palumbo asked if there is a recommendation related to criminal penalties. Dr. Nunnelley said that the KASPER report should be part of the patient’s file, which is governed by HIPAA [Health Insurance Portability and Accountability Act]. Physicians should not be subject to criminal penalty for releasing a KASPER report.

Senator McGaha asked for clarification of whether the top 10 prescribers list is based on data from physicians using KASPER. Dr. Nunnelley said that the top 10 prescribers list is based

on data from pharmacists and is not limited to physicians using KASPER.

In response to a question from Senator McGaha, Dr. Nunnelley said that approximately 40 percent of physicians are registered with KASPER, of which half are using KASPER but that CHFS would have the specific numbers. Not all physicians need to be using KASPER. Senator McGaha said that low usage of KASPER is a concern.

Representative Combs asked when the board began asking the two new questions on applications. Dr. Nunnelley replied that the application has just been changed.

In response to a question from Representative Combs, Dr. Nunnelley said that the prescribing nurse would be considered the responsible party in prescriptions under collaborate agreements.

Representative Combs commented that another reason for KASPER reports is for physicians to see what other drugs are prescribed for the patient by another physician and that there is no conflict in taking the newly prescribed drugs. This is an issue particularly with seniors.

Representative Steele asked what the procedures are for investigating a physician and whether any physician could be investigated, not just those using KASPER. Dr. Nunnelley said that any physician may be investigated. The board does not stop a physician's practice immediately. KASPER is used to get information on patients who may be abusing drugs. Patients' charts are reviewed. A license may be revoked or prescribing authority may be restricted. The board has closed practices when the allegations were serious enough.

In response to a question from Representative Steele, Dr. Nunnelley said the time frame for making a decision ranges from immediate to 6 months.

In response to a question from Senator Stine, Mr. Rodman said that the geographic connection is to the prescriber, not the pharmacy. Dr. Nunnelley said that the board has access to reports based on the location of the prescriber and the pharmacy.

In response to a question from Senator Stine, Dr. Nunnelley said that there are physicians who dispense drugs. There are not many but the number is increasing. A physician cannot delegate the authority to dispense to another person in the office.

Senator Smith said that methadone clinics dispense in house and do not report, so someone could go from a methadone clinic to a pain clinic. Dr. Nunnelley said that the board did not have data on the volume but realizes this is a problem. It is also an issue that the Veterans Administration does not use KASPER.

Senator Smith said that deaths are occurring because prescribing physicians do not know about the methadone use. The state has tried to address this but methadone clinics are federally recognized. Dr. Nunnelley said he was at a recent meeting in which federal officials said that they were working on a solution.

Senator Higdon asked if there has been any success in recent months in closing pill mills. Mr. Rodman said that the board is close to bringing some cases.

Staff Report: 911 Services and Funding: Accountability and Financial Information Should Be Improved

Van Knowles presented the report *911 Services and Funding: Accountability and Financial Information Should Be Improved*. In January 2011, the Program Review and Investigations Committee authorized a study of 911 services and funding. During the 2011 Regular Session, the General Assembly enacted Senate Bill 119, which required the CMRS Board to collect information and evaluate 911 funding and expenditures. The bill also required legislative staff to assess funding options. This draft report describes Program Review staff findings and serves as the LRC staff response to Senate Bill 119.

Public safety answering points (PSAPs) receive 911 calls. Kentucky has 93 locally operated PSAPs that are certified to handle enhanced wireless 911 calls. Most serve one or more counties including their cities. Some serve only one or more cities, and some serve only county areas outside cities. Six counties have only basic landline 911 service. All Kentucky counties have enhanced wireless 911 service.

In order to provide complete enhanced wireless coverage, the Kentucky State Police answers calls for 30 counties. For some of those counties, KSP answers both landline and wireless calls. The Kentucky State Police serves counties that have no PSAP or are not able to handle enhanced wireless 911 calls. Each of the 16 posts has a PSAP.

Responsibility for 911 is split between state and local governments. Local governments, which have primary responsibility, operate PSAPs or arrange for 911 coverage and generally raise the bulk of funds for 911 service. State government, through the CMRS Board, ensures that wireless calls are handled properly and distributes wireless 911 funds.

In many places, local governments work together on 911 services. A common arrangement is a city that operates a PSAP for an entire county. Some local governments formed interlocal boards that receive revenues and make budget decisions. Local control may be limited in city-county arrangements and with interlocal boards and other arrangements.

Recommendation 2.1

All arrangements for 911 services that involve more than one local government should be made by written interlocal agreement. An interlocal agreement for 911 services should be among the local governments only and should empower one local government, or create a 911 board, with the authority to control funds and provide or contract for 911 services. If there is a 911 board, it should designate or contract with a fiscal agent. A 911 board should issue an annual audited financial statement. Local 911 fees should be remitted directly to the empowered local government or 911 board. The General Assembly may wish to consider codifying some or all of these terms.

Recommendation 2.2

All arrangements for 911 services that involve more than one local government should be made by written interlocal agreement. An interlocal agreement for

911 services should be among the local governments only and should empower one local government, or create a 911 board, with the authority to control funds and provide or contract for 911 services. If there is a 911 board, it should designate or contract with a fiscal agent. A 911 board should issue an annual audited financial statement. Local 911 fees should be remitted directly to the empowered local government or 911 board. The General Assembly may wish to consider codifying some or all of these terms.

The CMRS Board is the state agency that is responsible for overseeing wireless 911 service. It ensures that PSAPs can handle enhanced wireless 911 calls correctly. PSAPs that are certified receive CMRS funds. The board requires certified PSAPs to pass a geospatial audit to verify that a PSAP can locate wireless 911 callers.

Recommendation 2.3

As it has proposed, the CMRS Board should make passage of a geospatial audit a prerequisite for certification of a public safety answering point and should specify an ongoing program of geospatial audits. The board should also ask its auditors to include sufficient testing to assess the location service accuracy of wireless providers in each jurisdiction and to record that information in their geospatial audit reports.

Funding for 911 includes local 911 fees, local general funds, and the state 911 wireless fee. The Kentucky State Police also uses some state general funds to operate its PSAPs. Permitted uses of local 911 fees are unclear and differ from the permitted uses of the state 911 fee. Controls on 911 funds are inconsistent. Local 911 funds are only occasionally subject to audit. Local accounting procedures can make it difficult to perform audits of local and wireless 911 funds. The wireless fund audits might not reach all the entities that handle wireless funds because the CMRS Board's authority is limited to auditing PSAPs, and the board has audited only a selection of PSAPs during each 2-year audit cycle. The board also audits wireless providers to verify fee collection, selecting some providers for each 2-year cycle.

Recommendation 2.4

The General Assembly may wish to clarify the CMRS Board's audit cycles for providers and authorities that operate PSAPs. Regarding providers, the General Assembly may wish to consider whether the board should audit all providers, all major providers with a sample of minor providers, or a sample of providers every 24 months. Regarding PSAP authorities, the General Assembly may wish to clarify whether all should be audited every 24 months or whether a rotating cycle of audits should be permitted. In the absence of such clarification, the board should audit all providers and all PSAP authorities every 24 months.

Recommendation 2.5

The General Assembly may wish to consider requiring that

- local and wireless 911 revenues be maintained in separate restricted funds to ensure expenditures from these funds are easily auditable and distinct from other local funds;

- each entity operating a PSAP create a 911 cost center or have some other means

to identify 911 expenses; and

- all entities that collect, receive, transfer, or expend dedicated 911 funds, whether local or wireless or both, be subject to audit by the CMRS Board or another auditing authority.

The CMRS Board is responsible for reviewing the rate of the wireless 911 fee every 24 months. There appear to have been no reports on such reviews since 2005. The 2005 report did not clearly explain how it reached its conclusions. However, the statute is unclear whether reports are required.

Recommendation 3.1

The General Assembly may wish to consider modifying KRS 65.7629(4) to clarify whether the CMRS Board should report on the sufficiency of the rate of the CMRS service charge at least once every 24 months using its audits and the information gathered under KRS 65.7630 and should report the methodology and findings of each review to the governor, LRC, and other officials.

The wireless statute does not refer to local governments but rather names "PSAPs" to receive funds and be subject to audits. PSAPs have no standing as fiscal agents. A local or state authority operates each PSAP and handles its funds. The wording has limited the CMRS Board's ability to distribute and audit state 911 funds.

Recommendation 3.2

The General Assembly may wish to consider whether to amend KRS 65.7621 to 65.7643, when referring to distributing and auditing funds, to replace the term "PSAP" with a reference to state or local government authorities responsible for 911 services. The General Assembly may also wish to clarify how wireless funds should be distributed and controlled when local governments obtain 911 services from a state agency, and whether wireless funds distributed on behalf of a certified PSAP may be used to assist a noncertified secondary PSAP to handle wireless enhanced 911 calls.

Local and wireless 911 funds are insufficient to cover the costs of most PSAPs, so they receive supplemental general revenues from local governments. However, some local governments and interlocal boards that contract with the Kentucky State Police have accumulated 911 fund surpluses. The statutes do not provide guidance on surpluses, except to limit them to the original purpose.

Recommendation 3.3

The General Assembly may wish to limit the amount of 911 funds that a local government may hold in reserve for future expenses and to require local governments to reduce 911 levies or return state wireless funds when revenues exceed costs.

Kentucky law permits local governments to levy any 911 fee permissible under the Constitution and statutes. The 911 statute specifically permits local governments to levy a fee on landline phone service. Most local governments have chosen to levy a fee on landline phones. Others levy no 911 fee at all. Landline fees range as high as \$4.25 per month. The state wireless fee is 70 cents per month per device. As a result of differing local and state fees, there are disparities among jurisdictions and among types of phone service. In the past, most

households paid one landline fee. Now, individuals with multiple devices pay multiple fees.

Regarding choices for 911 funding, the basic choice is whether to pay for 911 services entirely with general revenues at the local or state level. The public safety community has expressed concern that 911 would not receive enough funds using general revenues. The current method uses fees dedicated to 911 purposes, but those fees do not cover all 911 costs, so some general funds are also used. The choices here are what 911 costs should the dedicated fees apply to, and whether the fees should pay for all or just part of 911 costs. Dedicated 911 fees could be charged to individuals, households, businesses, phone service providers, or some combination. There also are choices about the basis of a 911 fee. Options include a property tax surcharge, sales tax surcharge, other tax surcharges, a fee on phone service, or a fee on other utilities. Fees might be levied by local governments only, by the state only, or by a combination. If there are multiple 911 fees, should they be the same statewide or should they vary? Another choice, if 911 fees are levied by the state, is how the fees should be distributed. Choices include uniform distribution to local jurisdictions or continuing the current method that gives more support to smaller communities.

Existing dedicated 911 fees apply to phone lines and devices. The fee for postpaid service—that is, the traditional wireless contract service—is 70 cents per month per phone. The current fee for prepaid wireless service generates significantly less per phone. One of the prepaid fee options probably generates less than 39 cents. Some prepaid providers challenged the existing 911 fee, but so far courts have said Kentucky’s law applies. The decisions are being appealed. Their prepaid business model has led some providers to pay some of the 911 fee themselves rather than collecting it directly from their customers.

In order to accommodate the prepaid business model, the wireless industry proposed, and the National Conference of State Legislatures adopted, a model bill for a point of sale 911 fee on prepaid service. The draft report shows that the model bill would create an uneven fee burden and has opportunities for potentially large losses. If the target is to collect an average of 70 cents per phone, as the postpaid fee does, then the model bill would probably miss the target by around 50 percent. Other losses could occur because of interstate sales over the Internet and other sellers who might not collect the fee. The draft report presents features that probably would reduce the uneven fee burden somewhat and would more likely meet the revenue target.

Regarding funding decisions in general, the draft report makes no recommendations because of limited information. It would be helpful first to have a statewide 911 financial statement showing all costs and all revenues applied to 911 services.

Senate Bill 119 effectively asked for a statewide 911 financial statement showing the costs for delivering 911 services and the revenues used to pay for them. The bill gave the CMRS Board the responsibility

to collect the information and report it to the LRC. The board was unable to complete the data collection in time for this draft. Because of the complexities of 911 oversight and funding, the board probably will need to send staff out to the field to collect the information. It is also important to have information about the pricing of landline 911 phone service and the 911 costs of wireless providers.

Recommendation 5.1
The CMRS Board staff should visit all PSAPs and related local governments and boards initially to establish who has the information required by SB 119 and to validate the information. Afterward, CMRS Board staff should visit all PSAPs and related entities periodically to verify SB 119 data or should include data validation in its audit contract. The General Assembly may wish to consider permitting the board to allocate funds to these tasks beyond the current administrative fund limit.

Recommendation 5.2
The CMRS Board should compile a complete statewide 911 financial statement that shows all revenues contributing to and all costs of providing 911 services, covering all primary and secondary, certified and noncertified PSAPs, including all dedicated 911 funds starting at their source and indicating all entities that handle them;

all other funds that flow to PSAPs starting at their source and indicating all entities that handle the funds;

itemized costs of operating each PSAP;

the source and full value of facilities, services, or other items received by PSAPs at discounted or no cost; for which a PSAP otherwise would have to pay;

costs of operating any advisory and management boards and any other activities necessary to manage and operate a PSAP, including any costs incurred between a funding source and the PSAP;

the value of non-911 tasks performed by PSAP staff; and

any cash balances, other assets, and liabilities related to providing 911 services.

Recommendation 5.3
As part of the statewide 911 financial statement, the CMRS Board should

- examine 911 fee collections on all phone service plans for all telecommunications providers, including the amounts that providers keep to cover 911 fee collection costs;
- determine the amounts paid to all telecommunications providers for delivering 911 calls to PSAPs, whether they are reasonably caused by 911, and whether they represent the actual cost to deliver the calls; and
- assess the need for continued wireless provider cost recovery.

Consolidation of PSAPs appears to improve the level of service and flexibility in responding to emergencies, but cost savings are modest and may not appear immediately. Some local governments have developed innovative methods of

providing 911 service at significant cost savings. The 911 service provided by the Kentucky State Police appears to have inconsistent quality. Some local authorities were pleased with the service and others reported dissatisfaction.

Recommendation 6.1
The Kentucky State Police should conduct a review of its 911 services to counties, including response time measures, compliance with local protocols, and satisfaction of local responder agencies.

Next generation 911 over the Internet has potential for cost savings and improved service. The CMRS Board is positioning itself to implement the transition as soon as possible.

Representative Palumbo asked for clarification that law enforcement is dissatisfied with 911. Mr. Knowles said that in areas for which the Kentucky State Police handles 911 calls, local law enforcement seems to be more dissatisfied with services provided than are fire and emergency officials.

Representative Palumbo noted the disparity in a local landline fee of up to \$4.25 per month and the 70 cents per month state wireless fee.

Representative Steele noted that the fee for postpaid cell phone plans is 70 cents per month but that 39 cents per month is collected for prepaid cell phone plans. He asked why there would be such a difference. Mr. Knowles said that prepaid providers send 70 cents per \$50 of valued use, which works out to much less than 70 cents per device.

Senator Schickel commented that the report focused on funding but that the issue of service is important. The dispatch unit can be remote from the community, which can reduce the quality of service. This is one of the most important reports he has read; it concerns life and death matters.

Senator Schickel asked what percentage of PSAPs are operated by boards versus under police chiefs or sheriffs. Mr. Knowles said that this would be difficult to determine but that staff would look into this.

Senator Schickel asked if there are any reports on the information on callers that is stored in 911 systems. Mr. Knowles said that staff did not look at this for the report but realizes that it is an issue.

Senator Schickel cited the recent example in Pennsylvania of a problem in getting assistance to an Amish school. Dispatchers were located far away and were not familiar with the community. The Louisville system looks like a good mix. Mr. Knowles said the Jefferson County system provides for five cities in the county outside Louisville to have their own dispatchers.

Referring to the presentation, Senator Stine said the CMRS Board is to review the rate of the wireless 911 fee every 24 months but that there appear to have been no reports on this since 2005. She asked if staff are aware whether such reviews occurred. Mr. Knowles deferred to CMRS officials.

Referring to the presentation, Senator Stine noted that the CMRS Board had not yet determined the cost and contributions of different revenue sources as required by Senate Bill 119. She asked why the delay. Mr. Knowles deferred to CMRS officials.

Representative Palumbo read from page x of the report: “Program Review staff examined the options for a point of sale fee and found that it distributes the fee burden unevenly and has opportunities for potentially large losses of revenue.” In response to her question, Mr. Knowles said that staff stood by that statement.

Referring to the presentation, Senator McGaha asked whether those not contracting with the state police were incurring funding surpluses. Mr. Knowles said that staff did not contact all PSAPs. Of those contacted, only state police contractors have surpluses. Senator McGaha asked why this would be the case. Mr. Knowles said that the state police do not collect the full amount for the services provided. In response to a question from Senator McGaha, Major Peercy said that some of the agreements with localities are old and have not kept up as salaries and fringe benefits of personnel have increased.

Senator McGaha asked why the state police have not been successful in renegotiating contracts. Major Peercy said that local governments have balked at paying higher costs and that the state police did not want to discontinue a service that is part of the state police’s mission. In response to a question from Senator McGaha, Major Peercy said that, in effect, funding has to be supplemented with general funds.

Senator McGaha asked if the state police generally charge less than what local governments would have to pay otherwise. Major Peercy replied yes; the state police only charge for the extra dispatchers that would have to be used.

Senator Schickel asked if the state police plan to get more involved in dispatching. Major Peercy replied that the state police does not advertise the provision of 911 services but has always agreed to provide such services when requested. This would have to be rethought if a large county requested services.

Representative Simpson said that a major cost driver is equipment upgrades. He asked what equipment costs are and whether these costs are being passed along. Major Peercy replied that it costs \$64,000 per quarter in maintenance fees for dispatch systems and \$450,000 per year in maintenance for the record management system. Overall, it is approximately \$700,000 per year. The costs are not passed on. In response to a question from Representative Simpson, Major Peercy said that equipment was last replaced in 2005 and 2006.

Representative Simpson asked whether he should advise Covington to request that 911 services be provided through the state police. Major Peercy said yes.

Senator Higdon quoted from the report that there is no true 911 system. He asked for an elaboration. Mr. Knowles said that each local jurisdiction has its own fees and funding. There is no central oversight. PSAPs may not be able to assist and communicate with each other. Complete coverage exists, but it is not uniform.

Senator Higdon noted that there are more cell phone calls to 911 than from landlines but that landlines pay more. Mr. Knowles said that this is an issue to consider.

Representative Palumbo asked why the report distributed today is two pages shorter than the report sent earlier to committee members. Mr. Knowles said the only substantive revision was to remove text on Texas's point-of-sale figures, which were subsequently found to be unreliable. Otherwise, duplicative material was removed. He said that staff could provide the list of revisions.

Senator Stine quoted from KRS 65.7529 on the requirements of board to submit annual audit reports and to "develop standards and protocols for the improvement and increased efficiency of 911 services in Kentucky." She asked if there was any evidence that CMRS was meeting the requirements of the statute. Mr. Knowles said that there have been grants to promote increased services. The board is only authorized to audit the use of wireless funds and not the landline funds. The Program Review draft report covers the lack of required reporting by CMRS.

Senator McGaha asked whether the state police system has the capability to bridge the gaps among local systems. Major Peercy said that broadcasts can be made on the state mutual aid system. Systems deal with misrouted calls by telephoning.

Mr. Barrows responded to the report, which he said communicates the complicated landscape of the 911 system, demonstrates a comprehensive understanding of the issues, and makes strong, achievable recommendations to the General Assembly and state and local agencies. The mantra of CMRS is that each cell phone device should support the system the same by paying the same 911 fee of 70 cents per device monthly. Currently, the contribution for cell phones using prepaid plans is 38.5 cents per month; the contribution for cell phones using postpaid plans is 70 cents.

Prior to 1998, local governments implemented local 911 service with the entire cost paid locally. Most localities established a dedicated funding source, typically a fee on landline phone bills. Currently, 110 counties have such fees, which range from \$.50 to \$4.50 per month. This generates \$30 million to \$35 million per year in total. State support of 911 began in 1998 with the establishment of a 70-cents-per-month cell phone fee. For the 2003 to 2005 period, many providers stopped remitting fees on prepaid services, which cost CMRS millions of dollars. In July 2006, amendments to the 1998 state law created a dual system of calculating the 911 fee on wireless devices based on whether a phone plan was prepaid or postpaid. The amendments have cost the CMRS fund \$15 million in total. Annual CMRS fund revenue stabilized at \$24 million in FY 2009.

The goal for 911 funding is to re-establish the equity and uniformity between prepaid and postpaid devices. There are three options to do this. 1) Amend KRS 65.7635(1)(b) to change the amount by which a prepaid provider's total revenue is divided to a number that would produce the same revenue per device as for postpaid plans, and grant authority to revise this number as necessary to maintain equivalent revenue per device. 2) Adopt another method of collecting revenue from prepaid devices, for example, a retail

point of sale system. 3) Repeal the 2006 amendments and return to the original process whereby all providers remitted 70 cents per cell phone per month.

He provided statistics to illustrate the disparity in funding sources for 911 service. From 2001 to 2011, the number of wireline subscribers in Kentucky decreased from 2.3 million to 1.85 million; the number of wireless subscribers increased from 1.28 million to 3.38 million. Wireline users now account for 35 percent of 911 calls; cell phone users account for 65 percent. However, only 15 percent of total 911 revenue in Kentucky comes from the state wireless fee. The remainder comes from local fees (40 percent), typically landline fees, and local general funds (45 percent).

Senator Stine said that 911 is one of the primary interfaces that people have with government. Based on the existing statute and Senate Bill 119, it does not seem that the issues are being addressed that there be consistency in service and that everyone is treated equally. She asked for a status report, specifically why the reporting requirements of SB 119 have not been met. Mr. Barrows replied that the substance of what CMRS has accomplished is as good as any state. He said that audit reports were being done and that annual reports have been done since 2010. He is a proponent of Senate Bill 119 but noted that he has a staff of three.

Senator Stine noted that there are some jurisdictions with surpluses. Mr. Barrows said that they are few in number and surpluses are likely due to local funding.

Senator Stine asked whether the board has reported on the reviews of the rate of the wireless 911 fee that the statute requires be done every 24 months. Mr. Barrows said that no reviews have been located since 2005. The thinking was that increasing the fee would be the only reason to do a report, and a fee increase seemed unlikely.

Senator McGaha asked what percentages of the 3.6 million cell phones in Kentucky are prepaid and postpaid. Mr. Barrows said that the industry standard is that 20 to 21 percent of cell phones are prepaid. This percentage is increasing due to consumers moving from postpaid to prepaid.

In response to a question from Senator McGaha, Mr. Barrows said that if prepaid plans paid the 70 cent rate, it would generate an additional \$3 million to \$3.5 million.

Representative Palumbo noted that 21 states, including Kentucky's border states, have adopted point of sale. She asked why the board did not adopt Option C from the statute when it realized that the state was losing money. Mr. Barrows said it was 20 states and District of Columbia and that there are variations among states. It would be a competitive advantage for Kentucky retailers not to have point of sale if surrounding states did. The board did not know that the state was losing \$15 million until recently. A point of sale plan by the board would not have gotten through the administrative regulation process. Where point of sale has been adopted, it has not produced an equivalent amount.

Representative Palumbo said that she did not necessarily agree with this. She agreed that the two phones ought to pay

the same towards the system. Mr. Barrows said the current situation would not exist if the formula in the 2006 amendment was not faulty.

Representative Palumbo noted that point of sales collects up front. Mr. Barrows said that there would be leakage among the 20,000 retailers that would be collecting the fee. There is a lack of good information from other states. It is simpler to collect from the relatively small number of wholesalers. If doing point of sale, the system has to be adequate and changeable. The board should be given the authority to change the formula.

In response to a question from Representative Palumbo, Mr. Barrows said that the board has read the staff report and has looked at the staff recommendations. Mr. Barrows said that the Board has been in litigation with a company that stopped paying after the 2006 changes because they wanted the board to adopt a regulation on point of sale. Mr. Barrows said he cannot comment on the board's behalf.

Senator Higdon said that the staff report said that 15 companies are not paying the fee. Mr. Barrows said that only three companies are not paying; the other 12 companies are not doing business in Kentucky.

Upon motion by Representative Palumbo and second by Representative Mills, the report *911 Services and Funding: Accountability and Financial Information Should Be Improved* was adopted by roll call vote.

Impact Plus

Senator Higdon commented that he had experienced difficulties communicating with the department regarding Impact Plus. Mr. Hall apologized for any issue there has been, and said that the department is as open as possible.

Senator Higdon asked for clarification that providers contract with the Department and not CHFS. Mr. Hall said that the department is the only provider that has an agreement with Medicaid, which subcontracts to those who provide the services. The department follows Kentucky contract law in dealing with subcontractors.

Senator McGaha asked for an explanation of what is going on with managed care and reimbursement of providers. He is hearing from providers who have not been paid and are having trouble remaining in business. Mr. Hall said that the department has been paid much less than expected. So far, \$34,889 has been paid and payments should have been closer to \$600,000. When the department gets a bill, it is being processed within 3 days. Senator McGaha asked if the MCOs are not sending the bills to the department. Mr. Hall said that is correct. The providers are having difficulty with billing so there is a need for more training.

In response to a question from Senator McGaha, Mr. Hall said that he did not know if MCOs are paid monthly. Senator McGaha said that without quick action, there will be not Impact Plus services in his part of the state. Mr. Hall said that this would be a tragedy.

Senator Higdon said that MCOs were paid November 1 for a month's of services. His assumption is that MCOs took the first month's payment but started making payments with the December 1

payment.

Senator Higdon said that according to a 2000 report, there were 214 providers providing services to about 6,400 children. He asked how many there are now. Ms. Kelly replied that there are 56 providers serving 5,764 children enrolled in the Impact Plus program.

In response to questions from Senator Higdon, Ms. Kelly said there are no legal requirements for frequency of audits. Audits are done every 24 months on a rotating basis. There is a scoring rubric based on the regulation, the program manual, and the contract that the provider signed. The rubric is broken down into an overall comprehensive score, and then a clinical review and a billing review. The standards do not change each year and are based on the regulation, the contract, and the program manual.

Senator Higdon asked how something could be classified as a clerical error in one case and fraud in another. Mr. Hall said that the department does not determine fraud. Senator Higdon asked how there can an allegation of fraud against a service provider if the department does not determine fraud. Mr. Hall said that if a billing does not make sense, it would be referred to the Office of Inspector General (OIG). Senator Higdon asked whether the department waits for action by OIG before eliminating a provider. Mr. Hall said that the department is not involved in looking for fraud. The most important thing is that children continue to receive services. Senator Higdon asked whether there are children not getting services due to an agency being terminated. Ms. Kelly said that everyone got a new provider.

In response to a question from Senator Higdon, Mr. Hall said the department follows KRS 45A in terminating subcontractors. The department has due process rights but the providers do not. Senator Higdon asked whether negotiation can occur with CHFS directly and bypass Impact Plus. Mr. Hall said not for Impact Plus.

Senator Higdon asked which MCOs are not paying promptly and whether prompt pay laws come into play. Mr. Hall said that he was unsure.

Representative Steele asked how penalties are determined for slow payment and whether the department works with MCOs to get payment. Mr. Hall said that the department works with MCOs on payments daily.

Representative Steele asked how subcontractors are chosen and how it is decided which ones not to keep. He said that some have better reports than others and are still dismissed. Ms. Dunnigan said that the department follows contract language and contract protocol in KRS 45A that all state government follows. Mr. Hall said that the department does not just pick and choose contractors. Ms. Dunnigan said that credentialing is part of the contracting process; there is ongoing monitoring of credentialing.

Senator Higdon asked what actions are taken when problems are found. Ms. Kelly said that the department does a review with the rubric score. A corrective action plan may or may not be issued. If issued, the department works with the provider on corrective action. In response to a question from Senator Higdon, Ms.

Kelly said that a comprehensive score of less than 85 percent would raise a red flag. In addition, if either the clinical or the billing review scores below 80 percent, a corrective action plan will be issued.

In response to questions from Senator Higdon, Mr. Hall said that a contract would be terminated because of a lack of follow-through on a corrective action plan. Ms. Kelly said that cases in which significant deficits are found in a review would be referred to OIG. Mr. Hall said that if the department decides to terminate a contract, the provider would be given the recommended 30-day notice. Ms. Kelly said this has happened only twice in the history of the program.

Ms. Dunnigan said there is confusion among providers regarding the new procedures for submitting electronic forms and paperwork to MCOs. The department is working with MCOs to sponsor group training on this.

Senator Smith said that a corrective action plan presumes that a situation can be rectified. He asked whether providers always get the opportunity to make corrections. Mr. Hall said not always. Senator Smith said that the approach should be the same for all vendors. He asked whether some current vendors have missteps for which others have been terminated. Mr. Hall said no. Senator Smith asked if everyone gets a chance to make a case. Ms. Dunnigan said not the two vendors with significant problems related to children receiving services. Senator Smith asked whether there should not be a presumption of innocence. Mr. Hall said the contracts allow them to be terminated within 30 days. Senator Smith said it appears there was a change in a longstanding policy; everyone should have the opportunity to be heard.

Representative Palumbo said that she has issues with the department's procedures and how some providers were terminated. She has read notes from department staff regarding termination of an agency, and the notes were not honest. She feels that the agency was let go to be replaced by another provider. She requested that the Program Review and Investigations Committee receive reports on the providers that have replaced the terminated agencies and the reasons the department is giving for termination. Senator Higdon and Representative Steele agreed with this reasonable request.

Representative Mills asked that financial information also be submitted.

Senator Higdon said that the department should submit to the committee within 30 days: the final review for each of the two terminated subcontractors, the previous reviews for the two terminated subcontractors, the most recent review for each of the current 56 subcontractors, and information on payments to subcontractors.

Representative Palumbo said that one of the terminated providers had perfect records in the past and suddenly there seem to be major problems.

Representative Mills asked whether the department reviews diagnostic codes. Ms. Kelly said that this is part of the eligibility requirements.

Representative King asked whether a contractor or employee of a contractor could be reinstated if nothing is found to

be wrong. Ms. Dunnigan said that there is no prohibition on reenrollment. Therapists could work for another agency.

Representative King said that is has been extremely frustrating for her to get responses from Impact Plus. Ms. Dunnigan said that she would look into that.

The meeting was adjourned at 1:12 p.m.

TASK FORCE ON CHILDHOOD OBESITY

Minutes of the 6th Meeting
of the 2011 Interim
November 15, 2011

Call to Order and Roll Call

The sixth meeting of the Task Force on Childhood Obesity was held on Tuesday, November 15, 2011, at 10:00 a.m., in the chamber of the House of Representatives on the Third Floor of the Capitol. Representative Tom Riner, Co-Chair, called the meeting to order at 10:08 a.m., and the secretary called the roll.

Present were:

Members: Representative Tom Riner, Co-Chair; Senators Tom Buford, Jimmy Higdon, Alice Forgy Kerr, and Joey Pendleton; Representative Addia Wuchner.

Guest Legislators: Senator Joe Bowen, and Representatives John "Bam" Carney, Dwight Butler, Kim King, Terry Mills, Mike Nemes, Fred Nesler, Sannie Overly, Wilson Stone, Greg Stumbo, and Brent Yonts.

Guests: Ann Coffey, University of Louisville; Lynn Winter, Lynn's Paradise Café; Danita Hines, Green Earth Nutrition; Susan and Carroll Williams; Susan and Taylor Readnowar, and Brittney Carbajal, Health Occupation Students of America; Amanda Pile, Kentucky YMCA Alliance; Linda Harrett, Carole Bretschneider, Kathy Ackerman, Mary Curnutte, Amanda McDonley, Meg McGarry, Julie Ray, Keith Cecil, Charlie Wooldridge, and Janet Lang, Whole Foods; Elaine Russell, Department for Public Health, Cabinet for Health and Family Services; Melba Williams; Carolyn Dennis, Shaping Kentucky's Future Collaboration; Judy Mattingly and Debbie Bell, Franklin County Health Department; Shannon Buzard; Tim Mayer, Community Farm Alliance; Wendy White, health coach; Blake Wilson, fitness instructor; Jan Gould, Kentucky Retail Federation; D. Ray Gillespie, Kentucky Beverage Association; Lisa Harris, Parent Teacher Association; Jen Alvis, Commission for Children with Special Health Care Needs; Chip Ward, Office of the Ombudsman, Cabinet for Health and Family Services; Barry Swearingen, teacher, Health and Physical Education Department, Jordan Ramirez, John Fahy, Eric Zipperle, Chris Kelly, Trevor Tierney, Marquis Smith, Cameron Hammon, Tyler Flaspoepler, Justin Osting, Edward Millay, Tanner Williams, Bayley Shoptaw, Riley Waltz, Turney Sugg, Logan Proffitt, Tyler English, Sam Richardson, Adam Schroeder, and John Paul Dyer, students, Trinity High School.

LRC Staff: DeeAnn Mansfield, Ben Payne, Kenneth Warlick, Katie French, and Gina Rigsby.

Minutes

A motion to approve the minutes of

the October 31, 2011 meeting was made by Representative Wuchner, seconded by Senator Pendleton, and approved by voice vote.

The China Study

T. Colin Campbell, Ph.D., Jacob Gould Schurman Professor Emeritus of Nutritional Biochemistry, Cornell University, Project Director, China-Oxford-Cornell Diet and Health Project, stated that the body mass index (BMI) is used to determine if someone is overweight or obese. To determine BMI, one must take body weight, divide it by height, and multiple the total by 704.5. Sixty-three percent of adults with a BMI greater than 25 are overweight and a BMI over 30 are obese. Thirty-two percent of African-American males and thirty-nine percent of females are obese. If a child is overweight by age 8, there is a high probability the child will become an obese adult. Obesity leads to increased deaths and serious disease such as heart conditions, high blood pressure, diabetes, and others. Costs of treatment for obesity can be deducted as a medical expense. If obesity is an independent disease, there is a drug solution, but if obesity is a component of many diseases, it is a diet solution. Cutting calories is dieting, not a lifestyle change like the whole food, plant-based diet.

Optimum nutrition is best obtained by plant-based diets consisting of whole, unprocessed vegetables, fruits, grains, legumes, nuts that enhance health and prevention of a broad range of diseases. Plant-based foods are rich in nutrients. The goals are to encourage projects and programs that support whole food, plant-based nutrition, remove unhealthy snacks from school vending machines, restore recess periods in schools, offer classes on food use in elementary grades, and offer parent sessions on rationale for nutrition programs. *The Child Study: Startling Implications for Diet, Weight Loss and Long-Term Health* written by Dr. Campbell details the connection between nutrition and heart disease, diabetes, and cancer.

Prevent and Reverse Heart Disease

Caldwell B. Esselstyn, Jr., M.D., F.A.C.S., Director, Cardiovascular Prevention and Reversal Program, Cleveland Clinic Wellness Institute, stated that in 2007, Dr. Lewis Kuller, University of Pittsburgh, reported all males 65 years and older, and all females 70 years of age and older, who have been exposed to the traditional western diet have cardiovascular disease and should be treated as such. A 2011 article in the New England Journal of Medicine stated that high-density lipoprotein (HDL) efflux protects against atherosclerosis, a disease in which plaque builds up inside the arteries. Arteries are blood vessels that carry oxygen-rich blood to the heart and other parts of the body. Statins, cholesterol-lowering medications, do not increase HDL efflux capacity.

A 12-year longitudinal study was conducted to document the results of the plant-based diet and its effects on coronary disease. The study concluded that 18 patients had no mortality or morbidity from the diet, and the benefits of the diet improved with time. Patients are empowered by the knowledge that they are in control of the disease that was destroying their lives.

In response to questions by students, Dr. Campbell stated that people do not need to take nutritional supplements if they eat the right foods. Dr. Esselstyn stated that every time we eat meat, even in small amounts, it injures the body.

In response to a question by Representative Wuchner, Dr. Esselstyn stated that the plant-based diet emphasizes eating more nutritional foods, not physical activity. Dr. Campbell stated that when people change to a healthier lifestyle, they have more energy and become more active.

In response to a question by Senator Kerr, Dr. Esselstyn stated that it is the caffeine in coffee that is bad, not the coffee.

In response to questions by Senator Pendleton, Dr. Esselstyn stated that eating the wrong foods even in moderation can kill someone. It is essential to teach our children good eating habits. Dr. Campbell stated that foods are addictive, but habits can be changed. People need to learn the benefits of a different, healthier lifestyle and set goals to make the changes. Representative Riner stated that we have the responsibility to be role models of good health and lifestyles that will affect longevity and productivity.

In response to questions by Representative King, Dr. Campbell stated there are different ways to measure obesity besides BMI. Children are becoming overweight and obese because over the past 30 years, they are not as active, are eating more processed foods, and are drinking more sugar-flavored drinks. Dr. Esselstyn stated that drinks with high fructose levels are really bad; therefore, people should drink more water. Eating meat is part of the coronary heart disease problem. Dr. Campbell stated that while wine is a plant-based extract, it still needs to be used in moderation. Dr. Esselstyn stated that while it is okay to drink an occasional glass of wine, people need to be careful not to drink too much alcohol because it is toxic.

Adjournment

There being no further business, a motion to adjourn at 12:40 p.m. was made by Senator Kerr, seconded by Senator Pendleton, and approved by voice vote.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 4th Meeting
of the 2011 Interim

October 27, 2011

Call to Order and Roll Call

The fourth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 27, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Sannie Overly, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Sannie Overly, Co-Chair; Senators Ernie Harris, Ray S.

Jones II, and R.J. Palmer II; Representatives Danny Ford, Jim Gooch Jr., Jeff Greer, Keith Hall, Richard Henderson, Dennis Keene, Fred Nesler, John Short, and Jim Stewart III.

Guests: Representatives Tom Burch, Ron Crimm, Wade Hurt, Mary Lou Marzian, Reginald Meeks, Mike Nemes, Darryl Owens, Steve Riggs, and Tom Riner. Steve Waddle, State Highway Engineer, and Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet. Stan Lampe, President, Kentuckians for Better Transportation (KBT). Charles “Skip” Miller, Louisville Regional Airport Authority, KBT Past Chairman 2009. Anne Lawson, Elizabethtown Regional Airport, KBT Air Transportation Committee Member. Darrell Watson, President, Kentucky Aviation Association.

LRC Staff: Greg Rush, Stephanie Craycraft, Jennifer Anglin, and Spring Emerson.

Chair Overly welcomed members of the Jefferson Delegation. She then requested a motion to approve the minutes of the meetings held on July 28, 2011 and September 22, 2011. A motion was made by Representative Hall, seconded by Representative Henderson, and the minutes were approved without objection.

Update on Sherman Minton Bridge

Steve Waddle, State Highway Engineer, provided an update on the Sherman Minton Bridge. He said the bridge had been deemed unsafe due to the discovery of a crack that was considered critical. He added that although the crack was considered to be severe, it had been there since the bridge was fabricated and nothing has caused it to become worse over time.

In response to a question from Representative Henderson, Mr. Waddle said the weight of the additional steel was taken into account with the sequencing of the repair work.

In response to a question from Representative Owens, Mr. Waddle said the crack had been isolated and further repairs are being made.

In response to a question from Representative Meeks, Mr. Waddle said all awards, incentives, and costs relating to the bridge are being split with the state of Indiana. He added that it is anticipated that the bridge will reopen in March 2012.

In response to a question from Representative Nemes, Mr. Waddle said there would be ramifications if the project is not completed in the amount of time specified. He explained that \$100,000 per day had been assigned to the project as the “B value,” and the cost of the closure of the bridge was much more expensive than that. He said the maximum number of days the contractors could bid was 210 at \$100,000 per day. There is an instance where a portion of the B value could be paid to the contractor or deducted from the bid. He explained that if the contractor’s bid stated it could complete the project in 100 days, at \$100,000 per day the B value would be \$10 million, which is used for analysis only. If the contractor finished the project in 98 days, it would receive a bonus of \$200,000. There is a maximum bonus amount of \$5 million. If the contractor took two days longer than the bid stated, it

would be assessed a penalty of \$200,000.

In response to a question from Representative Meeks, Mr. Waddle said all awards or incentives and costs would be split by the state of Indiana by fifty percent.

Mr. Waddle stated that the low bid was submitted and accepted by Hall Contracting of Kentucky, which bid an A value of \$13.9 million, based on the items of work. The B value was 135 days, or \$13.5 million. The bid used for analysis was \$27.4 million. Based on that schedule, it is anticipated that the bridge will open around the first of March 2012. If the contractor actually completes the work in 135 days, it will receive \$13.9 million, the A value. If it completes the work 50 days earlier, it could be paid as much as \$18.9 million.

Mr. Waddle stated that due to the emergency situation, the Federal Highway Administration would provide either 25 percent of the contract or \$5 million, which would be a great benefit to Kentucky. The cabinet was able to tap into some interstate bridge maintenance funds.

In response to a question from Representative Meeks regarding whether there was a stipulation that Kentucky employees be used for the project, Mr. Waddle said he would provide information to staff at a later date. Representative Marzian commented that Hall Contracting is an employee-owned company.

In response to a request from Chair Overly, Mr. Waddle explained that two cracks were found that were of tremendous concern. It was determined that there were a number of critical locations where this type of crack could occur, and the decision was made to plate over the entire bridge to strengthen it, which is the next best thing to total replacement. Chair Overly commended the cabinet for extending the life of that useful facility, restoring confidence in travelers driving over the bridge, and for making public safety first.

In response to a question from Representative Burch regarding the rustiness of the bridge, Mr. Waddle said the plan is to paint portions of it while it is shut down, but the priority is to make it safe to drive on and get it re-opened.

In response to a question from Representative Meeks, Mr. Waddle explained that the work on expanding the ramps would be easier while there is no traffic in that area.

In response to a question from Senator Palmer regarding the use of bridge maintenance funds, Mr. Waddle stated that bridge maintenance projects are prioritized and the projects that would be affected by the use of those funds would not be high priority projects.

In response to a question from Representative Gooch regarding plating the main beams, Mr. Waddle said the plates were being bolted on, and the extra weight should not present any problems because the substructures are very solid.

Chair Overly thanked the members of the Jefferson County delegation for their attendance.

Understanding How Kentucky’s Airports Attract and Grow Businesses and Jobs - Kentuckians for Better Transportation

Stan Lampe, President, Kentuckians for Better Transportation (KBT); Charles

“Skip” Miller, Louisville Regional Airport Authority, KBT Past Chairman 2009; Anne Lawson, Elizabethtown Regional Airport, KBT Air Transportation Committee Member; and Darrell Watson, President, Kentucky Aviation Association, testified on how Kentucky’s airports attract and grow businesses and jobs.

In response to a question from Senator Harris regarding the Aviation Development Fund, Mr. Lampe said the amount in the fund that should be protected in the upcoming budget negotiations would be between \$468,000 to \$531,000. He said in fiscal year 2010 the amount of net loss was \$468,000 and in fiscal year 2011 the actual amount of loss was \$531,000.

Representative Keene commented that Kentucky’s airports are very critical to economic development. Chair Overly said that highlighting the direct impact is significant, but the indirect impact is also significant, and the airports are the welcome mat to our communities. She looks forward to seeing the economic studies when they are complete. Representative Hall commented that the role airports play is very important to the economic development of Kentucky in order to maintain the competitive edge.

In response to a question from Representative Nemes, Mr. Miller said the airport authority would work with agencies such as the Louisville Convention and Visitors Bureau and the Kentucky Fair and Exhibition Board to make sure requirements are met when major events come in.

Road Fund Update

Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet, provided an update of the Road Fund. She stated that the fiscal year 2011 Road Fund revenues came in stronger than expected at \$73 million over the Consensus Forecasting Group’s estimates. When compared to fiscal year 2010 collections, there was an 11 percent growth. She went on to say they anticipate growth of approximately 5.9 percent in fiscal year 2013 over fiscal year 2012, and growth of approximately 5.7 percent in fiscal year 2014 over fiscal year 2013.

In response to a question from Chair Overly regarding the cost of gasoline remaining steady or increasing, Ms. Branham replied that the average wholesale price is set, not actual.

There being no further business before the subcommittee, the meeting was adjourned at 11:22 AM.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

December 7, 2011

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, December 7, 2011, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson and

Dennis Parrett; Representatives Royce W. Adams, James R. Comer Jr., Tom McKee, Fred Nesler, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Bill McCloskey, Angela Blank, Jennifer Hudnall, and Christi Marksbury, Governor’s Office of Agricultural Policy; Michael Plumley, Office of the Attorney General.

LRC Staff: Lowell Atchley, Biff Baker, and Kelly Blevins.

The November 2, 2011, minutes were approved, without objection, by voice vote, upon motion made by Representative Adams and second by Senator Gibson.

Governor’s Office of Agricultural Policy

The committee received the monthly report from Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor’s Office of Agricultural Policy (GOAP), regarding project funding decisions made by the Agricultural Development Board (ADB) in its November meeting.

Mr. Neaveill summarized the funding allocations made under the County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, and Shared-use programs from the previous month. He also recapped amendments approved for previously funded projects. Mr. Neaveill and other GOAP staff members provided Co-chair Stone with some additional information about the dead livestock disposal program in Clinton County, such as funding sources and the locale to be used for disposal.

Next, Mr. Neaveill and Mr. McCloskey reviewed the board’s actions on the following projects: the Kentucky Vineyard Society, which received \$515,000 in agricultural development funds to provide technical assistance and education to Kentucky’s vineyards and wineries for a two-year span; Washington County Extension District Board, \$16,960 in county funds for the renovation of an old tobacco barn into a farm family educational facility; Metcalfe County Fiscal Court, \$7,000 in county funds to renovate a livestock arena at the fairgrounds to expand access to the grounds for agricultural events; Hopkins County Board of Education, \$19,000 in county funds to help build a greenhouse at Madisonville North Hopkins High School; Metcalfe County 4-H Council, \$1,776 in county funds to assist youth with their country ham projects; Kentucky Horse Council, which was approved for \$300,000 in state funds to conduct a comprehensive equine survey in the state; Taylor County Cattlemen’s Association Inc., \$15,000 in county funds to help offer a heifer chain program to youth in the county; and the Kentucky Sheep and Goat Development Office, which received \$40,000 in state funds to continue the services provided by the office for sheep and goat producers.

The GOAP officials responded to questions from Senator Gibson and Representative Adams about the Kentucky Vineyard Society project. Mr. Thomas noted that the last two state budgets had earmarked \$250,000 per fiscal year – to be drawn from the tobacco settlement moneys going into the Agricultural Development Fund – to help sustain the state’s viticulture program. Under the

current arrangement, the board itself granted the new round of funding. In addition, the University of Kentucky will fund an extension viticulturalist position in its budget.

Regarding the Metcalfe County Fiscal Court project, Mr. Thomas explained to Co-chair Hornback that applicants are urged to seek other funding sources for their projects, in addition to the ADB funding, but apparently the Metcalfe County applicants had explored all other possible funding sources.

The GOAP officials responded to Co-chair Stone that the Washington County Extension Board owns the property on which the old tobacco barn is located.

As discussions proceeded, Co-chair Stone lauded the idea of funding the greenhouse at a Hopkins County high school. The GOAP officials responded to Senator Parrett that students attending Madisonville North Hopkins would be using the facility.

The Kentucky Horse Council project prompted comments from Representatives Adams, McKee, and Stone. In particular, Representative Adams said an equine survey will be beneficial for members of the General Assembly as equine issues are considered. He remarked that usable data on the number of pleasure horses in the state has not always been readily available.

Responding to Co-chair Stone, Mr. McCloskey explained the history of funding for the Kentucky Sheep and Goat Development Office. He reported the office had received \$269,000 in agricultural development funds prior to the latest funding. Mr. McCloskey pointed out the Sheep and Goat Development Office is unique because it deals with two livestock breeds, rather than other associations, which deal with only one breed.

Mr. Thomas responded to Co-chair Stone that the board routinely urges commodity groups to strive toward a level of sustainability, independent of the agricultural development funds. Co-chair Stone commented that organizations like the sheep and goat group should look at the tobacco settlement funds as seed money that will enable them to grow.

Office of Attorney General MSA Report

The committee received a report from Mr. Michael Plumley, Assistant General, regarding the work of his agency in enforcing the requirements of the Master Settlement Agreement (MSA) in the state.

Mr. Plumley's report covered three main areas – MSA payments, actions regarding nonparticipating manufacturers that are not parties to the agreement but sell cigarettes in the state, and a court case evolving from the withholding of 2003 payments by some manufacturers participating in the agreement. The case is in arbitration.

On the MSA payments, Mr. Plumley told the committee that Kentucky has received \$1.38 billion in tobacco settlement funds since the pact was signed by settling states and territories and major tobacco companies in late 1998. The state received roughly \$100 billion in 2011. Mr. Plumley allowed that the exact amount of

each year's payment is difficult to predict. Nevertheless, he said he anticipated 2012 payment will be about the same as this year's payment. He responded to Co-chair Stone that the largest yearly payment received in the past was about \$120 million.

According to Mr. Plumley's testimony, AG's Office has obtained 90 judgments against nonparticipating manufacturers for MSA-related violations since 2001. He pointed out the number of compliant nonparticipating manufacturers has dwindled in recent years, currently standing at 21. The nonparticipating manufacturers are required by law to deposit funds into an escrow account to cover possible future court claims. The total in escrow at this point in time stands at \$45 million.

Regarding the arbitration, according to Mr. Plumley, \$1.1 billion is in dispute; \$20 million of that would be due to Kentucky under the MSA funding formula.

Mr. Plumley indicated to Representative McKee that incidents of nonparticipating manufacturers violating dictates of the agreement and state law have declined. He said NPM escrow deposits are nearly 100 percent of known cigarette sales. He also said SB 48 passed in the 2009 session was helpful in dealing with NPM violations. Among its provisions, the bill required that noncompliant cigarettes sold in retail outlets to be removed from shelves sooner than before.

According to his testimony, the arbitration is likely to be protracted because MSA states must explain their individual enforcement efforts to a three-judge arbitration panel. Also, some states could stand to lose if it is shown that the agreement has not been diligently enforced in their state. Mr. Plumley told the committee he feels Kentucky has a strong case and will be successful in its effort to recover withheld funds.

While it was pointed out that payments due in the years following 2003 will be disputed, he declined to predict how those disputes will come out. He indicated that each year under the agreement is different, with different laws, circumstances, and companies involved. Co-chair Stone observed that it would seem that a decision in the 2003 case would be a bellwether for future decisions.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library.

The meeting adjourned at approximately 11:15 a.m.

2012 Prefiled Bills

BR 4 - Representative Robert R. Damron
(09/27/11)

AN ACT relating to refunding transactions.

Create a new section of KRS Chapter 56 to define terms and to require that savings generated from reduced debt service payments due to a refunding transaction be deposited in the budget reserve trust fund account.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 8 - Representative Melvin B. Henley
(06/29/11)

AN ACT relating to taxation.

Amend KRS 132.020 to reflect the most recent tax rate for real property, provide that all tangible personal property owned by a veterans' organization exempt from income taxation under 501(c)(19) of the Internal Revenue Code shall be taxed at \$0.001 upon each \$100 of value, and make other technical changes for ease of reading; amend KRS 132.200 to exempt from local taxation all tangible personal property owned by a veterans' organization that has qualified for exemption for income taxation under 501(c)(19) of the Internal Revenue Code and the property is directly used in the organization's exempt activities; amend KRS 139.495 to exempt from sales and use tax sales of tangible personal property, digital property, or services to a veterans' organization that has qualified for exemption under 501(c)(19) of the Internal Revenue Code if the tangible personal property, digital property, or service is used in the organization's exempt activities, and exempts from sales and use tax sales of tangible personal property by the organization; EFFECTIVE August 1, 2012, and January 1, 2013.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 9 - Representative Sannie Overly
(06/23/11)

AN ACT relating to judicial sales.

Amend KRS 426.200 and 426.520 to require that in judicially ordered land sales that any appraisals of the land made pursuant to the court ordered sale process be publically available prior to the sale of the land.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 11 - Senator Ray S. Jones II
(11/29/11)

AN ACT relating to the use of credit history by insurers.

Create a new section of Subtitle 12 of KRS Chapter 304 to prohibit the use of an insured's or applicant's credit history for actuarial purposes for all insurance policies, contracts, or plans; amend KRS 304.20-040 to conform; repeal KRS 304.20-042.

(Prefiled by the sponsor(s).)

BR 14 - Representative Tom Burch
(12/09/11)

AN ACT relating to fiscal responsibility of state officials.

Create a new section of KRS Chapter 12 to require audits of state agencies to be sent to the Kentucky Personnel Board and reports of improper financial handling to be made to various state agencies; create a new section of KRS Chapter 18A to require the Kentucky Personnel Board to review audits of state agencies, hold a hearing concerning improper audit findings, and remove certain unclassified employees; amend KRS 18A.005 to define "significant audit finding"; amend KRS 18A.075 to require the Kentucky Personnel Board to determine if certain unclassified employees should be terminated under the provisions of the Act; amend KRS 18A.115 to prohibit re-employment of certain unclassified employees if terminated by the Kentucky Personnel Board under the provisions of the Act; amend KRS 43.050 to require the State Auditor to transmit certain audits of state agencies to the Kentucky Personnel Board; amend KRS 164.001 to define "significant audit finding"; amend KRS 164.131 to allow the Governor to remove University of Kentucky board members upon receipt of an audit of the university with significant audit findings; amend KRS 164.321 to allow the Governor to remove board members of any of the state universities upon receipt of an audit of a university with significant audit findings; amend KRS 164.821 to allow the Governor to remove University of Louisville board members upon receipt of an audit of the university with significant audit findings; and amend KRS 164A.570 to require copies of all internal audits relating to a state university to be sent to various state officials.

(Prefiled by the sponsor(s).)

BR 18 - Representative Carl Rollins II
(08/12/11)

AN ACT relating to safety inspections for official vehicles.

Create a new section of KRS Chapter 186 to require an annual safety inspection for vehicles owned or leased by the state, public postsecondary institutions, local governments, boards of education, ambulance services organized by units of government within the state, and volunteer fire department vehicles; require that the inspection be done by a mechanic with A S E certification; require affected entities to present proof of inspection before December 31, 2013, and annually thereafter; require the Transportation Cabinet to promulgate administrative regulations regarding inspection standards and out-of-service criteria for publicly owned vehicles; grant Transportation Cabinet the authority to suspend the registration for any vehicle which does not pass inspection or for which proof of inspection is not provided; provide for no fee to reinstate a registration on a vehicle whose registration was suspended under the provisions of this section; Amend KRS 186.065, 186.060, and 181.061 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 19 - Senator Tom Buford (07/07/11)

AN ACT relating to the employment of persons with criminal records in long-term care facilities, nursing facilities, and assisted living communities.

Amend KRS 216.789 to prohibit employment by a long-term care facility, nursing facility, or an assisted living community of all persons convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 22 - Representative Melvin B. Henley
(05/18/11)

AN ACT relating to out-of-state durable medical equipment providers.

Create a new Section of KRS Chapter 216B to require the Cabinet for Health and Family Services to promulgate an administrative regulation requiring a provider of durable medical equipment located in another state to maintain an office or place of business in Kentucky if that state requires durable medical equipment providers with a principal

place of business in Kentucky to maintain an office or place of business within that state.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 23 - Representative Derrick Graham
(11/29/11)

AN ACT relating to school-based decision making and declaring an emergency.

Amend KRS 160.345 to require at least one parent representative of the school council to reside within the boundaries of the local school district; prohibit nontenured teachers from serving on school councils unless no tenured teachers are willing or are available to serve; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 30 - Representative Joni L. Jenkins
(05/27/11)

AN ACT relating to crimes and punishments.

Amend KRS 508.025, relating to third degree assault, to include an assault on an operator or passenger of a taxi, bus, or other passenger vehicle for hire within that offense; amend KRS 508.050 and 525.060, relating to menacing and disorderly conduct, to increase the penalty for those offenses if the offense is committed against an operator or passenger of a taxi, bus, or other passenger vehicle for hire.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 31 - Representative Ron Crimm
(06/17/11)

AN ACT relating to the promotion of organ and tissue donation.

Create a new section of KRS Chapter 141 to establish the employers' organ and bone marrow donation tax credit; amend KRS 141.0205 to provide the ordering of the credit; declare short title to be the Living Organ and Bone Marrow Donor Assistance Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 37 - Representative Stan Lee
(11/17/11)

AN ACT relating to the federal

“Secure Communities” program.

Create a new section of KRS Chapter 17 to require all state and local law enforcement agencies and all state correctional facilities and jails to participate in the Department of Homeland Security, Immigration and Customs Enforcement “Secure Communities” program; prohibit state or local officials from restricting use of the program.

(Prefiled by the sponsor(s).)

BR 41 - Senator Ray S. Jones II (11/29/11)

AN ACT creating the Kentucky Blue Alert System.

Create new sections of KRS Chapter 16 to require the Department of Kentucky State Police to operate a Kentucky Blue Alert Network to provide public notification through the use of the news media and highway signs when a peace officer is killed or seriously injured, and an offender who is being sought has been identified; designate as the Trooper Jonathan K. Leonard Kentucky Blue Alert System Act.

(Prefiled by the sponsor(s).)

BR 46 - Representative Joseph M. Fischer (09/14/11)

AN ACT relating to property tax.

Amend KRS 132.010 to change the definition of “compensating tax rate”, and to add definitions for “Four (4%) rate”, and “Taxing district”; amend KRS 132.017 and 132.0225 to conform; amend KRS 132.023 to require all taxing districts to calculate separate real and personal property tax rates; amend KRS 68.245, 157.440, 160.470, 210.480, 212.755, 65.125, 67.934, 67.938, 67A.850, 67C.125, 67C.147, 78.530, 132.012, 132.028, and 342.240 to conform; create a new section of KRS Chapter 173 to require the Department of Libraries and Archives to calculate tax rates for library taxing districts; repeal KRS 132.018, 132.024, 132.025, 132.029, 68.248 and 160.473; provide that the Act applies beginning January 1, 2013.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 48 - Representative Ron Crimm (07/29/11)

AN ACT relating to naming of public properties.

Create a new section of KRS Chapter 2 to set forth the criteria for the naming of public property owned, maintained, operated, utilized, or leased by the state or any of its political subdivisions, including school districts; amend KRS 177.074 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 50 - Representative Rita Smart

(12/15/11)

AN ACT relating to bed and breakfast establishments.

Amend KRS 219.011 to define “bed and breakfast establishment,” “bed and breakfast home,” “bed and breakfast inn,” and “farmstay”; amend KRS 247.4015 to include farmstays as farm animal activity sponsors.

(Prefiled by the sponsor(s).)

BR 53 - Representative Stan Lee (12/14/11)

AN ACT relating to employers.

Create new sections of KRS Chapter 335B to define terms; require a state or local government agency, board, or commission that issues a license, credential, or permit that is a prerequisite to a person engaging in an occupation or business to suspend or refuse to issue or renew the license, credential, or permit of a person who hires an unauthorized alien; deny or suspend the license for six months for each unauthorized alien employed; require the Labor Cabinet to promulgate administrative regulations to ensure uniform enforcement.

(Prefiled by the sponsor(s).)

BR 57 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to the school calendar and declaring an emergency.

Amend KRS 158.070 to reiterate school closure on the day of a Presidential election; permit a school district to adjust its calendar to keep schools open on the days of a regular election, a special election, and a primary election if no school in the district is used as a polling place; allow a district to schedule election days as instructional days or make-up days for purposes of recouping instructional time missed due to weather-related, safety, or health emergencies or other disasters; direct the Department of Education to approve school calendars amended pursuant to this Act for the 2011-2012 school year; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 58 - Representative Brad Montell (10/18/11)

AN ACT relating to unauthorized aliens.

Create new sections of KRS Chapter 45A to require contractors who have public contracts to use E-verify and prohibit the hiring of unauthorized aliens for work on a public contract; permit civil enforcement and cancellation of contracts and injunctions, and impose a five year ban if the provisions are violated; create new sections of KRS Chapter 337 to require employers with eleven or more employees to register and use E-verify and abide by federal law prohibiting the hiring of unauthorized aliens; require violators to lose tax incentives and credits, to repay grants, loans, and taxes that have been

forgiven; recoup unemployment insurance benefits paid to unauthorized aliens; suspend or deny licenses; require the Attorney General to collect and maintain a database with the employers using E-verify; create new sections of KRS Chapters 139, 141, 148, 154 subtitle 20, 335B, and 341, and amend KRS 141.010 to conform.

(Prefiled by the sponsor(s).)

BR 62 - Senator John Schickel (12/09/11)

AN ACT authorizing a veteran designation on operator’s licenses and personal identification cards.

Amend KRS 186.412 to permit a veteran to request at the time of application, that a personal identification card or an operator’s license issued under KRS 186.412 bear a designation denoting the applicant’s status as a veteran; amend KRS 186.531 to exempt operator’s licenses and personal identification cards issued with a veterans designation from initial and renewal fees.

(Prefiled by the sponsor(s).)

BR 63 - Representative Lonnie Napier (07/05/11)

AN ACT relating to eligibility for public assistance.

Amend KRS 205.200 to require the Cabinet for Health and Family Services (CHFS) to implement a substance abuse screening program for applicants and recipients of public assistance; permit the CHFS to design the program and utilize testing of blood or urine or other reliable methods of substance abuse detection; state conditions under which an adult person is ineligible for public assistance; permit substance abuse testing to occur only when a caseworker suspects substance abuse at the initial interview or at any other occasion when the caseworker comes to suspect that the recipient is abusing controlled substances; require the CHFS to promulgate regulations governing the program and testing including requirements that applicants pay for all substance abuse screening costs and receive a later reimbursement if the test is passed; grant the right to additional screenings for applicants that fail a test; require both parents in two-parent families to comply with screening requirements; require that an individual who fails a test receive a list of licensed substance abuse treatment providers in his or her area; require passage of a drug test before receiving benefits; permit parents or guardians who fail a test to designate another individual to receive benefits for the parent’s minor children; require designated individuals to pass substance abuse screenings; create a 60-day grace period to enter a treatment program after the initial positive test; require individuals to pay for a test at the end of the 60-day grace period, and provide that, if they pass that test they must pass two additional randomized testings during the next 24

months, or if an individual tests positive for a controlled substance after the 60-day grace period, they must show evidence of having entered a substance abuse treatment program within 14 days, during which time, benefits may be suspended and only be payable for the benefit of any children in that recipient’s home.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 68 - Senator Damon Thayer (10/24/11)

A RESOLUTION adjourning the Senate in loving memory and honor of Brett Patrick Benton.

Adjourn in loving memory and honor of Brett Patrick Benton.

(Prefiled by the sponsor(s).)

BR 71 - Representative John Will Stacy (12/16/11)

AN ACT relating to the Kentucky Computer Decency Act.

Create new sections of KRS Chapter 369 to define “interactive computer service” and specify which Internet services the Act does not apply to; specify that contracts between persons in Kentucky and an interactive computer service doing business in Kentucky provide that any action against the computer service be tried in Kentucky courts and that Kentucky has jurisdiction over such contracts and any conflicting contract or warranty is null and void; specify the required registration information when a person contracts with an interactive computer service, including name, address, and Internet protocol address; prohibit use of a fictitious or “screen” name; prohibit anonymous postings on an interactive computer service by a person located in Kentucky; specify that an anonymous or false name posting is a Class A misdemeanor; give the Attorney General of Kentucky primary enforcement authority for the Act and the power to enjoin violations of the Act by an interactive computer service and to seek forfeiture of the Internet Web site and Internet domain name of the interactive computer service; name the bill the “Kentucky Computer Decency Act.”

(Prefiled by the sponsor(s).)

BR 74 - Representative Fitz Steele (12/01/11)

AN ACT authorizing a veteran designation on operator’s licenses and personal identification cards.

Amend KRS 186.412 to permit a veteran to request, at the time of application, that a personal identification card or an operator’s license issued under KRS 186.412 bear a designation denoting the applicant’s status as a veteran.

(Prefiled by the sponsor(s).)

BR 75 - Representative Carl Rollins II

(08/25/11)

AN ACT relating to educator evaluation.

Amend KRS 156.557 to require the Kentucky Board of Education to establish a statewide system of evaluation for all certified personnel; require the Department of Education, in partnership with professional organizations, to develop the system prior to the 2013-2014 school year; require the board to establish the weights to be applied to each performance criteria; delete three-phase alternative evaluation plan; allow waiver of evaluation plan under certain conditions.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 76 - Representative Carl Rollins II (08/10/11)

AN ACT relating to districts of innovation.

Create a new section of KRS Chapter 156 to define "district of innovation" and related terms; authorize the Kentucky Board of Education to approve districts of innovation, not to exceed five (5) districts per year; limit initial approval and subsequent renewals to five year periods; direct the board to promulgate administrative regulations to prescribe the conditions and procedures to be used by a local board of education to be approved as a district of innovation; specify what the administrative regulations shall address; create a new section of KRS Chapter 160 to describe the requirements for a district to be an applicant as a district of innovation; prescribe the statutory requirements with which schools of innovation within districts of innovation must comply; require 70% of eligible employees in a school to vote in favor of becoming a school of innovation before the school is eligible to be a participant; describe the conditions under which a school may be exempt from KRS 160.345 or sections thereof; and identify areas in which districts may request approval of practices that are different than current statutory requirements.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 77 - Representative Rick G. Nelson (11/02/11)

AN ACT relating to Kentucky educational excellence scholarship awards and making an appropriation therefor.

Amend KRS 164.7879 to raise the KEES minimum base award GPA from 2.5 to 3.0 for students who enter ninth grade during the 2012-2013 school year and thereafter; raise from 15 to 18 the minimum ACT score for a supplemental KEES award and raise the supplemental award amount for students who enter ninth grade during the 2012-2013 school year and thereafter; and amend KRS 164.7874, KRS 164.7881, and KRS 164.7885 to

conform.

(Prefiled by the sponsor(s).)

BR 78 - Representative Carl Rollins II (12/15/11)

AN ACT relating to local ordinances concerning residential care facilities.

Create a new section of KRS Chapter 65 to prevent local governments from imposing additional licensing or other requirements on private agencies that receive public funding or government agencies, which provide group home services for the disabled.

(Prefiled by the sponsor(s).)

BR 79 - Representative Fitz Steele (12/15/11)

AN ACT relating to POW/MIA flags.

Create a new section of KRS Chapter 2 to define "Prisoner of War and Missing in Action flag," and require that any such flag either purchased or displayed by a public institution be purchased in the United States.

(Prefiled by the sponsor(s).)

BR 83 - Representative Susan Westrom (10/10/11)

AN ACT relating to claims against the Commonwealth.

Amend KRS 41.370 to require the state treasurer to present stale checks to the General Assembly for consideration in each annual regular session, and to repeal the check reissuance fee.

(Prefiled by the sponsor(s).)

BR 84 - Representative Brent Yonts (07/12/11)

AN ACT relating to career and technical education, making an appropriation therefor, and declaring an emergency.

Amend KRS 158.812 to express legislative goals for career and technical education; amend KRS 158.810 to define terms related to career and technical education; create a new section to KRS Chapter 156 to require the Department of Education to issue core content standards, assess student progress, and develop new courses relevant to college and career readiness; create a new section to KRS Chapter 158 providing for the creation and use of evidence-based models assessing the needs of at-risk students; create a new section of KRS Chapter 157 to define terms related to career and technical education and to establish a career and technical education accessibility fund; amend KRS 158.814 to address unmet needs for career and technical education; amend KRS 158.816 to add criteria to the assessment of technical education students; amend KRS 18A.010 to exempt technology center employees from the count of full-time executive branch

employees; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 85 - Representative Brent Yonts (07/29/11)

AN ACT relating to a high school technology diploma.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations for a high school technology diploma; amend KRS 158.7603, 158.140, and 313.040 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 87 - Senator Denise Harper Angel (07/28/11)

AN ACT relating to fingerprint background checks of long-term care employees.

Create a new section of KRS Chapter 209 to define terms and require that adult institutional or community-based long-term care service providers conduct a fingerprint check before hiring an applicant.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 88 - Representative Jim DeCesare (07/07/11)

A RESOLUTION requesting the President of the United States and the Attorney General of the United States to abandon plans to try Waad Ramadan Alwan and Mohanad Shareef Hammadi in federal court in Bowling Green, Kentucky and to transfer them to the detention facility at Guantanamo, Cuba for trial by military tribunal.

Urge the President of the United States and the Attorney General of the United States to move the trial of two terrorism suspects from the federal court in Bowling Green, Kentucky to a U.S. Military Tribunal at the Guantanamo, Cuba detention facility.

(Prefiled by the sponsor(s).)

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

BR 91 - Representative Julie Raque Adams, Representative Donna Mayfield (12/06/11)

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 last weekend in July to exempt the sale or purchase of clothing with a sales price of less than \$150 per item, computers with a sales price of less than \$1,000 per item, school supplies, school art supplies, and school computer

supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 101 - Senator Tom Jensen (12/16/11)

AN ACT relating to drugs.

Amend KRS 217.015 to include drugs containing non-liquid ephedrine, pseudoephedrine, or phenylpropanolamine within the definition of a legend drug; amend KRS 217.182 to limit the amount of ephedrine-, pseudoephedrine-, or phenylpropanolamine-based legend drugs available within any one-month period and to exempt persons temporarily present in the Commonwealth in certain situations; amend KRS 218A.202 to include ephedrine-, pseudoephedrine-, or phenylpropanolamine-based legend drugs within the coverage of Kentucky's prescription monitoring system; repeal KRS 218A.1446.

(Prefiled by the sponsor(s).)

BR 104 - Senator Dennis Parrett (10/12/11)

AN ACT relating to an alternative high school diploma.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations for an alternative high school diploma for students with disabilities completing a modified curriculum and an individualized course of study; amend KRS 158.140 to require local boards of education to award the diploma to eligible students; amend KRS 313.040 to conform.

(Prefiled by the sponsor(s).)

BR 105 - Senator Dennis Parrett (12/16/11)

AN ACT relating to the security of vital records.

Amend KRS 213.041 to require uniformity in documents; amend KRS 213.131 to require enhanced security features for the certified copies of vital records; amend KRS 213.136 to establish who may obtain a certified copy of a vital record.

(Prefiled by the sponsor(s).)

BR 106 - Representative Tanya Pullin (12/16/11)

AN ACT relating to the State Board of Medical Licensure.

Amend KRS 311.530 to require geographical representation among the licensed physicians serving on the board of medical licensure.

(Prefiled by the sponsor(s).)

BR 108 - Representative Melvin B. Henley (07/27/11)

AN ACT relating to children.

Amend KRS 72.992 relating to failing to report a death to increase penalty to a Class D felony if the deceased is a child eight years of age or younger;

create a new section of KRS Chapter 17 to require a parent, guardian, or person exercising custody and control of a child eight years of age or younger to report to law enforcement or a 911 public safety answering point within twenty-four hours after the child has been discovered missing; amend KRS 17.990 to make failure to report a missing child within the specified time period a Class D felony.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 111 - Representative Richard Henderson, Representative Larry Clark, Representative Dennis Horlander, Representative Dennis Keene (07/08/11)

AN ACT relating to children.

Create a new section of KRS Chapter 17 to require a parent, guardian, or person exercising custody and control of a child twelve years of age or younger to report to law enforcement or a 911 public safety answering point within twelve hours after the child has been discovered missing; amend KRS 17.990 to make failure to report a missing child within the specified time period a Class D felony; name the act "Caylee's Law."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 112 - Senator John Schickel (08/25/11)

A RESOLUTION adjourning the Senate in honor and loving memory of Thomas O'Daniel.

Adjourn in loving memory and honor of Thomas O'Daniel.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 114 - Representative Leslie Combs (10/13/11)

A CONCURRENT RESOLUTION establishing a Timber Theft and Trespass Reduction Task Force.

Direct the Legislative Research Commission to establish a Timber Theft and Trespass Reduction Task Force; provide that the purpose of the task force is to study issues regarding timber theft and trespass and to develop consensus recommendations to address those issues; name the membership of the task force; require the task force to meet three times before submitting its final report; require its final report to be submitted to the Legislative Research Commission by December 7, 2012; and provide that the Legislative Research Commission has authority to alternatively assign the issues identified in the Resolution to interim joint committees or subcommittees thereof.

(Prefiled by the sponsor(s).)

BR 116 - Representative Brad Montell (11/01/11)

AN ACT relating to the Great Schools Tax Credit Program.

Create a new section of KRS Chapter 141 to establish a Great Schools Tax Credit Program; provide a nonrefundable credit against the income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, for contributions made to a scholarship organization that is organized solely for the purpose of receiving and distributing cash contributions to provide educational scholarships to eligible students at qualified schools; amend KRS 141.010 to exclude from the definition of "adjusted gross income" the amount received by an eligible student or by an individual on behalf of an eligible student as an educational scholarship under the program; amend KRS 141.0205 to provide the order in which the credit may be claimed.

(Prefiled by the sponsor(s).)

BR 117 - Representative Brad Montell (11/16/11)

AN ACT relating to charter schools and making an appropriation therefor.

Create new sections of KRS Chapter 160 to describe the intent of the General Assembly and the purposes of authorizing public charter schools; define terms; establish the Kentucky Public Charter School Commission and identify membership selection and responsibilities of members; outline the requirements and limitations on the establishment of charter schools including identification of charter school authorizers; describe charter school application, renewal, and revocation processes; establish the Kentucky Public Charter School Commission trust fund and identify uses of the fund; require the commissioner of education to distribute charter school information to potential authorizers; create a new section of KRS Chapter 159 to identify student enrollment and withdrawal requirements to be followed by a charter school; create a new section of KRS Chapter 161 to identify employment conditions for charter school staff; create a new section of KRS Chapter 157 to require local, state, and federal funds to be distributed to charter schools using formulas and allocation processes used in noncharter schools; amend KRS 161.220 to include a teacher employed by a board of directors of a public charter school as a member within the state retirement system; amend KRS 161.220 to include employees of boards of directors of public charter schools in the state-sponsored retirement system; amend KRS 78.510 to include noncertified employees of public charter schools in the state-sponsored retirement system.

(Prefiled by the sponsor(s).)

BR 119 - Senator Denise Harper Angel (07/11/11)

AN ACT relating to children.

Create a new section of KRS Chapter 17 to require a parent, guardian, or person exercising custody and control of a child twelve years of age or younger to report to law enforcement or a 911 public safety answering point within twelve hours after the child has been discovered missing; amend KRS 17.990 to make failure to report a missing child within the specified time period a Class D felony; name the act "Caylee's Law."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 120 - Representative Ron Crimm (07/29/11)

AN ACT relating to qualifications for military service.

Amend KRS 211.760 to require tattoo facilities to conspicuously display a notice in a prominent place easily seen by patrons; set minimum dimensions of notice sign at 11 by 14 inches with 1 inch letters; direct the cabinet to supply the sign to the tattoo facilities; require the notice to warn that any tattoo on the neck, forearm, or lower leg automatically disqualifies the wearer from military service in the United States Armed Forces.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 121 - Representative Ron Crimm (07/29/11)

AN ACT relating to the gross revenues and excise tax fund and declaring an emergency.

Amend KRS 136.650 to increase the hold harmless amount for fiscal year 2012-2013 and every fiscal year thereafter; amend KRS 136.654 to require the Department of Revenue to determine if it is necessary for a participating political subdivision to certify its total tax receipt; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 122 - Representative Ron Crimm (07/29/11)

AN ACT relating to traffic control devices.

Create a new section of KRS Chapter 189 to require local governments that have installed speed bumps or speed humps on a roadway under its jurisdiction to denote the speed bumps or speed humps using a road sign or paint them so that they are clearly visible to persons traveling the roadway.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 123 - Representative Ron Crimm

(07/29/11)

AN ACT relating to domestic relations.

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; set forth restrictions.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 125 - Representative Ruth Ann Palumbo (12/16/11)

AN ACT relating to presidential elections.

Create a new section of KRS Chapter 118 to set forth the agreement among the states to elect the President by national popular vote; create Article I to allow any state and the District of Columbia to be a member of the agreement; create Article II to provide that member states shall conduct a statewide popular vote for the election of President and Vice President; create Article III to specify the manner of appointing presidential electors in member states; create Article IV to provide that the compact shall take effect when states cumulatively possessing a majority of the electoral votes enact the agreement and allow a state to withdraw from the agreement; create Article V to set forth definitions of the compact.

(Prefiled by the sponsor(s).)

BR 131 - Senator John Schickel (08/25/11)

A RESOLUTION adjourning the Senate in honor and loving memory of Willie Mathis, Jr.

Adjourn in loving memory and honor of Willie Mathis, Jr..

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 132 - Senator John Schickel (08/25/11)

A RESOLUTION adjourning the Senate in honor and loving memory of Margaret B. Deters.

Adjourn in loving memory and honor of Margaret B. Deters.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 135 - Representative Alecia Webb-Edgington (09/06/11)

AN ACT relating to special license plates.

Amend KRS 186.162 to establish a Gold Star Sibling special license plate and set forth required fees; provide Disabled Veterans license plates at no charge to veterans with a 50% or greater service-connected disability; amend KRS

186.166 to provide for perpetual production of the Gold Star Sibling special license plates; amend KRS 186.164 to require the Transportation Cabinet to promulgate regulations outlining documentation required to receive a Gold Star Sibling special license plate; limit eligibility for a Gold Star Sibling special license plate to siblings of service members whose mothers are eligible for membership in the Gold Star Mothers of America; delay effective date until January 1, 2013.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 136 - Representative Alecia Webb-Edgington (09/06/11)

AN ACT relating to the duty to report a dead body.

Amend KRS 72.020 relating to reporting of deaths to require reporting of knowledge of a death as well as possession of a dead body as reportable and add the Department of Kentucky State Police as an agency to which the report may be made; amend KRS 72.990 relating to penalties to add interfering with a peace officer in a death investigation as an offense and increase the penalty for failure to report or interfering with a coroner or peace officer to a Class D felony.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 141 - Representative Bill Farmer (10/17/11)

AN ACT relating to the sale of copper scrap in the Commonwealth.

Create a new section of KRS Chapter 433 to define "nonferrous metal" and "secondary metals recycler"; prohibit a secondary metals recycler from purchasing copper from any person except a licensed heating, ventilation, and air conditioning contractor, electrical contractor, plumber, homebuilder, remodeler, or public or private utility; require secondary metals recycler to report at end of each business day any copper transaction to sheriff and local police department; prohibit an unauthorized person from selling or attempting to sell copper to a secondary metals recycler; establish penalties up to a Class D felony for unlawful purchase or disposition of copper; create a new section of KRS Chapter 512 to establish the crime of unlawful acts relating to acquiring metals; institute penalties up to a Class D felony depending on value of and damage to property; amend KRS 15.232 and 65.871 to conform.

(Prefiled by the sponsor(s).)

BR 145 - Senator Jimmy Higdon (10/14/11)

AN ACT proposing to amend Sections 36 and 42 of the Constitution of Kentucky relating to even-year sessions of the General Assembly.

Propose to amend Sections 36 and 42 of the Constitution of Kentucky to limit even-year sessions to 30 days.

(Prefiled by the sponsor(s).)

BR 149 - Senator Jimmy Higdon (10/26/11)

AN ACT relating to retirement.

Amend KRS 6.525 to prohibit salary earned in another state administered system from being used to determine benefits in the Legislators' Retirement Plan if the member does not have service in the other state-administered retirement systems prior to December 31, 2014.

(Prefiled by the sponsor(s).)

BR 151 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to substance abuse screening for vocational education recipients.

Create a new section of KRS Chapter 151B to establish a substance abuse screening program for adult persons receiving vocational education training, permit the use of blood or urine testing or written questionnaires in the substance abuse screening, require testing as a condition precedent to the receipt of training, prohibit receipt of training for 90 days following the first positive test, and for one year after each subsequent positive test, require the executive director to promulgate administrative regulations and grant permissive authority to require additional randomized testing and to charge a fee to cover the expenses of implementing the program.

(Prefiled by the sponsor(s).)

BR 152 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to school entrance age.

Amend KRS 158.030 to require a child to be six years of age by August 1 rather than October 1 to enter a public school; permit a child who is five years of age by August 1 rather than October 1 to enter a primary school program.

(Prefiled by the sponsor(s).)

BR 153 - Representative David Floyd (12/06/11)

AN ACT relating to educational requirements for state employees.

Create a new section of KRS Chapter 18A to establish the sufficiency of a high school diploma or its equivalent when graduation from high school is a condition for promotion in the state service, regardless of whether an employee attended an accredited secondary school or a nonaccredited secondary school.

(Prefiled by the sponsor(s).)

BR 154 - Representative Richard Henderson (09/19/11)

AN ACT relating to the Veterans' Personal Loan Program and making an appropriation therefor.

Appropriate \$5 million during fiscal year 2012-2013 from the General Fund for the Veterans' Personal Loan Program.

(Prefiled by the sponsor(s).)

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

BR 156 - Senator R.J. Palmer II (12/16/11)

AN ACT relating to special NASCAR license plates and making an appropriation.

Create a new section of KRS Chapter 186 to direct the Transportation Cabinet to establish Special NASCAR themed license plates; allow the Transportation Cabinet to enter into a licensing agreement with NASCAR or other authorized entity which supplies the plates; allow the licensing agreement entered into to provide for a payment of a licensing fee not to exceed 25 percent of the state fee for the NASCAR plate; direct the EF fee for NASCAR plates to be distributed to local health departments in accordance with the number of plates issued in each county; appropriate the funds for the purposes of providing public health services; provide that the printing of the NASCAR plate is not contingent on a minimum number of applications; amend KRS 186.162 to set the state fee of the NASCAR plate at \$32 and the EF fee at \$10.

(Prefiled by the sponsor(s).)

BR 157 - Representative Thomas Kerr (12/16/11)

AN ACT relating to probate.

Amend KRS 395.605 to permit periodic settlement of informal estates.

(Prefiled by the sponsor(s).)

BR 158 - Representative Tom Burch (08/18/11)

AN ACT relating to the accreditation of health departments and making an appropriation therefor.

Create a new section of to create the Kentucky Commission on Public Health within the Public Health Leadership Institute at the University of Kentucky under KRS Chapter 164; establish membership and duties of the commission including that all health departments achieve national accreditation and maintain accreditation by the national Public Health Accreditation Board, by December 31, 2020; require the commission to submit an annual report; appropriate \$500,000 to operate the commission.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 159 - Senator Jack Westwood

(08/11/11)

AN ACT relating to career and technical education, making an appropriation therefor, and declaring an emergency.

Amend KRS 158.812 to express legislative goals for career and technical education; amend KRS 158.810 to define terms related to career and technical education; create a new section of KRS Chapter 156 to require the Department of Education to issue core content standards, assess student progress, and develop new courses relevant to college and career readiness; create a new section of KRS Chapter 158 providing for the creation and use of evidence-based models assessing the needs of at-risk students; create a new section of KRS Chapter 157 to define terms related to career and technical education and to establish a career and technical education accessibility fund; amend KRS 158.814 to address unmet needs for career and technical education; amend KRS 158.816 to add criteria to the assessment of technical education students; amend KRS 18A.010 to exempt technology center employees from the count of full-time executive branch employees; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 160 - Senator Jack Westwood (12/16/11)

AN ACT relating to emergencies.

Create a new section of KRS Chapter 39B to permit interstate mutual aid agreements for emergency responses; provide for the recognition of certain credentials of emergency responders from other states; provide for certain civil immunity.

(Prefiled by the sponsor(s).)

BR 162 - Senator Ray S. Jones II (11/29/11)

AN ACT relating to crimes and punishments.

Create a new section of KRS Chapter 530 relating to family offenses, to create the crime of endangering the welfare of a minor in the first degree when a parent or person caring for a minor who is twelve years of age or younger who is missing fails to report to a local law enforcement agency, the Department of Kentucky State Police, or a 911 public safety answering point that the minor is missing within one hour after the minor is discovered missing as a Class D felony; amend KRS 530.060 relating to endangering the welfare of a minor to specify that it is in the second degree; amend KRS 600.020 relating to juvenile code definitions to conform; designate as Caylee's Law.

(Prefiled by the sponsor(s).)

BR 165 - Senator Denise Harper Angel (08/12/11)

AN ACT relating to school collection of data on body mass index, height, and weight.

Amend KRS 156.160 to require the Kentucky Board of Education to promulgate administrative regulations to include the body mass index (BMI) percentile, height, and weight on preventative health care examination forms; require the data to be submitted to the Department of Education in a manner approved by the board that does not identify any individual student; require the department to share data only with the Cabinet for Health and Family Services; require that any use of the data abide by HIPPA privacy rules.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 166 - Senator Denise Harper Angel (10/14/11)

AN ACT relating to dating violence.

Amend KRS 403.720 to include persons in dating relationships within the coverage of Kentucky's domestic violence laws.

(Prefiled by the sponsor(s).)

BR 173 - Representative Jim Wayne (12/15/11)

AN ACT relating to airport noise overlays.

Create a new section of KRS Chapter 100 to allow a planning unit to incorporate airport noise overlay districts within its zoning texts and maps; allow the planning unit to incorporate guidelines on building techniques and materials that are designed to provide acoustical insulation benefits to structures within the overlay.

(Prefiled by the sponsor(s).)

BR 175 - Senator John Schickel (09/07/11)

AN ACT relating to the sale of alcoholic beverages at restaurants.

Amend KRS 241.010 to specify that restaurants must receive at least fifty percent of their food and beverage income from the sale of food.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 185 - Representative Darryl T. Owens (12/16/11)

AN ACT relating to tourism development.

Amend KRS 148.853 to add employment and wage requirements for tourism projects.

(Prefiled by the sponsor(s).)

BR 188 - Senator Jimmy Higdon (10/07/11)

AN ACT relating to pain

management facilities and declaring an emergency.

Create a new section of Chapter KRS 311 to define "board", "facility", "physician", and "pain management facility" and to require that all pain management facilities be licensed; specify ownership requirements; specify employee requirements; require the State Board of Medical Licensure to promulgate administrative regulations related to pain management facilities; amend KRS 311.610 and 311.990 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 189 - Representative Michael J. Nemes (09/07/11)

AN ACT proposing to create a new section of the Constitution of Kentucky and to amend Section 226 of the Constitution of Kentucky relating to gaming.

Propose to create a new section of the Constitution of Kentucky and to amend Section 226 of the Constitution of Kentucky to authorize the General Assembly to provide a means whereby the sense of the people of any county may be taken as to whether casinos, including the operation of gaming at horse racing tracks, will be permitted in the county; submit to the voters for ratification or rejection; include ballot language.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 193 - Representative Kelly Flood (10/21/11)

AN ACT relating to status offenders.

Amend KRS 630.050 to require that persons filing juvenile status offense complaints provide specified supporting documentation for inclusion and presentation to the court; create a new section of KRS Chapter 630 to establish time frames for the expiration of valid court orders; amend KRS 610.265 and 630.010 to restrict the secure detention of status offenders; amend KRS 630.080 to clarify the contents necessary in dispositional reports; create a new section of KRS Chapter 600 and amend KRS 610.020 to incorporate federal requirements for the release of educational records to the juvenile justice system; amend KRS 610.030 and 610.060 to conform.

(Prefiled by the sponsor(s).)

BR 197 - Representative Kevin Sinnette (08/31/11)

AN ACT relating to utility franchises.

Amend KRS 96.010 to prohibit bidders for city utility franchises from recovering the franchise fee from ratepayers through fees or surcharges on their bills.

(Prefiled by the sponsor(s).)

To: Interim Joint Special

Subcommittee on Energy

BR 201 - Senator Joey Pendleton (09/28/11)

A RESOLUTION adjourning the Senate in loving memory and honor of our friend and former colleague, Representative John Adams.

Memorialize Representative John Adams.

(Prefiled by the sponsor(s).)

BR 204 - Representative Sara Beth Gregory (10/07/11)

AN ACT relating to civil actions.

Create a new section of KRS Chapter 411 to specify procedures for handling comparative fault actions relating to adding parties and answers to complaints.

(Prefiled by the sponsor(s).)

BR 205 - Senator R.J. Palmer II (12/06/11)

AN ACT relating to recyclers and dealers in metal.

Amend KRS 433.890 to provide for the identification of sellers of nonferrous metals and for the payment of nonferrous metal purchases.

(Prefiled by the sponsor(s).)

BR 207 - Representative Johnny Bell (11/23/11)

AN ACT relating to arbitration.

Amend KRS 417.050, relating to arbitration, to expand the circumstances under which an arbitration agreement may be invalid or inapplicable.

(Prefiled by the sponsor(s).)

BR 209 - Representative Kevin Sinnette (08/31/11)

AN ACT relating to motor vehicle personal injury reparation benefits.

Amend KRS 304.39-241 to authorize an insured to direct the payment of motor vehicle reparation benefits for medical expenses arising from a covered loss to a health benefit plan, Medicaid, Medicare, a Medicare supplement provider, or any other provider that has paid related medical expenses.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 210 - Representative John Will Stacy (12/16/11)

AN ACT relating to the licensure of health care professionals who use radiation for imaging and therapy and making an appropriation therefor.

Create KRS Chapter 311B, a new chapter relating to the licensure of medical imaging technologists and radiation therapists; establish legislative

policy favoring regulation by a licensing board; define terms; create the Kentucky Board for Medical Imaging and Radiation Therapy to license and regulate advanced practice professionals, medical imaging technologists, radiographers, radiation therapists, nuclear medicine technologists, and limited X-ray machine operators; set up board membership, meeting, and other procedural requirements; establish board powers and duties generally, including promulgating administrative regulations to administer and enforce the chapter, setting licensing requirements, and hiring an executive director and other board administrative staff; set minimum qualifications and powers of the executive director; require the board to recognize and enforce the standards of the national organizations for the medical imaging and radiation therapy professions; forbid practice of the regulated professions without a license from the board; exempt practitioners of the healing arts, students, and federal government employees from the chapter; list those professions requiring a license from the board; authorize the board to establish the qualifications for acquiring and maintaining licensure, with the power to identify other specialties or categories of duties consistent with KRS Chapter 311B; direct the board to promulgate administrative regulations to set licensing fees; establish a trust and agency fund from licensing and other fees for use by the board; waive fees and set special procedures for licensees serving in the United States Armed Forces; permit claiming to be a licensee, employing an imaging or radiation professional, or manipulating ionizing radiation equipment or administering radiopharmaceuticals only if the person is licensed under the chapter; require any person to alert the board when a licensee has committed certain acts or has become unfit or incompetent to practice; list reasons the board may deny, revoke, or suspend a license; describe procedures for administrative hearings for licensee discipline; define conditions for instituting civil penalties; authorize the board to set reasonable fines through the promulgation of administrative regulations; repeal KRS 211.870, 211.890, and 211.993; set procedures for initial board appointments.

(Prefiled by the sponsor(s).)

BR 211 - Representative Jim Wayne (09/09/11)

AN ACT relating to public financing for judicial campaigns.

Create new sections of KRS Chapter 118A to establish the clean judicial elections fund; define terms; establish fund to distribute transfers to certified judicial candidates; provide that the Kentucky Registry of Election Finance administer the fund and promulgate necessary administrative regulations; designate that moneys in the fund be invested in accordance with administrative regulations developed by

the State Investment Commission; require the registry to publish information about campaign expenditures in the judicial campaigns of the previous year; establish requirements to be designated a certified judicial candidate and gain access to the fund; provide guidelines for distribution of funds to certified judicial candidates; direct that judicial review of any final action of the registry be expedited by the court; provide for a civil penalty up to \$10,000 for an actual violation of these provisions, and a Class D felony for any knowing violation of these provisions; provide that a person entitled to a state tax refund may designate on their income tax return an amount to be credited to the fund; permit the Supreme Court to require members of the Kentucky Bar Association to submit an annual fixed amount not to exceed \$25 to be dedicated to the clean judicial elections fund; EFFECTIVE January 1, 2012.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 214 - Representative Dennis Keene (12/16/11)

AN ACT relating to the expansion of gaming and making an appropriation therefor.

Create a new section of KRS Chapter 154A to set forth legislative findings; amend KRS 154A.010 to define "authorizing county," "casino," "casino gaming," "county," "county legislative body," "department," "full casino gaming," "gaming licensee," "gross gaming revenue," "handle," "licensee," "limited casino gaming," and "principal"; amend KRS 154A.030 to increase the board to twelve members, including the executive director of the Kentucky Horse Racing Commission and the Auditor of Public Accounts and prohibit directors or their family members from holding significant interest in a gaming licensee; amend KRS 154A.040 to exempt trade secrets of a licensee; amend KRS 154A.063 to conform; create new sections of KRS Chapter 154A to require local option elections for the approval of casino gaming in counties with a population in excess of 90,000 or in cities of the fourth class or greater with a horse racing track; specify procedure for petition of election; specify that the corporation is the only government agency authorized to solicit bids for casino licensure and provide requirements for invitations to bid; specify factors to be considered when considering a bid; specify initial licensing fee and annual licensing fee; stipulate requirements for licensing of horse racing tracks for casino gaming; require tracks with a casino license to continue to run at least as many live races as were run in 2011, and provide exemptions; establish requirements and procedures for applying for supplier's licenses; prohibit any unlicensed person from furnishing gaming supplies and equipment; prohibit anyone under 21 years of age from participating in casino gaming; establish procedure for

licensing of occupations related to casino gaming; grant the corporation the authority to initiate disciplinary action; establish procedure for review and appeal of actions by the corporation; establish problem gamblers awareness and treatment trust fund; require the Cabinet for Health and Family Services to promulgate regulations to address the expenditure of funds from the problem gamblers awareness and treatment trust fund and require an annual report on expenditures; establish 31% tax on gross gaming revenue, allow the corporation to recoup operating costs from tax for first 24 months, and cap corporation's deduction at \$2 million per year thereafter; require 15% of each gaming licensee's revenue to be paid to the Kentucky equine industry enhancement trust fund; impose admission tax of \$3 per person and dedicate funds to the regional tourism and infrastructure development fund; establish gaming revenue distribution trust fund; establish the Kentucky equine industry enhancement trust fund and stipulate uses for funds; create the regional tourism and infrastructure development fund and specify uses for funds; create the childhood education excellence development fund; create the Kentucky job creation development fund; allocate funds paid from the tax on gross gaming revenue to trust funds established by the bill; exempt gaming devices in compliance with the chapter from the provisions of 15 U.S.C. sec. 1172 and exempt shipments to Kentucky gaming licensees from 15 U.S.C. secs. 1173 and 1174; require the corporation to promulgate administrative regulations to define the types of games and the method of operation; permit the exclusion of certain persons from licensed casinos, exclusion may not be based on race, color, creed, national origin, ancestry, religion, gender, or the amount won at a casino; define "cheat" and provide penalties for violation; amend KRS 243.500 to exempt the conduct and operation of authorized casino gaming; amend KRS 243.505 to exempt the operation of casino gaming licensed under this Act; amend KRS 525.090 to exempt those engaged in casino game licensed under KRS Chapter 154A; amend KRS 528.010 to exempt activities or devices licensed under this Act; amend KRS 528.020 to exempt those licensed under this Act; amend KRS 528.070 to exempt those licensed under this Act; amend KRS 528.080 to exempt those licensed under this act; amend KRS 528.100 to exempt casino gaming as defined under Section 2 of the Act.

(Prefiled by the sponsor(s).)

BR 217 - Representative Adam Koenig (11/22/11)

AN ACT relating to the Kentucky Law Enforcement Foundation Program Fund.

Amend KRS 15.460 and 15.470 to provide that police officers receiving the KLEFP fund salary supplement shall

continue to receive the supplement when called to active duty with the United States Armed Forces.

(Prefiled by the sponsor(s).)

BR 218 - Representative Adam Koenig (11/22/11)

AN ACT relating to the abolishment of the Kentucky Wood Products Competitiveness Corporation.

Amend KRS 42.4592 to delete transfers to the secondary wood products development fund; amend KRS 1154.20-170 to make internal reference correction; amend KRS 154.47-005 to define "cabinet" as the Cabinet for Economic Development and strike references to the Kentucky Wood Products Competitiveness Corporation and its board; amend KRS 154.47-040 to delete all references to the Kentucky Wood Products Competitiveness Corporation and to require information regarding secondary wood products for state capital construction be maintained by the Cabinet for Finance and Administration; delete requirement that the board review any capital construction applications for secondary wood products; amend KRS 154.47-050 to delete references to the Kentucky Wood Products Competitiveness Corporation developing a workforce training curricula and place that function in the Department of Workforce Investment in the Education and Workforce Development Cabinet; amend KRS 154.47-060 to make permissive the University of Kentucky's contracting for use of the Quicksand Wood Utilization Center as a secondary wood products training center and delete contracting for the center by the Kentucky Wood Products Competitiveness Corporation; amend KRS 154.47-065 to permit the cabinet to work with the Division of Forestry to establish benchmarks for Kentucky forest industries; amend KRS 154.47-075 to delete the board from working to implement a program of training assistance; repeal KRS 42.4586, 154.47-015, 154.47-020, 154.47-025, 154.47-030, 154.47-035, 154.47-045, and 154.47-070; abolish the Kentucky Wood Products Competitiveness Corporation and transfer all records, documents, assets, and liabilities to the Cabinet for Economic Development.

(Prefiled by the sponsor(s).)

BR 219 - Representative Adam Koenig (11/22/11)

AN ACT relating to elections.

Amend KRS 117.085 to allow precinct election officers and alternate precinct election officers to vote by mail-in absentee ballot and to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections up to the close of normal business hours on the day before the election.

(Prefiled by the sponsor(s).)

BR 221 - Representative Adam Koenig (11/22/11)

A CONCURRENT RESOLUTION honoring pregnancy resource centers.

Honor pregnancy resource centers; encourage Congress to grant centers assistance for medical equipment and abstinence education.

(Prefiled by the sponsor(s).)

BR 222 - Representative Adam Koenig (11/22/11)

AN ACT relating to confederate pensions.

Repeal KRS Chapter 206 relating to Confederate pensions.

(Prefiled by the sponsor(s).)

BR 224 - Representative Mike Cherry (11/29/11)

AN ACT relating to election reports.

Amend KRS 121.120 to require electronic filing of election finance reports for all candidates and slates of candidates running for statewide office, and for the campaign committees of those candidates and slates, beginning with the elections in 2015; allow electronic filing on the Internet or on optical or magnetic disk; amend KRS 121.180 to require the Kentucky Registry of Election Finance, if funds are available, to offer the option of electronic reporting to all candidates, committees, fundraisers, and persons making independent expenditures.

(Prefiled by the sponsor(s).)

BR 233 - Representative Martha Jane King, Representative Dwight D. Butler (09/29/11)

AN ACT relating to tax credits for hiring legally blind or severely disabled individuals.

Create a new section of KRS Chapter 141 to provide a nonrefundable income tax credit for tax years beginning on or after January 1, 2013, for taxpayers who contract with a resident nonprofit organization for services performed by individuals who are legally blind or severely disabled; amend KRS 141.0205 to provide the order in which the credit may be claimed.

(Prefiled by the sponsor(s).)

BR 234 - Senator Jimmy Higdon (10/14/11)

AN ACT relating to tourist and convention commissions.

Amend KRS 91A.360 to increase the total membership of local tourist and convention commissions in cities of the second through sixth classes and counties containing such cities from seven to nine; increase the number of restaurant association representatives from one to three.

(Prefiled by the sponsor(s).)

BR 236 - Representative Bill Farmer, Representative Jeff Hoover (12/15/11)

AN ACT relating to taxation.

Amend KRS 138.4602 to make the trade-in allowance permanent for motor vehicles purchased on or after October 1, 2012; amend various sections of KRS Chapter 139 to expand the sales and use tax base to include selected services and lower the tax rate; amend various sections of KRS Chapter 141 to apply the corporation income tax only to taxable years beginning before January 1, 2013; expand the base and lower the tax rate for individual income tax; tax all pass-through entity income at a flat rate of 2.5%; modify the tax rates for the limited liability entity tax; amend KRS 243.884 to decrease the rate for the wholesale alcohol tax to 5.5% from the current rate of 11%; and repeal various sections in KRS Chapter 139 to conform.

(Prefiled by the sponsor(s).)

BR 237 - Representative Dennis Horlander (10/24/11)

AN ACT relating to filing deeds in lieu of foreclosure in the county clerk's office.

Amend KRS 382.110, relating to the recording of deeds and instruments, to require a mortgage holder to file a deed in lieu of foreclosure with the county clerk within 30 days of the execution of the instrument's execution; amend KRS 382.990 to assess a penalty in the form of a violation of law for any mortgage holder who fails to file a deed in lieu of foreclosure pursuant to Section 1 of the Act; amend KRS 142.050, relating to the assessment of a transfer tax on property, to exempt filing deeds in lieu of foreclosure filed pursuant to Section 1 of this Act from the transfer tax.

(Prefiled by the sponsor(s).)

BR 239 - Representative Dennis Keene (10/27/11)

AN ACT relating to the distribution of unsolicited advertising on private property.

Amend KRS 512.070 to include within the offense of criminal littering a business or organization which causes any unsolicited advertising or materials to be placed on the lawn, walkway or driveway of privately owned property, or placed in a manner which permits the elements to deposit the unsolicited advertising or material onto a lawn, walkway, or driveway; permit a local government to enact ordinances that affect unsolicited advertising or materials within its jurisdiction.

(Prefiled by the sponsor(s).)

BR 240 - Senator Jimmy Higdon (10/26/11)

AN ACT relating to retirement and declaring an emergency.

Amend KRS 6.505 to close the Legislators' Retirement Plan to legislators who have not previously participated in the plan and who begin their first term of office on or after July 1, 2012; create new sections of KRS Chapter 6 to establish the Legislators' Defined Contribution Plan for legislators who begin their first term of office on or after July 1, 2012; provide that the plan shall be administered by the Kentucky Deferred Compensation Authority; allow the authority to utilize plans already established or to establish new plans to administer the Legislators' Defined Contribution Plan; provide an employer match of up to five percent of the legislator's wages; provide that a legislator participating in the plan shall be vested for employer contributions on a sliding scale that fully vests the legislator for the employer contributions at six years; provide that the benefits provided by the Legislators' Defined Contribution Plan shall not constitute an inviolable contract of the Commonwealth; amend KRS 18A.245 to establish responsibilities of the board of the Kentucky Deferred Compensation Authority to administer the Legislators' Defined Contribution Plan; amend KRS 61.510 governing the Kentucky Retirement Systems to clarify that a legislator who begin his or her first term of office on or after July 1, 2012, shall not participate in these plans as a result of service in the General Assembly; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 245 - Representative Linda Belcher (11/10/11)

AN ACT relating to career and technical education, making an appropriation therefor, and declaring an emergency.

Amend KRS 158.812 to express legislative goals for career and technical education; amend KRS 158.810 to define terms related to career and technical education; create a new section to KRS Chapter 156 to require the Department of Education to issue core content standards, assess student progress, and develop new courses relevant to college and career readiness; create a new section to KRS Chapter 158 to provide for the creation and use of evidence-based models assessing the needs of at-risk students; create a new section of KRS Chapter 157 to define terms related to career and technical education and to establish a career and technical education accessibility fund; amend KRS 158.814 to address unmet needs for career and technical education; amend KRS 158.816 to add criteria to the assessment of technical education students; amend KRS 18A.010 to exempt technology center employees from the count of full-time executive branch employees; provide short title; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 246 - Representative Michael J. Nemes (09/07/11)

AN ACT relating to the provision for and control of casino gaming and making an appropriation therefor.

Establish KRS Chapter 239 and create new sections to define "authorizing county or counties," "casino," "commission," "county legislative body," "department," "electronic gaming device," "full casino," "gross gaming revenue," "handle," "licensee," and "limited casino"; create the Kentucky Gaming Commission, assign powers and duties to the commission; establish executive director position; make commission, the executive director, and employees subject to executive branch code of ethics; require county election to authorize licensing of casino within county; require sheriff to advertise local option election for gaming; provide for procedures on local option elections for gaming not held on primary and regular election days; require the county board of elections to certify the results; establish commission as agency to solicit bids for casino gaming licenses and provide criteria for advertising the bid; establish procedure for evaluating bids for full casinos; provide bidding rights for racing associations; specify licensing requirements for full casinos, manufacturers, and suppliers; prohibit selling, leasing, or otherwise furnishing gaming supplies without a license; provide the option of limited casinos for racing associations; specify licensing requirements for limited casinos; prohibit any one under 21 years of age from placing a wager at a casino or being permitted access to a casino; provide for occupational licenses; grant the commission authority to initiate disciplinary action; provide grievance procedure; exempt licensed gaming devices from federal restrictions; grant the commission the authority to define and limit permissible games; provide for the exclusion of certain persons from casinos; require the commission to develop programs for education and treatment of problem gamblers; define "cheat" and provide penalties for cheating; amend KRS 15.380 to establish gaming commission employees as peace officers; create a new section of KRS Chapter 138 to establish a wagering and an admissions tax; amend KRS 243.500 to exempt licensed casino gaming; amend KRS 243.505 to include licensed casino gaming; amend KRS 372.005 to include KRS Chapter 239; amend KRS 525.090 to exempt casino gaming; amend KRS 528.010 to gaming licensed under KRS Chapter 239; amend KRS 528.020 to exempt gambling devices operated under KRS Chapter 239; amend KRS 528.070 to exempt licensed gambling activity; amend KRS 528.080 to exempt those with a license issued under KRS Chapter 239; amend KRS Chapter 528.100 to exempt authorized casino gaming.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 248 - Representative Rick G. Nelson (10/20/11)

AN ACT relating to the employment of public school teachers.

Amend KRS 160.345 to require teacher vacancies to be filled by qualified teachers certified through a regular certification program before considering applicants certified through an alternative certification program.

(Prefiled by the sponsor(s).)

BR 254 - Senator Robin L. Webb (12/16/11)

AN ACT relating to vital statistics.

Amend KRS 213.116, relating to the collecting of data, to require the Cabinet for Health and Family Services to provide on their Web site downloadable forms pertaining to divorces.

BR 259 - Representative Arnold Simpson (12/15/11)

AN ACT relating to crimes and punishments.

Amend KRS 346.165 relating to the profits of crime to be sent to the Crime Victims Compensation Board to include money or anything of value and to define "profits from a crime" as including property or income generated from the commission of the crime, property obtained from the sale of proceeds from the crime, and any property which the defendant obtained from the crime or unique knowledge of the crime.

(Prefiled by the sponsor(s).)

BR 261 - Senator Joey Pendleton (09/28/11)

AN ACT relating to industrial hemp.

Create new sections of KRS Chapter 260 to define "department," "industrial hemp," and "THC"; require persons wanting to grow or process industrial hemp to be licensed by the Department of Agriculture; require criminal history checks by local sheriff; require the department to promulgate administrative regulations to carry out the new sections; require the sheriff to monitor and randomly test industrial hemp fields; assess a fee of five dollars per acre for every acre of industrial hemp grown, with a minimum fee of 150 dollars, to be divided equally between the department and the appropriate sheriff's department; require licensees to provide the department with names and addresses of any grower or buyer of industrial hemp, and copies of any contracts the licensee may have entered into relating to the industrial hemp; clarify that the Act does not authorize any person to violate federal law; require Kentucky to adopt any federal rules or regulations relating to industrial hemp; amend KRS 218A.010 to conform.

(Prefiled by the sponsor(s).)

BR 264 - Representative Mike Harmon (12/08/11)

AN ACT proposing to amend Sections 50 and 256 of the Constitution of Kentucky, and to repeal Sections 48 and 49 of the Constitution.

Propose to amend Sections 50 and 256 of the Constitution of Kentucky to provide limitations on the issuance of appropriations-supported debt and to repeal Sections 48 and 49 of the Constitution of Kentucky.

(Prefiled by the sponsor(s).)

BR 267 - Representative Darryl T. Owens (12/16/11)

AN ACT relating to the establishment of an age for criminal responsibility.

Create a new section of KRS Chapter 431 to establish a minimum age of criminal responsibility and provide alternative treatment; amend KRS 500.040, 501.030, and 610.010 to establish a minimum age of criminal responsibility and provide alternative treatment; amend KRS 600.020 to conform.

(Prefiled by the sponsor(s).)

BR 268 - Senator Tom Buford (12/12/11)

AN ACT relating to concealed deadly weapons.

Amend KRS 527.020, relating to carrying concealed deadly weapons, to add domestic relations commissioners, master commissioners, and trial commissioners of the Court of Justice to persons who, if licensed to carry a concealed deadly weapon, may carry them at all locations within the Commonwealth except as specifically provided therein.

(Prefiled by the sponsor(s).)

BR 272 - Representative Terry Mills (09/29/11)

AN ACT relating to optional school bus advertising.

Create a new section of KRS Chapter 189 to allow a local school board to sell advertising on school buses; prohibit certain types of advertising; identify annual reporting requirements.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 275 - Representative Jim Glenn, Representative Bob M. DeWeese (10/13/11)

AN ACT relating to the Colon Cancer Screening Program and making an appropriation therefor.

Amend KRS 214.542 to require the Department for Public Health to adopt a schedule of income-based fees to be charged for colon cancer screening; APPROPRIATION

(Prefiled by the sponsor(s).)

BR 276 - Senator John Schickel (12/15/11)

AN ACT relating to crimes and punishments.

Amend KRS 431.005 relating to arrests to permit a peace officer to make an arrest or issue a citation for a violation of KRS 508.030, assault in the 4th degree, which is a misdemeanor, even when the officer did not view the commission of the offense if there is probable cause to make the arrest if the assault occurred in the emergency room of a hospital; define emergency room; amend KRS 431.015 mandating the use of a citation in lieu of arrest to exempt an arrest for 4th degree assault in a hospital emergency room..

(Prefiled by the sponsor(s).)

BR 281 - Representative Linda Belcher (11/02/11)

AN ACT relating to obesity in school children.

Amend KRS 158.856 to clarify that school physical activity assessment tools shall generate: data on the amount of time and the types of activity required by KRS 160.345(11); performance and progress data necessary to monitor health risk behaviors and indicators identified by the national Centers for Disease Control and Prevention and to design programs to increase physical activity of children and reduce childhood diabetes and obesity; fitness information to assist students and students parents or guardians in planning home activities; and aggregate school fitness data to assist school councils in reviewing and implementing wellness policies; require school districts to submit supporting data with required summary; amend KRS 160.345 to require schools containing kindergarten through grade five to provide a minimum of 45 minutes per week of physical activity for half day kindergarten and 90 minutes per week for full day kindergarten through grade five.

(Prefiled by the sponsor(s).)

BR 282 - Representative Linda Belcher (11/02/11)

AN ACT relating to early education assessment and intervention.

Create a new section of KRS Chapter 158 to define "aphasia," "dyscalculia," "dyslexia," "phonemic awareness," and "scientifically based research"; require the Kentucky Board of Education to promulgate administrative regulations for district-wide reporting on the use of K-3 response-to-intervention implementation in reading by August 1, 2013, in mathematics by August 1, 2014, and behavior by August 1, 2015; require

the Department of Education to make available technical assistance, training, and a Web-based resource to assist all local school districts in the implementation of the system and instructional tools based on scientifically based research; require the department to collaborate with other state agencies and organizations; require conformity with 20 U.S.C. sec. 1414(a)(1)(E) for initial evaluations of students with suspected disabilities; require the department to report to the Interim Joint Committee on Education on implementation by November 30, 2013, and annually thereafter; amend KRS 157.200 to conform with the federal definition of a "specific learning disability."

(Prefiled by the sponsor(s).)

BR 283 - Representative Linda Belcher (11/02/11)

AN ACT relating to tuition for foster children.

Amend KRS 164.2847 to permit tuition waivers for a high school student enrolled in a dual credit or dual enrollment course in high school.

(Prefiled by the sponsor(s).)

BR 284 - Representative Linda Belcher (11/02/11)

AN ACT relating to probate fees. Amend KRS 61.315 to exempt the estate of anyone who is eligible for state death gratuity benefits, and the estate of any regular member of the Armed Forces, from probate fees.

(Prefiled by the sponsor(s).)

BR 286 - Representative Darryl T. Owens (11/15/11)

AN ACT relating to paternity. Amend KRS 406.005 to define a child born out of wedlock to include a child born to a married woman by a man other than her husband; amend KRS 406.011 to conform.

(Prefiled by the sponsor(s).)

BR 294 - Senator John Schickel (12/09/11)

AN ACT relating to milk. Amend KRS 217C.030 to define "permitted producer" and "raw milk"; create a new section of KRS Chapter 217C to allow for the sale of raw milk at a farm site.

(Prefiled by the sponsor(s).)

BR 300 - Representative Brad Montell (12/15/11)

AN ACT relating to missing persons.

Amend KRS 39F.010 relating to rescue squads to define "developmental disability" and "impaired person"; amend KRS 39F.020 relating to rescue squad searches for lost persons to include all

impaired persons, not only adults, and provide for media notification about the lost person; amend KRS 39F.180 relating to reporting of lost or missing persons to the Division of Emergency Management to require a search for a missing person who is known or reported to have a developmental disability to be reported to the Division of Emergency Management and the Department of Kentucky State Police immediately, term the search a "Chase Alert," provide that the local emergency management director or other persons conducting the search report relevant information to the local news media, and permit all searches for lost persons with developmental disabilities to be reported to the news media; create a new section of KRS Chapter 39F to require that the Division of Emergency Management provide not less than 30 minutes of instruction in each basic search and rescue course relating to searching for persons with developmental disabilities; require each search management course to include not less than 60 minutes of instruction relating to searching for persons with developmental disabilities; provide for consultation with named organizations in the development of course curricula on this subject; provide for promulgation of administrative regulations relating to course content and duration.

(Prefiled by the sponsor(s).)

BR 306 - Representative Fitz Steele (12/08/11)

AN ACT relating to dextromethorphan abuse.

Create new sections of KRS Chapter 218A to prohibit any person from possessing one gram or more of pure dextromethorphan or dextromethorphan that has been extracted from solid or liquid form; prohibit sale of products containing dextromethorphan as the only active ingredient to individuals younger than 18; require any person selling a product containing dextromethorphan to require that prospective buyers show a photo ID and sign a document stating the customer is older than 18 before purchase; create an affirmative defense for the retailer if a minor utilizes a fraudulent ID; prohibit individuals younger than 18 from possessing a product that contains dextromethorphan as the only active ingredient; prohibit individuals younger than 18 from misrepresenting their age and from utilizing a fraudulent ID to purchase or obtain dextromethorphan; establish penalties for violation.

(Prefiled by the sponsor(s).)

BR 307 - Representative Fitz Steele (12/01/11)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three day sales and use tax holiday the first weekend in August each year to exempt clothing,

school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 315 - Representative Fitz Steele (12/01/11)

AJOINTRESOLUTION regarding the criteria for selection and approval of Clean Water Act 404 mitigation plans for out-of-kind water quality improvements.

Express a need to undertake stream restoration to improve the chemical and biological characteristics of the water; identify improvements to sewer infrastructure and straight pipes as a method of undertaking stream restoration via mitigation; express concern that the Appalachian region is subjected to a more rigorous conductivity standard that reduces the eligible waters in that region for mitigation awards; encourage section 404 permittees that engage in permittee responsible mitigation with a 25 percent set aside for sewer infrastructure and straight pipes; require the Energy and Environment Cabinet to work with the University of Kentucky and University of Louisville to develop a method of evaluating the value of straight pipes and sewer projects to the overall mitigation requirement; require a report be sent to the Legislative Research Commission by June 15, 2013, and every year thereafter; require a copy be sent to the US Army Corps of Engineers, the Energy and Environment Cabinet, and members of the Kentucky congressional delegation.

(Prefiled by the sponsor(s).)

BR 316 - Representative Fitz Steele (10/12/11)

AN ACT relating to mental health.

Amend KRS 202A.410 to add judges and witnesses to the list of persons to be notified upon the release or escape of an involuntarily committed person.

(Prefiled by the sponsor(s).)

BR 320 - Senator Jack Westwood (11/17/11)

AN ACT relating to shock probation.

Amend KRS 439.265, relating to shock probation, to prohibit shock probation if a person is convicted of violating KRS 507.040, relating to manslaughter in the second degree, or KRS 507.050, relating to reckless homicide, and a violation of KRS 189A.010, relating to driving under the influence arising from the same incident; permit the victim's living next of kin to ask the court to permit shock probation.

(Prefiled by the sponsor(s).)

BR 322 - Representative Arnold Simpson (12/15/11)

AN ACT relating to the angel

investor tax credit.

Create new sections of subchapter 20 of KRS Chapter 154 to establish the angel investor tax credit program for certain investments in small businesses; define terms; state act title and purposes; list requirements for small businesses and investors to qualify for participation; require the Kentucky Economic Development Finance Authority to establish the application process; cap the total amount of angel investor and Kentucky Investment Fund Act tax credits available in all years at \$40,000,000; require KEDFA to maintain a Web site listing all businesses and investors certified and all credits awarded; require small businesses to report annually and allow for tax credit recapture in certain circumstances; amend KRS 152.20-255 to provide that the total amount of tax credits available in the Kentucky Investment Fund Act program and the angel investor program is \$40,000,000 in all years; create a new section of KRS Chapter 141 to establish the credit; amend KRS 141.0205 to provide the ordering of the credit.

(Prefiled by the sponsor(s).)

BR 323 - Representative Ron Crimm (10/31/11)

AN ACT relating to retirement.

Amend KRS 6.525 to prohibit salary earned in another state administered system from being used to determine benefits in the Legislators' Retirement Plan if the member does not have service in the other state-administered retirement systems prior to August 1, 2012.

(Prefiled by the sponsor(s).)

BR 324 - Representative Jeff Hoover (12/16/11)

AN ACT relating to the Code of Legislative Ethics.

Amend KRS 6.611, relating to the Kentucky Code of Legislative Ethics, to include the cost of attendance, food, and beverages at out-of-state events in the definition of "anything of value"; define "in-state" to mean "within the borders of Kentucky or outside Kentucky in a county that is contiguous with the border of Kentucky"; define "employer" as "any person who engages a legislative agent and for whose legislative interest the agent is lobbying"; change the definition of "legislative agent" to exclude legislative liaisons; amend KRS 6.661 to prohibit a member of the staff of the Legislative Ethics Commission from serving as a fundraiser for, or contributing to, a candidate or slate of candidates for Governor, Lieutenant Governor, Auditor, or the General Assembly; amend KRS 6.686 to delete the restriction preventing the commission from investigating a violation until a complaint is filed; allow the commission to impose only administrative penalties in the absence of a complaint; permit the commission to dismiss a complaint without prejudice if the complainant

publicly discloses or comments on the existence of the complaint; amend KRS 6.711 and 6.716 to change the duration of courses for legislators from three hours to two hours; create a new section of KRS 6.731 to 6.780 to prohibit a legislator from sending a mass mailing at public expense 60 days or less before a regular election; amend KRS 6.747 to prohibit a legislative agent or employer from furnishing out-of-state transportation or lodging for a legislator; amend KRS 6.767 to prohibit a legislator, legislative candidate, or campaign committee from accepting a campaign contribution from an employer or a permanent committee during a regular session of the General Assembly; allow a legislator, candidate, or committee to return a contribution within 30 days, rather than 14, of receipt; amend KRS 6.807 to deem an updated registration statement to be filed in a timely manner if it is postmarked on or before the last day for filing; amend KRS 6.811 to prohibit a legislative agent or employer from giving anything of value to a legislative candidate or to a candidate's spouse or child; prohibit a legislative agent from soliciting, controlling, or delivering a campaign contribution for a candidate or legislator; prohibit an employer from making a campaign contribution to a legislator, candidate, or campaign committee during a regular session; prohibit an employer from knowingly employing an immediate family member of a legislator as a legislative agent; amend KRS 6.821 to change the requirements for a statement of expenditures filed by a legislative agent or employer; amend KRS 11A.010 to conform.

(Prefiled by the sponsor(s).)

BR 325 - Representative Alecia Webb-Edgington (12/02/11)

AN ACT related to sales tax on direct mail delivery charges.

Amend KRS 139.010 to exclude from the definition of "gross receipts" and "sales price" delivery charges for direct mail. EFFECTIVE August 1, 2012.

(Prefiled by the sponsor(s).)

BR 327 - Representative Mike Harmon (12/08/11)

AN ACT relating to elections.

Amend KRS 118.127 to permit a slate of candidates for Governor and Lieutenant Governor to appear on the ballot only in the general election, not in the primary; require a party's nominee for Governor to designate his or her nominee for Lieutenant Governor no later than the fourth Tuesday following the primary; if this designation is not filed, require the governing authority of the party to name the candidate for Lieutenant Governor; set forth the oath to be sworn by a slate of candidates; create a new section of KRS Chapter 118 to allow a candidate for Governor to designate a replacement if the candidate for Lieutenant Governor dies, is disqualified, or is disabled; amend KRS

121.015 to redefine "slate of candidates"; amend KRS 6.811, relating to legislative ethics, to prohibit legislative agents from making campaign contributions to candidates or slates of candidates for Governor or Lieutenant Governor or to the campaign committees of these candidates; amend KRS 121.150 to prohibit candidates and slates of candidates for Governor and Lieutenant Governor and the campaign committees of these candidates from accepting contributions from legislative agents; amend KRS 117.275, 118.025, 118.105, 118.125, 118.245, 120.055, 120.095, and 121.170 to conform; repeal KRS 118.227.

(Prefiled by the sponsor(s).)

BR 328 - Representative Jody Richards (12/16/11)

AN ACT relating to high school diplomas for students demonstrating advanced academic achievement.

Amend KRS 156.160 to direct the Kentucky Board of Education to create an advanced academic achievement diploma for high school students and define the requirements for receiving the diploma; amend KRS 164.7879 to provide a supplemental KEES award for students earning the advanced academic achievement diploma; amend various other sections to conform.

(Prefiled by the sponsor(s).)

BR 329 - Representative Kim King (11/18/11)

A RESOLUTION adopting a Rule of the House of Representatives, relating to state fiscal measures.

Adopt a Rule for the House of Representatives to require roll call votes on any appropriation or revenue-raising measure voted upon in the House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the Director of the Legislative Research Commission, or upon a determination by the House or a committee thereof; require separate House vote for appropriation or revenue measures; require House committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

BR 330 - Representative Kim King (11/18/11)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any appropriation or revenue raising measure voted upon in the Senate or House or a committee thereof; require identification of appropriation or revenue measures as state fiscal measures by the Director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for appropriations or revenue

measures; require committees to vote on appropriation and revenue measures by roll call votes.

(Prefiled by the sponsor(s).)

BR 336 - Representative Leslie Combs (12/05/11)

AN ACT relating to postsecondary education tuition and fee waivers for families of veterans.

Amend KRS 164.507 to clarify that family members of deceased veterans are eligible for postsecondary education tuition and fee waivers for a period not to exceed 45 consecutive or nonconsecutive months until completion of the first bachelor's degree; amend KRS 164.515 to clarify that family members of permanently or totally disabled veterans are eligible for postsecondary education tuition and fee waivers for a period not to exceed 45 consecutive or nonconsecutive months until completion of the first bachelor's degree.

(Prefiled by the sponsor(s).)

BR 340 - Representative Julie Raque Adams (12/15/11)

AN ACT relating to harassing communications.

Amend KRS 525.080 relating to harassing communications to expand the acts which create a violation of the offense and expand the means of communication; increase the penalty for a second or subsequent offense from a Class B misdemeanor to a Class A misdemeanor.

(Prefiled by the sponsor(s).)

BR 341 - Representative Thomas Kerr (12/16/11)

AN ACT relating to the creation and administration of trusts and estates.

Amend KRS 386.454 relating to the Kentucky Principal and Income Act to permit a trustee to reallocate principal to income without court approval under named circumstances; amend KRS 386.450 to define "unitrust"; create new sections and amend sections of KRS Chapter 386 to create Kentucky "decanting" statutes to permit creation of a new trust; amend KRS 386.502 to clarify the effective date of the Kentucky Uniform Principal and Income Act; amend KRS 386.810 and 395.195 to permit trustee to deal with Medicare surtax issues; amend KRS 381.180 relating to spendthrift trusts to deal with Federal income tax and related issues; create new sections of KRS Chapter 387 to create a self-settled special needs "Pay Back" trust.

(Prefiled by the sponsor(s).)

BR 344 - Representative Fred Nesler (12/14/11)

AN ACT relating to catfish.

Create new sections of KRS 217.005 to 217.215 to define "catfish" and "retail food establishment"; to require retail

food establishments to notify consumers of the country of origin of catfish sold in their establishments by means of a label, menu, or other sign; to require retail food establishments that advertise the sale of catfish to notify consumers of the country of origin of the catfish in the advertisement; to require retail food establishments to maintain records of the country of origin of catfish sold by the establishment; to permit the cabinet to inspect the sales and purchase records of catfish, and to take samples of catfish to verify the species of catfish; amend KRS 217.992 to provide penalties for violating the Act.

(Prefiled by the sponsor(s).)

BR 347 - Senator John Schickel (12/15/11)

AN ACT relating to library district boards.

Amend KRS 173.480, relating to public library districts' initial board appointments to allow a county judge/executive with the approval of the fiscal court to appoint the first members of the newly created library board when any of the prospective appointees presented to the judge, in the judge's opinion, are not suitable; amend KRS 173.490, relating to public library districts, to allow a county judge/executive with the approval of the fiscal court to appoint members or fill vacancies of the library board when any of the prospective appointees presented to the judge, in the judge's opinion, are not suitable; amend KRS 173.725, relating to library districts created by petitions' initial board appointments to allow a county judge/executive with the approval of the fiscal court to appoint the first members of the newly created library board when any of the prospective appointees presented to the judge, in the judge's opinion, are not suitable; amend KRS 173.730, relating to library districts created by petition, to allow a county judge/executive with the approval of the fiscal court to appoint members or fill vacancies of the library board when any of the prospective appointees presented to the judge, in the judge's opinion, are not suitable.

(Prefiled by the sponsor(s).)

BR 349 - Representative C. B. Embry Jr. (11/22/11)

AN ACT relating to motor vehicles.

Create a new section of KRS Chapter 189 to define the term "mini-truck" and add mini-trucks to the definition of "motor vehicle"; permit the operation of mini-trucks on public roadways with a posted speed limit of 45 miles per hour or less; require operators of mini-trucks to comply with the same insurance, title, registration, and usage tax requirements as a motor vehicle; amend KRS 186.010 to define the term "mini-truck" and include mini-trucks under the definition of "motor vehicle"; amend KRS 190.010 to exclude dealers of mini-trucks from the requirement

they be a licensed motor vehicle dealer.
(Prefiled by the sponsor(s).)

BR 350 - Representative Dennis Keene (10/27/11)

AN ACT relating to driving under the influence and making an appropriation therefor.

Replace provisions of the bill with new sections to amend KRS 189A.005 to expand the types of allowable ignition interlock devices; amend KRS 189A.010 to include driving the wrong way on a four-lane highway in the list of aggravating circumstances for DUI; amend KRS 189A.070 relating to license revocations to provide for new license revocations periods subject to conditional reinstatement if the offender participates in the ignition interlock program; amend KRS 189A.085 to require license plate impoundment only during the period that a person's license is revoked; amend KRS 189A.340 to specify the circumstances and timelines during which a license may be conditionally reinstated contingent upon interlock usage and to delineate the terms, conditions, and operation of the ignition interlock program; amend KRS 189A.345 to provide the penalty for operating a vehicle without an interlock when one is required; create a new section of KRS Chapter 189A to establish an ignition interlock assistance fund operated by the Transportation Cabinet for indigent offenders; create a new section of KRS Chapter 189A to allow the Transportation Cabinet to promulgate regulations related to the bill; create a new section of KRS Chapter 189A to allow offenders committing an offense prior to the effective date of the bill to opt to be governed by the bill's provisions; amend KRS 189A.410 to limit the availability of hardship licenses to persons committing offenses prior to the effective date of the bill; amend KRS 186.572 to require the imposition of sufficient points to prohibit full re-licensure with the points being removed only after the offender has been fully compliant with ignition interlock usage for a full 120 day period; amend KRS 189A.090 to conform; amend KRS 189A.050 to require a person convicted of DUI to pay the cost of drawing blood for testing; amend KRS 189A.103 to provide that a DUI suspect shall bear the cost of any additional testing done of the suspect's blood, breath, or urine if the additional testing is done at the request of the suspect and after the testing directed by the arresting officer.

(Prefiled by the sponsor(s).)

BR 356 - Representative Addia Wuchner, Representative Joseph M. Fischer (12/15/11)

AN ACT relating to administrative regulations.

Create a new section of KRS Chapter 13A to delay the effective date of administrative regulations with a major economic impact until the effective date

of legislation ratifying the administrative regulation; amend KRS 13A.010 to define major economic impact; amend KRS 13A.250 to require the fiscal note to include a cost analysis of the administrative regulation's effect on regulated entities and a determination by the promulgating administrative body as to the overall economic impact of the administrative regulation; amend KRS 13A.230, 13A.330, and 13A.331 to conform.

(Prefiled by the sponsor(s).)

BR 358 - Representative Steve Riggs (12/15/11)

AN ACT relating to boards of zoning adjustment.

Amend KRS 100.217 to allow a city of the second class within a county containing a consolidated local government to establish an independent board of zoning adjustment with exclusive jurisdiction within the city's territorial jurisdiction.

(Prefiled by the sponsor(s).)

BR 360 - Representative Darryl T. Owens (12/16/11)

AN ACT relating to mental illness.

Amend KRS 532.130, relating to definitions for criminal case defenses, to define "severely mentally ill defendant"; amend KRS 532.135, relating to defenses in criminal cases, to include a severely mentally ill defendant; amend KRS 532.140, relating to the prohibition against executing a seriously mentally retarded defendant, to prohibit the execution of a severely mentally ill defendant after the effective date of this Act.

(Prefiled by the sponsor(s).)

BR 368 - Representative Keith Hall (10/21/11)

AN ACT relating to the distribution of coal severance tax revenues.

Amend KRS 342.122 to delete language requiring the transfer of funds from coal severance tax receipts to the benefit reserve fund of the Kentucky Worker's Compensation Funding Commission; amend KRS 42.4582, 42.4585, 164.7891, and 164.7890 to conform; repeal KRS 48.112.

(Prefiled by the sponsor(s).)

BR 373 - Representative Jim Wayne (12/15/11)

AN ACT relating to taxation.

Amend KRS 140.130 to decouple from changes to the federal estate tax since 2003; amend KRS 141.010 to provide for a phase-out of the pension exclusion; amend KRS 141.020 to provide for changes to income tax rates and to impose the tax on adjusted gross income; amend KRS 141.081 to conform; amend KRS 141.066 to provide for a refundable earned income

credit; amend KRS 141.0205 to recognize changes in income tax credits; amend KRS 139.200 to impose sales tax on selected services; amend KRS 141.383, 148.544, and 148.546 to make the film industry tax credit nonrefundable and nontransferable; provide that income tax provisions apply for tax years beginning on or after January 1, 2012, estate tax provisions apply for deaths occurring on or after August 1, 2012, and sales tax provisions apply for periods beginning on or after July 1, 2012.

(Prefiled by the sponsor(s).)

BR 375 - Representative John Will Stacy (12/14/11)

AN ACT relating to interpharmacy medication exchange.

Amend KRS 315.191 to define terms; to permit an interpharmacy medication exchange provided that there is a demonstrated immediate business need; and exclude interpharmacy medication exchanges from the definitions for “wholesale distribution” and “wholesale distributor”; amend KRS 315.400 to exclude “interpharmacy medication exchange” from the definition of or “wholesale distributor”.

(Prefiled by the sponsor(s).)

BR 377 - Representative Melvin B. Henley (11/29/11)

A JOINT RESOLUTION designating a section of United State Route 641 in Calloway County as the “Medal of Honor Way.”

Direct the Transportation Cabinet to designate US 641 in Murray as the “Medal of Honor Way” and erect appropriate signs.

(Prefiled by the sponsor(s).)

BR 386 - Representative Melvin B. Henley (11/18/11)

A JOINT RESOLUTION directing the Transportation Cabinet to erect roadside signs in Calloway County identifying the town of Wiswell.

Direct the Transportation Cabinet to erect roadside signs in Calloway County identifying the town of Wiswell.

(Prefiled by the sponsor(s).)

BR 389 - Representative Mike Cherry (12/14/11)

AN ACT relating to retirement.

Amend KRS 6.525 to prohibit members of the Legislators’ Retirement Plan, who begin contributing on or after the effective date of the Act, from using salary earned in another state-administered retirement system or plan to calculate benefits in the Legislators’ Retirement Plan.

(Prefiled by the sponsor(s).)

BR 390 - Representative Wilson Stone (11/09/11)

AN ACT relating to concealed deadly weapons.

Amend KRS 237.138 to delete reference to the 2004 version of the federal Law Enforcement Officer Safety Act, retain reference to the Law Enforcement Officer Safety Act; require Department of Kentucky State Police to promulgate administrative regulations.

(Prefiled by the sponsor(s).)

BR 394 - Senator Perry B. Clark (11/21/11)

ACONCURRENT RESOLUTION urging Congress to enact H.R. 1489, the Return to Prudent Banking Act of 2011, which would reinstate the separation of commercial and investment banking functions that were in effect under the Glass-Steagall Act.

Urge Congress to enact H.R. 1489, the Return to Prudent Banking Act of 2011, to separate commercial and investment banking functions in the manner provided by the Glass-Steagall Act until its repeal in 1999.

(Prefiled by the sponsor(s).)

BR 396 - Representative Brent Yonts (11/18/11)

AN ACT relating to controlled substances, including controlled substance precursors.

Create a new section of KRS Chapter 27A to require the Administrative Office of the Courts to report information relating to defendants convicted of either offenses in KRS Chapter 218A relating to methamphetamine or any crimes relating to the theft of anhydrous ammonia to the Office of Drug Control Policy; create a new section of KRS Chapter 15A to require the Office of Drug Control Policy to institute a Precursor Block List as a part of the Kentucky Electronic Methamphetamine Precursor Tracking system to prohibit persons convicted of offenses stated above from purchasing ephedrine, pseudoephedrine, and phenylpropanolamine for not less than five years following conviction; amend KRS 218A.1437 relating to possession of methamphetamine precursors to reduce amount that may be possessed from 9 grams to 7 1/2 grams before a prima facie case is created; create a new section of KRS Chapter 218A to permit persons prohibited from purchasing methamphetamine precursors to possess them under a prescription; amend KRS 218A.1446 to encourage retail dispensers to post signage warning of prohibitions relating to ephedrine, pseudoephedrine, and phenylpropanolamine and to create a yearly 60 gram cap for the purchase of these products; amend KRS 218A.1438 to add an affirmative defense and make a technical correction; create a new section of KRS Chapter 439 to require the Parole Board to order the parolee to participate in the Precursor Block List and to refrain from purchasing methamphetamine precursors for five years after release from parole;

create a new section of KRS Chapter 533 to place a defendant on probation, home incarceration, or conditional discharge on the Precursor Block List for five years; provide that the act may be known as the Cheyenne Albro Combat Methamphetamine Act.

(Prefiled by the sponsor(s).)

BR 397 - Representative Dwight D. Butler (12/08/11)

AN ACT relating to Purple Heart motor vehicle license plates.

Amend KRS 186.166 to require the design of the Purple Heart license plate include a picture of the Purple Heart medal and the words “Combat Wounded”; specify that the design changes take effect at the next replating of the Purple Heart plate.

(Prefiled by the sponsor(s).)

BR 398 - Representative Will Coursey (12/16/11)

AN ACT relating to income tax.

Amend KRS 141.010 and create a new section of KRS Chapter 141 to provide a deduction to health care providers for charitable health care services.

(Prefiled by the sponsor(s).)

BR 399 - Representative Adam Koenig (12/09/11)

AN ACT relating to the minimum age requirements for mayors and members of local legislative bodies and councils.

Amend KRS 67C.103, 67C.105, and 83A.040 to lower the age at which a person is eligible to hold the office of council member or mayor to 18 years of age.

(Prefiled by the sponsor(s).)

BR 400 - Senator Dennis Parrett (11/15/11)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators’ Retirement Plan to new participants effective August 1, 2012; amend KRS 6.515 to increase the cost of purchasing active duty military service to the full actuarial cost in the Legislators’ Retirement Plan, to prohibit service purchases made on or after August 1, 2012, from being used to vest for retiree health benefits in the Legislators’ Retirement Plan, and to require service purchased on or after August 1, 2012, in the Legislators’ Retirement Plan to assume the earliest retirement date and cost-of-living adjustments in determining the appropriate actuarial cost; amend KRS 6.525 to prohibit salary earned in another state administered system from being used to determine benefits in the Legislators’ Retirement Plan if the member does not have service in the other state-administered retirement systems prior to August 1, 2012; amend KRS 61.680 to conform and to make technical

amendments; EFFECTIVE August 1, 2012.

(Prefiled by the sponsor(s).)

BR 401 - Representative Linda Belcher (11/09/11)

AN ACT relating to incestuous relationships.

Amend KRS 530.020 relating to incest to include step-grandparent and step-grandchild within the prohibited relationships.

(Prefiled by the sponsor(s).)

BR 403 - Representative Linda Belcher (11/17/11)

AN ACT relating to drugs.

Amend KRS 217.015 to include drugs containing non-liquid ephedrine, pseudoephedrine, or phenylpropanolamine within the definition of a legend drug; amend KRS 217.182 to limit the amount of ephedrine-, pseudoephedrine-, or phenylpropanolamine-based legend drugs available within any one-month period and to exempt drug products obtained lawfully elsewhere within certain limits; amend KRS 218A.202 to include ephedrine-, pseudoephedrine-, or phenylpropanolamine-based legend drugs within the coverage of Kentucky’s prescription monitoring system; sunset provisions on the effective date for legislation enacted by the 2015 General Assembly.

(Prefiled by the sponsor(s).)

BR 409 - Representative Brent Housman (12/16/11)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators’ Retirement Plan to legislators who have not previously participated in the plan and who begin their first term of office on or after August 1, 2012; amend KRS 6.525 to prohibit salary earned in another state-administered system from being used to determine benefits in the Legislators’ Retirement Plan if the member does not have service in the other state-administered retirement systems prior to August 1, 2012; create new sections of KRS Chapter 6 to establish the Legislators’ Defined Contribution Plan for legislators who begin their first term of office on or after August 1, 2012; provide that the plan shall be administered by the Kentucky Deferred Compensation Authority; allow the authority to utilize plans already established or to establish new plans to administer the Legislators’ Defined Contribution Plan; provide an employer match of up to five percent of the legislator’s wages; provide that a legislator participating in the plan shall be vested for employer contributions on a sliding scale that fully vests the legislator for the employer contributions at six years; provide that the benefits under the Legislators’ Defined Contribution Plan shall not constitute an inviolable contract of the Commonwealth; amend KRS 18A.245

to establish responsibilities of the board of the Kentucky Deferred Compensation Authority to administer the Legislators' Defined Contribution Plan; amend KRS 61.510, governing the Kentucky Retirement Systems, to clarify that a legislator who begin his or her first term of office on or after August 1, 2012, shall not participate in these plans as a result of service in the General Assembly.

(Prefiled by the sponsor(s).)

BR 410 - Representative Wilson Stone (11/16/11)

AN ACT relating to economic development.
Amends KRS 154.32-090 to allow for a local jurisdiction that imposes an occupational license fee to request a waiver from the KY Economic Development Finance Authority to offer alternative inducements.

(Prefiled by the sponsor(s).)

BR 411 - Representative Fitz Steele (12/15/11)

A JOINT RESOLUTION designating the bridge between Lawnvale and Loyall on Kentucky Route 840 in Harlan County as the "Moo Cow Curve Memorial Bridge."

Direct the Transportation Cabinet to designate the bridge located on Kentucky Route 840 in Harlan County between Lawnvale and Loyall as the "Moo Cow Curve Memorial Bridge" and to erect the appropriate signage denoting this designation.

(Prefiled by the sponsor(s).)

BR 412 - Representative Tanya Pullin, Representative Derrick Graham (11/09/11)

AN ACT relating to promotional increments for state employees.

Amend KRS 18A.110 to allow the secretary of the Personnel Cabinet to approve the salary of a full-time state employee with status who is promoted or reclassified to a higher pay grade to the same salary level that would be available to new appointments in that grade.

(Prefiled by the sponsor(s).)

BR 414 - Senator Damon Thayer (12/06/11)

A JOINT RESOLUTION naming the bridge on United States Route 25 between Williamstown and Kentucky Route 36 in honor and memory of John D. Risen.

Direct the Transportation Cabinet to designate the bridge on U.S. Route 25 between Williamstown and Kentucky Route 36 as the John D. Risen Memorial Bridge and to erect signs denoting this designation.

(Prefiled by the sponsor(s).)

BR 421 - Representative Keith Hall

(12/16/11)

A RESOLUTION urging the Kentucky General Assembly to adequately fund higher education to promote affordability for all students.

Urge the General Assembly to make every effort to keep postsecondary education affordable through adequate funding.

(Prefiled by the sponsor(s).)

BR 429 - Representative Keith Hall (12/16/11)

AN ACT relating to postsecondary education affordability.

Amend KRS 164.001 to define "affordability," as it relates to the attainment of a postsecondary undergraduate degree by Kentucky students; amend KRS 164.020 to require the Council on Postsecondary Education to include an assessment of affordability in its annual status report; amend KRS 15.257, 164.2843, and 164.465 to conform.

(Prefiled by the sponsor(s).)

BR 430 - Representative Carl Rollins II (12/16/11)

AN ACT relating to green cleaning products in schools.

Create a new section of KRS Chapter 162 to provide rationale for the use of green cleaning products in schools; define "cleaning product" and "green cleaning products"; require the Kentucky Department of Education to consult with the Department for Environmental Protection and the Kentucky Chapter of the U. S. Green Building Council in promoting green cleaning programs in schools; specify information to be disseminated to school districts; require publication of lists of districts implementing green cleaning programs; name the section the "Green Cleaning Schools Act."

(Prefiled by the sponsor(s).)

BR 432 - Representative Linda Belcher (12/08/11)

AN ACT relating to coroners.

Amend KRS 72.450 to allow a coroner in any county who is in possession of an unclaimed body to elect to cremate certain unclaimed bodies, in lieu of burial, provided no inquest has been held or is intended to be held or there is no reason to believe the body will be needed as evidence in any criminal matter.

(Prefiled by the sponsor(s).)

BR 433 - Representative Linda Belcher (11/29/11)

AN ACT relating to digital citizenship.

Amend KRS 156.660 to define "digital citizenship" as a set of characteristics that conceptualize the rewards as well as risks facing all technology users; set forth the characteristics; amend KRS 156.675 to

require the Kentucky Board of Education to promulgate administrative regulations to require that each local school board implement an acceptable use policy that requires all school district employees who use technology to comply with the policy which shall include the characteristics of digital citizenship; amend KRS 156.095 to include technology and the characteristics of digital citizenship in the professional development activities which shall be provided for teachers; and amend KRS 158.148 to require local school districts to include in their student behavior codes behavior as it relates to being a good digital citizen.

(Prefiled by the sponsor(s).)

BR 434 - Representative Linda Belcher (11/29/11)

AN ACT relating to domestic relations.

Amend KRS 403.135 to permit the inclusion of a minor child's name in a domestic relations proceeding.

(Prefiled by the sponsor(s).)

BR 435 - Senator Tim Shaughnessy (12/07/11)

AN ACT relating to governance responsibilities in postsecondary education.

Create new sections of KRS Chapter 164 to specify the common governance responsibilities of all boards of trustees and boards of regents of the Commonwealth's public postsecondary institutions; require each public university to submit to the Council on Postsecondary Education a plan to increase the number of students earning a bachelor's degree; require the council to collect specific data on each freshman and transfer student entering each university and thereafter track students until degree completion; report annually to the Legislative Research Commission on the number of students who complete bachelor's degrees and the average time to degree completion for full-time and part-time students; report to the Interim Joint Committee on Education annually on an institutional profile for each university and a composite system profile which provides current and six-year trends on a variety of student and institutional measures; require the board of trustees or regents of each public university to include bachelor's degree completion data trends as part of the annual evaluation of the institutional president; require the University of Kentucky and the University of Louisville to play each other in football and men's basketball each year.

(Prefiled by the sponsor(s).)

BR 438 - Representative C. B. Embry Jr. (11/30/11)

AN ACT relating to training about complex regional pain syndrome.

Amend KRS 314.073 to require

all nurses who are licensed and practicing on the effective date of this Act to receive one hour of training concerning the recognition and treatment of complex regional pain syndrome, also known as reflex sympathetic dystrophy by December 31, 2014; require all nurses licensed after the effective date of this Act to complete training concerning complex regional pain syndrome within their first three years of practice.

(Prefiled by the sponsor(s).)

BR 439 - Representative Jim Glenn (12/07/11)

AN ACT relating to research and making an appropriation therefor.

Amend KRS 48.705 to annually remove one percent of the balance in the budget reserve trust fund to be divided equally between the Kentucky alternative fuel and renewable energy fund, the rural development fund, and the water quality account of the infrastructure revolving fund, to be used for research and development; create a new section of KRS 152.00-710 to 152.00-725 to establish the alternative fuel research trust fund; amend KRS 224.1-200 to establish the water quality account; amend KRS 248.655 to establish the agricultural production research account.

(Prefiled by the sponsor(s).)

BR 441 - Representative Mike Denham (12/05/11)

AN ACT relating to dental care benefit plans.

Create a new section of Subtitle 17C of KRS Chapter 304 to define "covered services" and "dental plan"; provide that a dental plan shall not require a participating dentist to provide noncovered services at a fee set by or subject to the dental plan; provide that a third-party administrator for a dental plan shall not make available any providers in its dentist network that sets dental fees for any noncovered services; provide that the penalties in KRS 304.99-010 shall apply to any violation of this section.

(Prefiled by the sponsor(s).)

BR 442 - Representative Rick G. Nelson (11/22/11)

AN ACT relating to electricians.

Amend KRS 227A.100 to require biennial rather than annual renewal of electrician and electrical contractor licenses; establish biennial license renewal on or before the last day of the licensee's birth month in each odd-numbered year; amend the level of continuing education from 6 to 12 to reflect the change to the biennial renewal; EFFECTIVE January 1, 2013.

(Prefiled by the sponsor(s).)

BR 448 - Representative Sara Beth Gregory (12/09/11)

AN ACT relating to personal watercraft.

Amend KRS 235.285 to clarify that the Rules of the Road for personal watercraft are part of the Inland Navigation Rules and provide specific citation for those rules.

(Prefiled by the sponsor(s).)

BR 449 - Senator Julie Denton (11/28/11)

AN ACT proposing to amend Section 99 of the Constitution of Kentucky relating to the office of Constable.

Propose to amend Section 99 of the Constitution of Kentucky to abolish the office of Constable; submit to the voters of the Commonwealth for approval or disapproval.

(Prefiled by the sponsor(s).)

BR 455 - Representative Jeff Hoover (12/16/11)

AN ACT relating to gubernatorial elections.

Create new sections in KRS Chapter 118 to require a candidate for Governor to select a running mate in a slate of candidates after filing a certificate or petition of nomination and not later than the second Tuesday in August preceding the regular election for the office of Governor; establish a procedure to follow if a vacancy occurs in a candidacy for the office of Lieutenant Governor; amend KRS 121.015 to redefine "slate of candidates"; amend KRS 117.275, 118.025, 118.125, 118.245, 120.055, 120.095, and 121.170 to conform; repeal KRS 118.127 and 118.227.

(Prefiled by the sponsor(s).)

BR 459 - Representative Kevin D Bratcher (12/16/11)

AN ACT relating to limitation of actions.

Create a new section of KRS Chapter 426 to provide that actions to recover deficiency judgments resulting from foreclosure proceedings must be brought within 2 years of the foreclosure sale and establish procedure for determining fair market value of property; amend KRS 413.120 to include actions to recover monetary obligations arising from consumer loans, excluding loans secured by real property and loans for educational expenses; amend KRS 413.090 to conform.

(Prefiled by the sponsor(s).)

BR 466 - Representative Leslie Combs (12/16/11)

AN ACT relating to gas pipeline safety.

Amend KRS 278.992 to delete the \$25,000 maximum penalty and replace with civil penalties contained in federal code; make technical corrections.

(Prefiled by the sponsor(s).)

BR 467 - Representative Leslie Combs (12/09/11)

AN ACT relating to a power of attorney.

Amend KRS 386.093 to provide that an attorney in fact, appointed under a power of attorney, shall not have the right to waive the principal's civil or constitutional rights or restrict the principal's freedom.

(Prefiled by the sponsor(s).)

BR 474 - Senator John Schickel (12/15/11)

A RESOLUTION honoring Circuit Judge Anthony W. Frohlich.

Honor Kenton Circuit Judge Anthony W. Frohlich for being named 2011 Circuit Judge of the Year by the Kentucky Justice Association.

(Prefiled by the sponsor(s).)

BR 475 - Representative Rick G. Nelson (12/08/11)

AN ACT relating to fraud prevention in the use of food stamps.

Amend KRS 205.200 to require that an applicant for benefits under the food stamp program show a government-issued photo ID card at the initial interview to determine eligibility; create a new section of KRS Chapter 205 to require retail establishments to require a government-issued photo ID card before accepting payment from a food stamp enrollee using a food stamp card; create a new section of KRS Chapter 205 to require retail establishments to display a sign containing the address and phone number of the fraud abuse hotline; amend KRS 205.990 to require that retail establishments that fail to comply with the requirement to request ID shall be fined \$500 for the first offense and \$1,000 for each subsequent offense; create a fine for retail establishments that fail to display the fraud abuse hotline of \$100 for the first offense and \$250 for each subsequent offense; give the Cabinet for Health and Family Services authority to revoke the food stamp privileges of retail establishments that do not comply.

(Prefiled by the sponsor(s).)

BR 481 - Representative Ron Crimm (12/12/11)

AN ACT relating to slow-moving vehicles.

Amend KRS 189.050 to provide an alternate lighting system for motorless vehicle operated on a highway at night; amend KRS 189.820 to provide for an alternative means of marking motorless, slow-moving vehicles with reflective tape rather than using the slow-moving vehicle emblem; amend KRS 189.830 to conform.

(Prefiled by the sponsor(s).)

BR 484 - Representative Rick G. Nelson (12/09/11)

A JOINT RESOLUTION designating Kentucky Route 215 in Harlan County as the "Coach Earl Rogers Highway."

Direct the Transportation Cabinet to designate Kentucky Route 215 in Harlan County as the "Coach Earl Rogers Highway," and to erect the appropriate signage.

(Prefiled by the sponsor(s).)

BR 485 - Representative Rick G. Nelson (12/09/11)

A RESOLUTION urging CSX corporate officials to require the maintenance of all CSX railroad crossings located in the Commonwealth.

Urge CSX corporate officials to require the maintenance of all CSX railroad crossings located in the Commonwealth.

(Prefiled by the sponsor(s).)

BR 487 - Representative Robert R. Damron (12/16/11)

AN ACT relating to unclaimed life insurance benefits.

Create a new section of Subtitle 15 of KRS Chapter 304 requiring insurers to compare in-force life insurance policies against the Death Master File to determine potential matches of their insureds; require escheat of policy proceeds after the expiration of the fee statutory time period only if no claim for the policy's proceeds has been made and if good faith efforts to contact the retained asset holder and any beneficiary are unsuccessful.

(Prefiled by the sponsor(s).)

BR 495 - Representative David Floyd (12/15/11)

AN ACT relating to certified mail.
Amend KRS 446.010 to define "certified mail."

(Prefiled by the sponsor(s).)

BR 801 - Representative Kevin Sinnette (12/15/11)

AN ACT relating to child pornography.

Amend KRS 531.335 to criminalize the intentional viewing of child pornography.

(Prefiled by the sponsor(s).)

BR 802 - Representative Fitz Steele (12/08/11)

A CONCURRENT RESOLUTION expressing concern about the Office of Surface Mining Reclamation and Enforcement's stream protection rule.

Express concern about the scope, justification and substance of the United States Office of Surface Mining Reclamation and Enforcement's stream protection rule; recommend that the agency provide objective and scientific data to determine whether regulatory changes are

necessary; urge the Representatives and Senators representing Kentucky in the U.S. Congress to withhold funds from the agency enforcing the stream protection rule until justification is provided.

(Prefiled by the sponsor(s).)

BR 804 - Representative Arnold Simpson (12/16/11)

AN ACT relating to criminal record expungement.

Create a new section of KRS Chapter 431 to allow a felony record to be expunged under specified circumstances; amend KRS 431.078, relating to misdemeanor expungement, to begin the five-year waiting period from the date of adjudication of the offense; amend KRS 527.040, relating to possession of a firearm by a felon, to exempt individuals who have had their felony records expunged; create a new section of KRS Chapter 431 to require the Administrative Office of the Courts to keep a confidential index of expungement orders for the preparation of presentence investigations.

(Prefiled by the sponsor(s).)

BR 807 - Representative Jesse Crenshaw (12/09/11)

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 allow persons convicted of a felony other than treason, intentional killing, a sex crime, or bribery the right to vote after 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 813 - Representative Keith Hall (12/16/11)

AN ACT relating to motor vehicle insurance.

Amend KRS 186A.040, regarding maintenance of motor vehicle insurance, to change from three to one as the number of times a person may have their vehicle registration revoked for not maintaining insurance, before the revocation constitutes a violation of KRS 304.39-080; amend KRS 186.180 to set the reinstatement fee for a revoked license at \$20.

(Prefiled by the sponsor(s).)

BR 814 - Senator Jimmy Higdon (12/16/11)

AN ACT relating to compulsory school age.

Amend KRS 159.010 to provide that effective July 1, 2016, compulsory school attendance shall be between the ages of six and seventeen; provide that effective July 1, 2017, compulsory school attendance shall be between the ages

of six and eighteen; until July 1, 2017, permit parents to withdraw from school a child under the age of eighteen, under certain conditions; amend KRS 159.020 to conform.

(Prefiled by the sponsor(s).)

BR 816 - Representative John Will Stacy (12/16/11)

AN ACT relating to sales and use tax.

Amend KRS 139.480 to exempt bees used in a commercial enterprise for the production of honey or wax for sale and certain items used in that pursuit; EFFECTIVE August 1, 2012.

(Prefiled by the sponsor(s).)

BR 817 - Representative Kevin D Bratcher (12/15/11)

A RESOLUTION nominating Staff Sergeant George Elmer Larkin, Jr. to the Kentucky Aviation Hall of Fame.

Nominate Sgt. George E. Larkin, Jr. to the Kentucky Aviation Hall of Fame. (Prefiled by the sponsor(s).)

BR 821 - Senator Damon Thayer (12/16/11)

AN ACT proposing to amend Sections 53, 91, 93, 95, and 245 of the Constitution of Kentucky relating to the Treasurer.

Propose to amend Sections 53, 91, 93, 95, and 245 of the Constitution of Kentucky to abolish the office of Treasurer; submit to the voters for their approval or disapproval.

(Prefiled by the sponsor(s).)

BR 829 - Representative Jim Glenn (12/15/11)

A JOINT RESOLUTION authorizing and directing a study of the feasibility of a job sharing program for state employees.

Direct the Personnel Cabinet to study the feasibility of a job sharing program for state employees; require report to be submitted to the Legislative Research Commission on or before December 31, 2012.

(Prefiled by the sponsor(s).)

BR 834 - Representative Johnny Bell (12/15/11)

AN ACT relating to slow-moving vehicles.

Amend KRS 189.820 to provide for an alternative means of marking motorless, slow-moving vehicles with reflective tape rather than using the slow-moving vehicle emblem; amend KRS 189.830 to conform.

(Prefiled by the sponsor(s).)

BR 842 - Representative Mike Denham (12/16/11)

AN ACT relating to sales and use tax and declaring an emergency.

Amend KRS 139.496, relating to sales and use taxes, to exempt the first \$20,000 in sales made in any calendar year by nonprofit, civic, governmental, or other nonprofit organizations, effective May 1, 2010; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 843 - Representative Julie Raque Adams (12/15/11)

AN ACT relating to Medicaid.

Create a new section of KRS Chapter 205 to permit an enrollee in a home and community based services waiver program to make a direct purchase of all necessary medical devices, equipment, and supplies; require the Cabinet for Health and Family Services to promulgate an administrative regulation to implement the section.

(Prefiled by the sponsor(s).)

BR 848 - Representative John Short (12/16/11)

A JOINT RESOLUTION naming several roads in Magoffin County.

Direct the Transportation Cabinet to name several roads in Magoffin County.

(Prefiled by the sponsor(s).)

BR 852 - Representative Johnny Bell, Representative Will Coursey (12/16/11)

AN ACT relating to the taxation of watercraft and declaring an emergency.

Amend KRS 136.1802 to allow for an alternative apportionment method if the statutory method does not adequately reflect the use of watercraft by a company in this state.

(Prefiled by the sponsor(s).)

BR 862 - Representative Keith Hall (12/16/11)

AN ACT relating to pawnbrokers.

Create new sections of KRS Chapter 226 to require pawnbrokers to create and maintain a register when acquiring precious metals or gemstones; to establish timeframes for holding precious metals and gemstones before such item may be sold, altered, or otherwise disposed of; require criminal background check of persons selling or pawning precious metals or gemstones; and require pawnbrokers to establish a publicly accessible website and post pictures of precious metal or gemstones acquired; amend KRS 226.030 to prohibit a pawnbroker from acquiring precious metals or gemstones from convicted felons; amend KRS 226.990 to provide that, in addition to other penalties, a pawnbroker who acquires or disposes of precious metals or gemstones in violation of KRS Chapter 226 shall be liable to the rightful owner of precious metals or gemstones that have been timely reported as being stolen.

(Prefiled by the sponsor(s).)

BR 880 - Representative Richard Henderson (12/16/11)

AN ACT relating to the protection of disabled children.

Create a new section of KRS Chapter 382 to allow a homeowner to alter or construct a structure on his or her property for the accommodation or therapy of a disabled child, notwithstanding any private property restrictions to the contrary, if the construction or alteration is made upon the advice of a physician and otherwise complies with local, state, and federal law; EMERGENCY.

(Prefiled by the sponsor(s).)

BRs by Sponsor

* - denotes primary sponsorship of BRs

Senate

Buford, Tom
BR19*, 268*
Clark, Perry B.
BR394*
Denton, Julie
BR449*
Harper Angel, Denise
BR87*, 119*, 165*, 166*
Higdon, Jimmy
BR57*, 145*, 149*, 151*, 152*, 188*, 234*, 240*, 814*
Jensen, Tom
BR101*
Jones II, Ray S.
BR11*, 41*, 162*
Palmer II, R.J.
BR156*, 205*
Parrett, Dennis
BR104*, 105*, 400*
Pendleton, Joey
BR201*
BR261*
Schickel, John
BR62*
BR112*, 131*, 132*
BR175*, 276*, 294*, 347*
BR474*
Shaughnessy, Tim
BR435*
Thayer, Damon
BR68*
BR414*
BR821*
Webb, Robin L.
BR254*
Westwood, Jack
BR159*, 160*, 320*

House

Adams, Julie Raque
BR91*, 340*, 843*
Belcher, Linda
BR245*, 281*, 282*, 283*, 284*, 401*, 403*, 432*, 433*, 434*
Bell, Johnny
BR207*, 834*, 852*
Bratcher, Kevin D
BR459*
BR817*

Burch, Tom
BR14*, 158*
Butler, Dwight D.
BR233*, 397*
Cherry, Mike
BR224*, 389*
Clark, Larry
BR111
Combs, Leslie
BR114*
BR336*, 466*, 467*
Coursey, Will
BR398*, 852*
Crenshaw, Jesse
BR807*
Crimm, Ron
BR31*, 48*, 120*, 121*, 122*, 123*, 323*, 481*
Damron, Robert R.
BR4*, 487*
DeCesare, Jim
BR88*
Denham, Mike
BR441*, 842*
DeWeese, Bob M.
BR275
Embry Jr., C. B.
BR349*, 438*
Farmer, Bill
BR141*, 236*
Fischer, Joseph M.
BR46*, 356*
Flood, Kelly
BR193*
Floyd, David
BR153*, 495*
Glenn, Jim
BR275*, 439*
BR829*
Graham, Derrick
BR23*, 412
Gregory, Sara Beth
BR204*, 448*
Hall, Keith
BR368*
BR421*
BR429*, 813*, 862*
Harmon, Mike
BR264*, 327*
Henderson, Richard
BR111*, 154*, 880*
Henley, Melvin B.
BR8*, 22*, 108*
BR377*, 386*
Hoover, Jeff
BR236*, 324*, 455*
Horlander, Dennis
BR111, 237*
Housman, Brent
BR409*
Jenkins, Joni L.
BR30*
Keene, Dennis
BR111, 214*, 239*, 350*
Kerr, Thomas
BR157*, 341*
King, Kim
BR329*
BR330*
King, Martha Jane
BR233*
Koenig, Adam
BR217*, 218*, 219*
BR221*

BR222* , 399*	Appropriations	Environment and Conservation	Public Medical Assistance
Lee, Stan	Arbitration	Ethics	Public Officers and Employees
BR37* , 53*	Archives and Records	Federal Laws and Regulations	Public Records and Reports
Mayfield, Donna	Athletics	Fees	Public Safety
BR91*	Attorney General	Fiduciaries	Public Salaries
Mills, Terry	Attorney, County	Financial Responsibility	Public Utilities
BR272*	Attorneys	Firearms and Weapons	Public Works
Montell, Brad	Auditor of Public Accounts	Firefighters and Fire Departments	Purchasing
BR58* , 116* , 117* , 300*	Audits and Auditors	Fish and Wildlife	Racing
Napier, Lonnie	Banks and Financial Institutions	Foods	Railroads
BR63*	Boats and Boating	Forests and Forestry	Real Estate
Nelson, Rick G.	Bonds, Public	Fuel	Reproductive Issues
BR77* , 248* , 442* , 475*	Budget and Financial Administration	Gambling	Retirement and Pensions
BR484*	Campaign Finance	General Assembly	Safety
BR485*	Cemeteries and Burials	Governor	Sales
Nemes, Michael J.	Charitable Organizations and Institutions	Guardians	Science and Technology
BR189* , 246*	Children and Minors	Health and Medical Services	Secretary of State
Nesler, Fred	Circuit Clerks	Highways, Streets, and Bridges	Securities
BR344*	Cities	Hospitals and Nursing Homes	Sheriffs
Overly, Sannie	Cities, Second Class	Hotels and Motels	Small Business
BR9*	Civil Actions	Housing, Building, and Construction	Special Districts
Owens, Darryl T.	Civil Procedure	Immigration	State Agencies
BR185* , 267* , 286* , 360*	Civil Rights	Insurance	State Employees
Palumbo, Ruth Ann	Claims	Insurance, Health	State Symbols and Emblems
BR125*	Coal	Insurance, Motor Vehicle	Statutes
Pullin, Tanya	Collective Bargaining	Interstate Cooperation	Studies Directed
BR106* , 412*	Commendations and Recognitions	Jails and Jailers	Substance Abuse
Richards, Jody	Commerce	Judges and Court Commissioners	Surface Mining
BR328*	Communications	Junkyards	Taxation
Riggs, Steve	Consolidated Local Governments	Labor and Industry	Taxation, Income--Corporate
BR358*	Constables	Land Use	Taxation, Income--Individual
Rollins II, Carl	Constitution, Ky.	Legislative Research Commission	Taxation, Inheritance and Estate
BR18* , 75* , 76* , 78* , 430*	Consumer Affairs	Libraries	Taxation, Property
Short, John	Contracts	Licensing	Taxation, Sales and Use
BR848*	Coroners	Liens	Taxation, Severance
Simpson, Arnold	Corrections and Correctional Facilities, State	Lieutenant Governor	Teachers
BR259* , 322* , 804*	Counties	Loans and Credit	Technical Corrections
Sinnette, Kevin	Counties of 75,000 or More	Local Government	Tourism
BR197* , 209* , 801*	Counties, Urban	Medicaid	Trade Practices and Retailing
Smart, Rita	County Clerks	Memorials	Traffic Safety
BR50*	County Judge/Executives	Men	Transportation
Stacy, John Will	Court, Supreme	Mental Disability	Treasurer
BR71* , 210* , 375* , 816*	Courts	Mental Health	Unemployment Compensation
Steele, Fitz	Courts, Circuit	Military Affairs and Civil Defense	Unified Local Governments
BR74* , 79* , 306* , 307*	Courts, District	Minerals and Mining	United States
BR315*	Courts, Family	Motor Carriers	Universities and Colleges
BR316*	Courts, Fiscal	Motor Vehicles	Veterans' Affairs
BR411*	Crime Victims	News Media	Waste Management
BR802*	Crimes and Punishments	Noise Control	Water Supply
Stone, Wilson	Criminal Procedure	Notices	Waterways and Dams
BR390* , 410*	Dairying and Milk Marketing	Nuisances	Wills and Estates
Wayne, Jim	Data Processing	Nurses	Wines and Wineries
BR173* , 211* , 373*	Deaths	Obscenity and Pornography	Women
Webb-Edgington, Alecia	Deeds and Conveyances	Occupations and Professions	Workers' Compensation
BR135* , 136* , 325*	Disabilities and the Disabled	Oil and Natural Gas	
Westrom, Susan	Disasters	Parental Rights	
BR83*	Diseases	Parks and Shrines	
Wuchner, Addia	Distilled Spirits	Peace Officers and Law Enforcement	
BR356*	Domestic Relations	Personnel and Employment	
Yonts, Brent	Drugs and Medicines	Pharmacists	
BR84* , 85* , 396*	Economic Development	Physicians and Practitioners	
	Education, Elementary and Secondary	Planning and Zoning	
	Education, Finance	Police, City and County	
	Education, Higher	Police, State	
	Education, Vocational	Pollution	
	Effective Dates, Delayed	Popular Names and Short Titles	
	Effective Dates, Emergency	Poverty	
	Effective Dates, Retroactive	Probation and Parole	
	Elections and Voting	Property	
	Electricians	Public Advocate	
	Embalmers and Funeral Directors	Public Assistance	
	Emergency Medical Services	Public Buildings and Grounds	
	Energy	Public Ethics	
		Public Health	

Index Headings		
Administrative Proceedings	Regulations	and
Advertising		
Aeronautics and Aviation		
Aged Persons and Aging		
Agriculture		
Alcoholic Beverages		
Alcoholism		
Amusements and Recreation		
Animals, Livestock, and Poultry		

BR Index	
Administrative Regulations and Proceedings	
Casino gaming - BR246	
Delayed effective date for administrative regulations with major economic impact, establishment of - BR356	
Kentucky	
Board of Education, districts of innovation, implementation - BR76	
Board of Education, high school technology diploma, requirements for - BR85	
Board of Education, personnel evaluation system - BR75	
Board of Education, students with disabilities, alternative diploma for -	

BR104
Medical imaging and radiation therapy board, promulgation of administrative regulations by - BR210
State Police to promulgate administrative regulations for LEOSA update - BR390

Advertising

Catfish, labeling of, requirements for - BR344
Pawnbrokers, precious metals and gemstones - BR862
School buses, commercial advertising on - BR272
buses, restrictions on advertising - BR272
Unsolicited advertising, littering, penalty for - BR239

Aeronautics and Aviation

Airport noise overlay district - BR173
Larkin, Jr. Sgt. George E., nomination to Kentucky Aviation Hall of Fame - BR817

Aged Persons and Aging

Felony offenders, prohibition of employment of - BR19
Long term care employment applicants, fingerprint checks - BR87
Medicaid waiver enrollees, medical supplies, direct purchase of - BR843
Search for lost person with a disability, procedures - BR300

Agriculture

Business permit, license, or credential, employment of unauthorized aliens, grounds for nonissuance - BR53
Catfish, labeling of, requirements for - BR344
Farmstays, definition of - BR50
Industrial hemp, licensing and growing of - BR261
Motorless vehicles, alternate lighting and marking requirements - BR481
vehicles, alternate reflective marking requirements - BR834
Raw milk, sales of at farm location - BR294
Research, agricultural, funding for - BR439

Alcoholic Beverages

DUI, ignition interlock device, utilization of - BR350
Restaurants, retail drink license requirement - BR175
Shock probation, prohibit, DUI death - BR320

Alcoholism

DUI, ignition interlock device, utilization of - BR350
Shock probation, prohibit, DUI death - BR320

Amusements and Recreation

Casino gaming, licensing of - BR214
gaming, provisions for - BR246
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189
Tourismdevelopmentprojects, employment and wage requirements - BR185

Animals, Livestock, and Poultry

Catfish, labeling of, requirements for - BR344
Farmstays, farm animal activity sponsor, inclusion under definition for - BR50
Raw milk, sales of at farm location - BR294

Appropriations

Budget reserve trust fund, appropriation of funds from - BR439
Colon Cancer Screening Program, funding for - BR275
Local health departments, appropriate proceeds of NASCAR license plates to - BR156
Postsecondary education funding, urge budget priority of - BR421
Roll call vote in House, rule for - BR329
call vote, requirement for - BR330
Share of casino admissions tax to county - BR246
Stale check claims, presentation to General Assembly annually - BR83
Veterans Personal Loan Program, provide funding for - BR154

Arbitration

Agreements to arbitrate, enforceability of - BR207

Archives and Records

Dissolution of marriage electronic forms, requirement for - BR254

Athletics

NASCAR special license plates, establish - BR156
University of Kentucky and University of Louisville, annual football and basketball, games between - BR435

Attorney General

Database of employers using e-verify and employers hiring illegal aliens, maintain - BR58
Kentucky Computer Decency Act, enforcement of - BR71

Attorney, County

Juvenile status offense actions, requirements and prohibitions - BR193
Juvenile, age of criminal responsibility - BR267

Attorneys

Motor vehicle repairation benefits, authority to direct payment - BR209

Auditor of Public Accounts

Kentucky Personnel Board, distribution to, state agency audits - BR14

Audits and Auditors

State agency audits, improper financial handling, reports of - BR14

Banks and Financial Institutions

Foreclosure and deficiency judgments, time for bringing action - BR459
Return to Prudent Banking Act of 2011, urge Congress to enact - BR394
Trusts and estates, administration of, probate matters - BR341

Boats and Boating

Personal watercraft, inland navigation rules, citation for - BR448
Watercraft taxation, allow for alternative apportionment - BR852

Bonds, Public

Refunding transactions, direct deposit of proceeds - BR4

Budget and Financial Administration

Budget reserve trust fund, appropriation of funds from - BR439
Kentucky Constitution, establish debt limitations - BR264
Postsecondary education funding, urge budget priority of - BR421
Refunding transactions, direct deposit of proceeds - BR4
Roll call vote in House, rule for - BR329
call vote, requirement for - BR330

Campaign Finance

Electronic filing of reports by statewide candidates, slates, and their committees - BR224
Governor and Lieutenant Governor, no contribution from legislative agent - BR327
Legislative ethics, changes to code - BR324
Public financing for judicial campaigns, program for - BR211

Cemeteries and Burials

Funeral expenses for Confederate veterans, provision of repeal - BR222
Unclaimed body, cremation of - BR432

Charitable Organizations and Institutions

Trusts and estates, administration of, probate matters - BR341

Children and Minors

Body mass index, preventative health care examination forms, require on - BR165
Charter school, enrollment in - BR117
Child pornography, viewing of - BR801
Compulsory school age, increase to age eighteen - BR814
Criminal conduct, age of responsibility - BR267
Dextromethorphan, possession and retail sale, prohibition - BR306
Disabled children, homeowner rights in relation to - BR880
Domestic relations, personal identifiers - BR434
Education programs, career and technical education - BR84; BR159; BR245
Failure to report missing child - BR111; BR119
Foster children, tuition waived - BR283
Juvenile status offense actions, requirements and prohibitions - BR193
Missing minor 12 or under, duty to report - BR162
Physical activity of school children, assessment of - BR281
Report of dead child, increased penalty, report of missing child, creation of offense - BR108
School, entrance age for - BR152
Search for lost person with a disability, procedures - BR300

Circuit Clerks

Operator's licenses and personal identification cards, permit veteran designation on - BR62; BR74
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396

Cities

Cities of the fourth class or greater with track, casino gaming provisions - BR214
Council and mayoral positions, minimum age requirement, lower - BR399
Federal "Secure Communities" program, required use of - BR37
Interstate mutual aid agreement - BR160
Planning and zoning, airport noise overlay district - BR173
Property tax, amend application of HB 44 provisions - BR46
Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78
Second class, boards of zoning adjustment - BR358
Unclaimed body, cremation of - BR432
Unsolicited advertising, local governments, control of - BR239
Utilities, franchise bidder, prohibition on recovering franchise fee through fee or surcharge - BR197
Vehicles owned by, mandatory inspections of - BR18

Cities, Second Class

Boards of zoning adjustment, creation when in county containing consolidated

local government - BR358
Civil Actions
<p>Arbitration, enforcement of agreements - BR207</p> <p>Comparative fault action, procedures - BR204</p> <p>Domestic relations, personal identifiers - BR434</p> <p>violence, coverage of dating couples - BR166</p> <p>Estates, informal periodic settlement - BR157</p> <p>Foreclosure and deficiency judgments, time for bringing action - BR459</p> <p>Juvenile status offense actions, requirements and prohibitions - BR193</p> <p>Kentucky Computer Decency Act, prohibition on anonymous postings - BR71</p> <p>Maintenanceordersforspouses,availability of automatic payment methods - BR123</p> <p>Paternity, child born out of wedlock, defined - BR286</p> <p>Pawnbrokers, precious metals and gemstones, receipt and disposal - BR862</p>
Civil Procedure
<p>Arbitration, enforcement of agreements - BR207</p> <p>Comparative fault action, procedures - BR204</p> <p>Domestic relations, personal identifiers - BR434</p> <p>violence, coverage of dating couples - BR166</p> <p>Estates, informal periodic settlement - BR157</p> <p>Foreclosure and deficiency judgments, time for bringing action - BR459</p> <p>Juvenile status offense actions, requirements and prohibitions - BR193</p> <p>Kentucky Computer Decency Act, prohibition on anonymous postings - BR71</p> <p>Paternity action, child born out of wedlock, defined - BR286</p> <p>Power of attorney, limitation of - BR467</p> <p>Trusts and estates, administration of, probate matters - BR341</p>
Civil Rights
<p>Disabled children, homeowner rights in relation to - BR880</p> <p>Public assistance, substance abuse screening - BR63</p>
Claims
<p>Stale check claims, presentation to General Assembly annually - BR83</p>
Coal
<p>404 mitigation, straight pipe and sewer projects, use for - BR315</p> <p>Severance tax, transfer of funds to Worker's Compensation Fund, deletion of requirement for - BR368</p>

Collective Bargaining
<p>Charter school employees, participation in - BR117</p>
Commendations and Recognitions
<p>“Medal of Honor Way,” Designation of US 641 in Murray, KY - BR377</p> <p>Frohlich, Circuit Judge Anthony W., honor - BR474</p> <p>Larkin, Jr. Sgt. George E., nomination to Kentucky Aviation Hall of Fame - BR817</p>
Commerce
<p>Dairy, raw milk, sales of - BR294</p> <p>Kentucky Wood Products Competitiveness Corporation, abolishment of - BR218</p>
Communications
<p>Electronic filing of campaign finance reports by statewide candidates, slates, and their committees - BR224</p> <p>Harassing communications, expansion of crime, and means of communication - BR340</p> <p>Kentucky Computer Decency Act, prohibition on anonymous postings - BR71</p> <p>Unsolicited advertising, littering, penalty for - BR239</p>
Consolidated Local Governments
<p>Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189</p> <p>City of second class within county, board of zoning adjustment, creation of - BR358</p> <p>Council and mayoral positions, minimum age requirement, lower - BR399</p> <p>Local option election for casino gaming - BR246</p> <p>Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78</p> <p>Search for lost person with a disability, procedures - BR300</p>
Constables
<p>Constitutional amendment, abolish office of - BR449</p> <p>Kentucky Blue Alert Network, creation of - BR41</p> <p>Retired, carrying concealed deadly weapon, LEOSA update - BR390</p>
Constitution, Ky.
<p>Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189</p> <p>Constable, amendment to abolish office of - BR449</p> <p>Debt limitations, establish - BR264</p> <p>Even-year sessions of General Assembly, length of - BR145</p> <p>Office of State Treasurer, abolition of - BR821</p> <p>Voting rights for felons, constitutional admentment to provide - BR807</p>

Consumer Affairs
<p>Debtors, actions against, time for bringing - BR459</p> <p>Kentucky Computer Decency Act, prohibition on anonymous postings - BR71</p> <p>Trusts and estates, administration of, probate matters - BR341</p> <p>Unsolicited advertising, littering, penalty for - BR239</p>
Contracts
<p>Arbitration, enforcement of agreements - BR207</p> <p>Debtors, actions against, time for bringing monetary claims - BR459</p> <p>Kentucky Computer Decency Act, prohibition on anonymous postings - BR71</p> <p>Public agencies, contractors must use e-verify - BR58</p>
Coroners
<p>Report of dead child, increased penalty, report of missing child, creation of offense - BR108</p> <p>Reporting of death, add State Police, increase penalty to felony - BR136</p> <p>Unclaimed body, cremation of - BR432</p>
Corrections and Correctional Facilities, State
<p>Federal “Secure Communities” program, required use of - BR37</p> <p>Mentally ill, release of, notice - BR316</p> <p>Probate fees, estate of officer killed in line of duty, exemption for - BR284</p>
Counties
<p>Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189</p> <p>Clerks, deeds in lieu of foreclosure, filing requirements - BR237</p> <p>Federal “Secure Communities” program, required use of - BR37</p> <p>Interstate mutual aid agreement - BR160</p> <p>Judge/executive, library district boards, appointments to - BR347</p> <p>Kentucky Business Investment program, local occupational license fee, alternative inducements - BR410</p> <p>Local option election for casino gaming - BR246</p> <p>Planning and zoning, airport noise overlay district - BR173</p> <p>and zoning, board of zoning adjustment, creation of by city of second class - BR358</p> <p>Property tax, amend application of HB 44 provisions - BR46</p> <p>Public financing for campaigns, program for - BR211</p> <p>Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78</p> <p>Search for lost person with a disability,</p>

<p>procedures - BR300</p> <p>Unsolicited advertising, local governments, control of - BR239</p> <p>Vehicles owned by, mandatory inspections of - BR18</p>
Counties of 75,000 or More
<p>Counties of 90,000 or more, casino gaming provisions - BR214</p>
Counties, Urban
<p>Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189</p> <p>Local option election for casino gaming - BR246</p> <p>Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78</p> <p>Search for lost person with a disability, procedures - BR300</p>
County Clerks
<p>Candidates for Governor, running mate, delay selection of - BR455</p> <p>Deeds in lieu of foreclosure, filing requirements - BR237</p>
County Judge/Executives
<p>Library district boards, appointments to - BR347</p>
Court, Supreme
<p>Public financing for campaigns, program for - BR211</p>
Courts
<p>Concealed deadly weapon, court commissioners, license to carry statewide - BR268</p> <p>Expungement of records, criminal history - BR804</p> <p>Kentucky Computer Decency Act, prohibition on anonymous postings - BR71</p> <p>Move federal terrorism trial from Bowling Green, Kentucky to the Guantanamo detention facility - BR88</p> <p>Pseudoephedrine sales, prohibitions for certain drug offenders - BR396</p> <p>Public financing for campaigns, program for - BR211</p> <p>Real estate, sale under judicial process, appraisal of - BR9</p>
Courts, Circuit
<p>Concealed deadly weapon, court commissioners, license to carry statewide - BR268</p> <p>Domestic relations, personal identifiers - BR434</p> <p>Frohlich, Circuit Judge Anthony W., honor - BR474</p> <p>Maintenanceordersforspouses,availability of automatic payment methods - BR123</p> <p>Pseudoephedrine sales, prohibitions for certain drug offenders - BR396</p>

Public financing for campaigns, program for - BR211
Real estate, sale under judicial process, appraisal of - BR9

Courts, District

Concealed deadly weapon, court commissioners, license to carry statewide - BR268
Juvenile status offense actions, requirements and prohibitions - BR193
Juvenile, age of criminal responsibility - BR267
Juveniles, dependency and neglect actions - BR267
Maintenanceordersforspouses,availability of automatic payment methods - BR123
Paternity action, child born out of wedlock, defined - BR286
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396
Public financing for campaigns, program for - BR211

Courts, Family

Concealed deadly weapon, court commissioners, license to carry statewide - BR268
Domestic relations, personal identifiers - BR434
Juvenile status offense actions, requirements and prohibitions - BR193
Juvenile, age of criminal responsibility - BR267
Juveniles, dependency and neglect actions - BR267
Maintenanceordersforspouses,availability of automatic payment methods - BR123

Courts, Fiscal

Library district boards, approval of county judges' appointments to - BR347

Crime Victims

Criminal conduct, age of responsibility - BR267
Expungement of records, criminal history - BR804
Felony offenders, prohibition of employment of - BR19
Incest, relationship, step-grandparent and step-grandchild - BR401
Notice, mentally ill, release of - BR316
Precious metals and gemstones, pawnbrokers, receipt of - BR862
Profits of crime, seizure, payable to Crime Victims Compensation Board - BR259
Shock probation, prohibit, DUI death, victim's next of kin statement - BR320
Unclaimed body, cremation of - BR432

Crimes and Punishments

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Cheat, definition of and penalties for - BR214
Child pornography, viewing of - BR801
Concealed deadly weapon, court commissioners, license to carry statewide

- BR268
Criminal damage to property, unlawfully acquiring metals, inclusion of - BR141
Death penalty, severely mentally ill defendant, preclusion of use for - BR360
Deeds in lieu of foreclosure, penalty for not filing with county clerk within 30 days of execution - BR237
Define "cheat" and provide penalties for - BR246
DUI, ignition interlock device, utilization of - BR350
Expungement of records, criminal history - BR804
Failure to report missing child - BR111; BR119
Federal "Secure Communities" program, required use of - BR37
Felons' voting rights, constitutional amendment to provide - BR807
Felony offenders, prohibition of employment of - BR19
offenders, public properties not to be named after - BR48
Harassing communications, expansion of crime, and means of communication - BR340
Incest, relationship, step-grandparent and step-grandchild - BR401
Juvenile, age of criminal responsibility - BR267
Kentucky Computer Decency Act, prohibition on anonymous postings - BR71
Missing minor 12 or under, duty to report - BR162
Motor vehicle insurance requirement violation, threshold for - BR813
Move federal terrorism trial from Bowling Green, Kentucky to the Guantanamo detention facility - BR88
Profits of crime, seizure, payable to Crime Victims Compensation Board - BR259
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396
Pseudoephedrine-based drugs, provisions relating to - BR101; BR403
Public transportation, offenses against user or operator of - BR30
Report of dead child, increased penalty, report of missing child, creation of offense - BR108
Shock probation, prohibit, DUI death - BR320
Unsolicited advertising, littering, penalty for - BR239

Criminal Procedure

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Child pornography, viewing of - BR801
Concealed deadly weapon, court commissioners, license to carry statewide - BR268
Death penalty, severely mentally ill defendant, preclusion of use for - BR360
DUI, ignition interlock device, utilization of - BR350
Expungement of records, criminal history - BR804

Failure to report missing child - BR111; BR119
Federal "Secure Communities" program, required use of - BR37
Harassing communications, expansion of crime, and means of communication - BR340
Incest, relationship, step-grandparent and step-grandchild - BR401
Kentucky Computer Decency Act, prohibition on anonymous postings - BR71
Missing minor 12 or under, duty to report - BR162
Move federal terrorism trial from Bowling Green, Kentucky to the Guantanamo detention facility - BR88
Profits of crime, seizure, payable to Crime Victims Compensation Board - BR259
Pseudoephedrine-based drugs, provisions relating to - BR101; BR403
Public transportation, offenses against user or operator of - BR30
Report of dead child, increased penalty, report of missing child, creation of offense - BR108
Shock probation, prohibit, DUI death - BR320

Dairying and Milk Marketing

Dairy, raw milk, sales of - BR294

Data Processing

Harassing communications, expansion of crime, and means of communication - BR340
Kentucky Computer Decency Act, prohibition on anonymous postings - BR71

Deaths

Death penalty, severely mentally ill defendant, preclusion of use for - BR360
Reporting of death, add State Police, increase penalty to felony - BR136
Unclaimed body, cremation of - BR432

Deeds and Conveyances

Trusts and estates, administration of, probate matters - BR341

Disabilities and the Disabled

Alternative high school diploma, establishment of - BR104
Complex regional pain syndrome, training requirement - BR438
Disabled children, homeowner rights in relation to - BR880
veteran license plates, no charge for 50% service-connected disability - BR135
Felony offenders, prohibition of employment of - BR19
Long term care employment applicants, fingerprint checks - BR87
Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78
Search for lost person with a disability,

procedures - BR300
Specific learning disability, identification of, conformity with federal law - BR282
Trusts and estates, administration of, probate matters - BR341

Disasters

Interstate mutual aid agreement - BR160
Search for lost person with a disability, procedures - BR300

Diseases

Complex regional pain syndrome, training requirement - BR438

Distilled Spirits

Restaurants, retail drink license requirement - BR175

Domestic Relations

Dissolution of marriage electronic forms, requirement for - BR254
Domestic violence, coverage of dating couples - BR166
Maintenanceordersforspouses,availability of automatic payment methods - BR123
Personal identifiers - BR434

Drugs and Medicines

Dextromethorphan, possession and retail sale, restriction - BR306
DUI, ignition interlock device, utilization of - BR350
Interpharmacy medication exchange, permit if immediate need - BR375
Pain management facilities, licensure requirements - BR188
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396
Pseudoephedrine-based drugs, provisions relating to - BR101; BR403
Substance abuse screening, public assistance - BR63
Vocational education recipients, substance abuse testing, requirement for - BR151

Economic Development

Angel investor tax credit program, create - BR322
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189
Kentucky Business Investment program, local occupational license fee, alternative inducements - BR410
Investment Fund Act, amend credit cap - BR322
job creation development fund, creation of - BR214
Wood Products Competitiveness Corporation, abolishment of - BR218
Tourist and convention commissions, membership of - BR234

Education, Elementary and Secondary

Advanced academic achievement diploma,

creation of - BR328
Body mass index, preventative health care examination forms, require on - BR165
Charter school, requirements for - BR117
schools, application and approval of - BR117
schools, renewal or revocation of charter - BR117
Childhood education excellence development fund, creation of - BR214
Compulsory school age, increase to age eighteen - BR814
Digital citizenship, inclusion in discipline code and professional development - BR433
Districts of innovation, authorization of - BR76
Early childhood assessment and intervention, district-wide implementation of - BR282
Evaluation, certified personnel - BR75
Foster children, tuition waived - BR283
Green cleaning products in schools, promotion of - BR430
High school technology diploma, requirements for - BR85
Juvenile status offense actions, requirements for - BR193
KEES
scholarships base amount, raise minimum GPA to 3.0 - BR77
scholarships supplemental amount, raise minimum ACT test score to 18 - BR77
Physical activity of children, assessment of and data use - BR281
Programs, career and technical education - BR84; BR159; BR245
Reports required, commercial advertising on school buses - BR272
School buildings, naming of - BR48
buses, commercial advertising on - BR272
calendar, adjustments to - BR57
calendar, inclusion of election days in - BR57
vehicles, mandatory inspection of - BR18
School, entrance age for - BR152
School-based decision making councils, parent member, residency requirements for - BR23
decision making councils, teacher member, requirements for - BR23
State service, sufficiency of high school diploma for promotion whether or not school is accredited - BR153
Statewide evaluation program, waiver from - BR75
Students with disabilities, alternative high school diploma for - BR104
Teachers, hiring of, preference given to regular certification - BR248

Education, Finance

Charter school, transfer of funds to - BR117
KEES
scholarships base amount, raise minimum GPA to 3.0 - BR77
scholarships supplemental amount, raise minimum ACT test score to 18 - BR77
supplemental award for academic

diploma, creation of - BR328
Postsecondary affordability, require assessment of - BR429
funding, urge budget priority of - BR421
School buses, commercial advertising on - BR272
Tuition and fee waiver, family members of veterans eligibility, time limitations for - BR336
Veterans' organization, tangible personal property tax, exempt - BR8

Education, Higher

Affordability, require assessment of - BR429
Bachelor's degree completion, board responsibility for - BR435
Charter schools, authorizers of - BR117
Foster children, tuition waived - BR283
Funding, urge budget priority of - BR421
KEES
scholarships base amount, raise minimum GPA to 3.0 - BR77
scholarships supplemental amount, raise minimum ACT test score to 18 - BR77
supplemental award for academic diploma, creation of - BR328
Kentucky Commission on Public Health, creation of the - BR158
Programs, career and technical education - BR84; BR159; BR245
Public university vehicles, mandatory inspection of - BR18
Quicksand Wood Utilization Center, University of Kentucky, training center use of - BR218
School buildings, naming of - BR48
Tuition and fee waiver, family members of veterans eligibility, time limitations for - BR336

Education, Vocational

Creation of programs relating to career and technical education - BR84; BR159; BR245
Quicksand Wood Utilization Center, University of Kentucky, training center use of - BR218
School buildings, naming of - BR48

Effective Dates, Delayed

Bees and beekeeping supplies, sales and use tax exemption, August 1, 2012 - BR816
BR
325, August 1, 2012 - BR325
400, August 1, 2012 - BR400
442, January 1, 2013 - BR442
Community rehabilitation tax credit, tax periods after January 1, 2013 - BR233
Pseudoephedrine-based drugs, provisions relating to - BR403
Public financing for judicial campaign, effective January 1, 2012 - BR211
Special license plates, effective 1/1/2013 - BR135
Veterans' organization, property tax, January 1, 2013 - BR8
organization, sales tax, exemption, August

1, 2012 - BR8

Effective Dates, Emergency

Career and technical education - BR84; BR159 and technical education, creation of programs - BR245
Disabled children, homeowner rights in relation to - BR880
Gross revenues and excise tax fund, hold harmless amount, increase - BR121
Nonprofit organizations, exemption from sales and use tax - BR842
Pain management facilities, licensure requirements - BR188
Sales and use tax holiday - BR91
tax holiday - BR307
School calendar, adjustments to - BR57
School-based decision making councils, requirements for members - BR23

Effective Dates, Retroactive

Nonprofit organizations, exemption from sales and use tax - BR842

Elections and Voting

Candidates for Governor, running mate, delay selection of - BR455
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189
Constitutional amendment, abolish office of Constable - BR449
amendment, even-year sessions of General Assembly, length of - BR145
Council and mayoral positions, minimum age requirement, lower - BR399
Electronic filing of campaign finance reports by statewide candidates, slates, and their committees - BR224
Felons' voting rights, constitutional amendment to provide - BR807
Governor and Lieutenant Governor, no campaign contribution from legislative agent - BR327
Legislative ethics, changes to code - BR324
Local option election for casino gaming - BR246
option elections, casino gaming approval for - BR214
Office of State Treasurer, abolition of - BR821
Precinct election officers, absentee voting - BR219
Presidential election by national popular vote, compact for - BR125
Public financing for judicial races, establishment of - BR211
Schools, polling places in - BR57
Slate of candidates, designation of Lieutenant Governor candidate after primary - BR327

Electricians

License, biennial renewal - BR442

Embalmers and Funeral Directors

Unclaimed body, cremation of - BR432

Emergency Medical Services

Naming of public properties, emergency medical service system - BR48

Energy

404 mitigation, for straight pipes and sewer, Energy and Environment Cabinet, study of - BR315
Pipeline safety, civil penalties, change of - BR466
Research, energy, funding for - BR439

Environment and Conservation

404 mitigation, straight pipe and sewer projects, use for - BR315
Office of Surface Mining Reclamation and Enforcement, stream protection rule, express concern about - BR802
Recyclers and junkyards, nonferrous metal purchases, requirements for - BR205
Timber Theft and Trespass Reduction Task Force, establishment of - BR114
Work safety program for timber trades, development of program for - BR218

Ethics

Legislative agent, no contribution to campaign for Governor or Lieutenant Governor - BR327
Legislative, changes to code - BR324

Federal Laws and Regulations

E Verify, use of by business permit, license, or credential holder - BR53
Office of Surface Mining Reclamation and Enforcement, stream protection rule, express concern about - BR802
Return to Prudent Banking Act of 2011, urge Congress to enact - BR394

Fees

Medical imaging and radiation therapy board, licensing and related fees charged by - BR210
Probate, estates of those killed in line of duty, exemption for - BR284
Stale treasury check reissuance fee, repeal of - BR83

Fiduciaries

Estates, informal periodic settlement - BR157
Power of attorney, limitation of - BR467
Trusts and estates, administration of, probate matters - BR341

Financial Responsibility

Debtors, actions against, time for bringing - BR459
Refunding transactions, direct deposit of proceeds - BR4

Firearms and Weapons

Concealed deadly weapon, court commissioners, license to carry statewide - BR268
Felon possession restrictions, exclusion of expunged offenses - BR804
Peace officer, retired, carrying concealed weapon, LEOSA update - BR390

Firefighters and Fire Departments

Fire Department vehicles, mandatory inspections of - BR18
Probate fees, estates of those killed in line of duty, exemption for - BR284

Fish and Wildlife

404 mitigation, straight pipe and sewer projects, use for - BR315
Catfish, labeling of, requirements for - BR344
Personal watercraft, inland navigation rules, citation for - BR448

Foods

Food stamp cards, requirement of ID and display of fraud hotline for stores that accept - BR475

Forests and Forestry

Timber Theft and Trespass Reduction Task Force, establishment of - BR114

Fuel

404 mitigation, straight pipe and sewer projects, report on - BR315
Pipeline safety, civil penalties, change of - BR466

Gambling

Casino gaming, licensing of - BR214
gaming, provisions for - BR246
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189

General Assembly

Administrative regulations with major economic impact, establishment of delayed effective date for - BR356
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189
Debt limitations, constitutional admentment to establish - BR264
Even-year sessions of General Assembly, length of - BR145
Legislative agent, no contribution to campaign for Governor or Lieutenant Governor - BR327
ethics, changes to code - BR324
Legislators' Retirement Plan, restrict account consolidation with other state systems for new hires - BR389
Name of public property, revocation of -

BR48
Retirement, close Legislators' Retirement Plan to new entrants and establish new plan - BR240; BR409
close Legislators' Retirement Plan to new members - BR400
cost of purchasing service credit - BR400
restriction of account consolidation with other state systems - BR149; BR323; BR400; BR409
Roll call vote for appropriation or revenue measure, requirement for - BR330
call vote in House for appropriation or revenue measure, rule for - BR329

Governor

Legislative agent, no contribution to campaign - BR327
Running mate selection, delay until after primary - BR455
Slate of candidates, designation of Lieutenant Governor candidate after primary - BR327
University board members, removal of - BR14

Guardians

Power of attorney, limitation of - BR467
Trusts and estates, administration of, probate matters - BR341

Health and Medical Services

Board of Medical Licensure, composition of - BR106
Cabinet for Health and Family Services, tattoo facilities, notice requirement - BR120
Charitable health care, income tax deduction for - BR398
Colon Cancer Screening Program - BR275
Complex regional pain syndrome, training requirement - BR438
Dental plan, establishment of fees for noncovered services, prohibition of - BR441
Durable medical equipment providers, instate office requirement, parity with other states - BR22
Felony offenders, prohibition of employment of - BR19
Interpharmacy medication exchange, permit if immediate need - BR375
Kentucky Commission on Public Health, creation of the - BR158
Living organ donation, promotion of - BR31
Local health departments, direct proceeds of NASCAR license plates to - BR156
Long term care employment applicants, fingerprint checks - BR87
Medicaid waiver enrollees, medical supplies, direct purchase of - BR843
Medical imaging technologists and radiation therapists, licensing and regulation of - BR210
Pain management facilities, licensure requirements - BR188
Pregnancy resource centers, encourage

financial assistance to - BR221
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396
Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78

Highways, Streets, and Bridges

"Coach Earl Rogers Highway," designate in Harlan County - BR484
"Magoffin County Civil War Highway," designation of in Magoffin County - BR848
"Medal of Honor Way," Designation of US 641 in Murray, KY - BR377
"Moo Cow Curve Memorial Bridge," designate in Harlan County - BR411
"Pound Gap/Mount Sterling Road," designation of in Magoffin County - BR848
DUI, ignition interlock device, utilization of - BR350
John D. Risen Memorial Bridge, designation of - BR414
Kentucky Blue Alert Network, creation of - BR41
Motorless vehicles, alternate lighting and marking requirements - BR481
vehicles, alternate reflective marking requirements - BR834
Naming in honor of - BR48
Speed bumps, local government requirements for - BR122
Wiswell, signs identifying in Calloway County - BR386

Hospitals and Nursing Homes

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Long term care employment applicants, fingerprint checks - BR87

Hotels and Motels

Bed and breakfast establishments, definition of - BR50

Housing, Building, and Construction

Planning and zoning, airport noise overlay district, building materials and construction techniques - BR173

Immigration

Employers with eleven or more employees, use e-verify - BR58
Employment of unauthorized aliens, grounds for nonissuance of business permit, license, or credentia - BR53
Federal "Secure Communities" program, required use of - BR37

Insurance

Credit history, use of by insurers, prohibition - BR11
history, use of, unfair or deceptive practice - BR11
Health, dental plan, establishment of fees

for noncovered services, prohibition of - BR441
Motor vehicle reparation benefits, authority to direct reimbursement - BR209
Unclaimed life insurance benefits - BR487

Insurance, Health

Dental plan, establishment of fees for noncovered services, prohibition of - BR441
Motor vehicle reparation benefits, reimbursement of health benefit plan - BR209

Insurance, Motor Vehicle

Insurance requirement violation, threshold for - BR813
Reparation benefits, authority to direct reimbursement for personal injury - BR209

Interstate Cooperation

Interstate mutual aid agreement - BR160
Presidential election by national popular vote, compact for - BR125

Jails and Jailers

Federal "Secure Communities" program, required use of - BR37

Judges and Court Commissioners

Frohlich, Circuit Judge Anthony W., honor - BR474
Mentally ill, release of, notice - BR316
Public financing for judicial races, establishment of - BR211
Retirement, restriction of account consolidation with other state systems - BR149; BR323

Junkyards

Copper, prohibition on purchasing, exemptions - BR141
Nonferrous metal purchases, requirements for - BR205

Labor and Industry

Electricians, biennial license renewal - BR442
Registration by employers with public contracts or with eleven or more employees in E-verify - BR58
Tourismdevelopmentprojects, employment and wage requirements - BR185

Land Use

Boards of zoning adjustment, creation when in county containing consolidated local government - BR358
Planning and zoning, airport noise overlay district - BR173
Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78

Legislative Research Commission

Audits of state agencies, findings of improper financial handling, reports of - BR14

Designation of appropriation or revenue measure, requirement for - BR330

of appropriations or revenue measure in House, rule for - BR329

Job sharing program for state employees, Personnel Cabinet study of - BR829

Legislative ethics, changes to code - BR324

Timber Theft and Trespass Reduction Task Force, establishment of - BR114

Vehicles, mandatory inspection of - BR18

Libraries

Library district boards, appointments to - BR347

Naming to honor individual or group - BR48

Licensing

Board of Medical Licensure, composition of - BR106

Business permit, license, or credential, employment of unauthorized aliens, grounds for nonissuance - BR53

Casino employees, licensing of - BR214

gaming, licensing of - BR214

occupations, licensing of - BR246

Electricians, biennial license renewal - BR442

E-verify, requirement to use by licensees with eleven or more employees - BR58

Full and limited casino gaming, licensing of - BR246

Gaming suppliers and manufacturers, licensing of - BR246

Industrial hemp, growing of - BR261

Medical imaging technologists and radiation therapists, licensing and regulation of - BR210

NASCAR special license plates, Transportation Cabinet licensing fees to NASCAR - BR156

Registered tattoo facilities, military disqualification notice to be posted by - BR120

Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78

Retail drink license, food sales requirement - BR175

Liens

Foreclosure and deficiency judgments, time for bringing action - BR459

Trusts and estates, administration of, probate matters - BR341

Lieutenant Governor

Candidates for Governor, running mate, delay selection of - BR455

Legislative agent, no contribution to campaign - BR327

Slate of candidates, designation of Lieutenant Governor candidate after

primary - BR327

Loans and Credit

Debtors, actions against, time for bringing monetary claims - BR459

Pawnbrokers, precious metals and gemstones, receipt and disposal - BR862

Veterans affairs, fund personal loan program for - BR154

Local Government

Business permit, license, or credential, employment of unauthorized aliens, grounds for nonissuance - BR53

Constitutional amendment, abolish office of Constable - BR449

Council and mayoral positions, minimum age requirement, lower - BR399

County Judges/Executive, library district boards, appointments to - BR347

Gross revenues and excise tax fund, hold harmless amount, increase - BR121

Interstate mutual aid agreement - BR160

Kentucky Business Investment program, local occupational license fee, alternative inducements - BR410

Commission on Public Health, creation of the - BR158

Local health departments, direct proceeds of NASCAR license plates to - BR156

Planning and zoning, airport noise overlay district - BR173

and zoning, board of zoning adjustment, creation of by city of second class - BR358

Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78

Search for lost person with a disability, procedures - BR300

Speed bumps, local government requirements for - BR122

Tourist and convention commissions, membership of - BR234

Unclaimed body, cremation of - BR432

Unsolicited advertising, local governments, control of - BR239

Vehicles owned by, mandatory inspections of - BR18

Veterans' organization, tangible personal property tax, exemption - BR8

Medicaid

Eligibility for benefits, substance abuse screening - BR63

Waiver program enrollees, medical supplies, direct purchase of - BR843

Memorials

Adams, Representative John, memorialize - BR201

Benton, Brett Patrick, memorializing - BR68

Deters, Margaret B., memorializing - BR132

John D. Risen Memorial Bridge, designation of - BR414

Mathis, Jr., Willie, memorializing - BR131

O'Daniel, Thomas, memorializing - BR112

Men

Domestic violence, coverage of dating couples - BR166

Mental Disability

Death penalty, severely mentally ill defendant, preclusion of use for - BR360

Medicaid waiver enrollees, medical supplies, direct purchase of - BR843

Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78

Mental Health

Death penalty, severely mentally ill defendant, preclusion of use for - BR360

Mentally ill, release of, notice - BR316

Military Affairs and Civil Defense

Benton, Brett Patrick, memorializing - BR68

Kentucky Blue Alert Network, creation of - BR41

Military service, disqualification because of tattoos, notice to patrons of tattoo facilities - BR120

Move federal terrorism trial from Bowling Green, Kentucky to the Guantanamo detention facility - BR88

Prisoner of War and Missing in Action flag, definition of - BR79

Probate fees, estate of soldier killed in line of duty, exemption for - BR284

Public property, naming to honor individual or group - BR48

Purple Heart license plate, design requirements - BR397

Veterans affairs, fund personal loan program for - BR154

Minerals and Mining

404 mitigation, straight pipe and sewer projects, use for and report on - BR315

Office of Surface Mining Reclamation and Enforcement, stream protection rule, express concern about - BR802

Motor Carriers

Public transportation, offenses against user or operator of - BR30

Motor Vehicles

Disabled veteran license plates, no charge for 50% service-connected disability - BR135

DUI, ignition interlock device, utilization of - BR350

Gold Star Sibling special license plate, establishment - BR135

Insurance requirement violation, threshold for - BR813

NASCAR special license plates, establish - BR156

Public transportation, offenses against

user or operator of - BR30

Publicly owned vehicles, mandatory inspections of - BR18

Purple Heart license plate, design requirements - BR397

Reparation benefits, authority of attorney or insured to direct reimbursement for injuries - BR209

Shock probation, prohibit, DUI death - BR320

News Media

Kentucky Blue Alert Network, creation of - BR41

Search for lost person with a disability, procedures, notification of media - BR300

Noise Control

Planning and zoning, airport noise overlay district - BR173

Notices

Certified mail, definition of - BR495

Kentucky Blue Alert Network, creation of - BR41

Tattoo facilities, military disqualification notice to be posted by - BR120

Nuisances

Unsolicited advertising, littering, penalty for - BR239

Nurses

Arrest for misdemeanor assault in hospital emergency room permitted - BR276

Complex regional pain syndrome, training requirement - BR438

Felony offenders, prohibition of employment of - BR19

Long term care employment applicants, fingerprint checks - BR87

Obscenity and Pornography

Child pornography, viewing of - BR801

Occupations and Professions

Business permit, license, or credential, employment of unauthorized aliens, grounds for nonissuance - BR53

Casino suppliers, licensing of - BR214

Junkyards, prohibition on purchasing copper, exemptions - BR141

Medical imaging technologists and radiation therapists, licensing and regulation of - BR210

Physicians, composition of Board of Medical Licensure - BR106

Oil and Natural Gas

Pipeline safety, civil penalties, change of - BR466

Parental Rights

Disabled children, homeowner rights in

relation to - BR880
Missing minor 12 or under, duty to report - BR162
Paternity, child born out of wedlock, defined - BR286

Parks and Shrines

Naming in honor of - BR48

Peace Officers and Law Enforcement

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
DUI, cost of blood alcohol testing - BR350
Funding, KLEFP fund salary supplements - BR217
Juvenile, age of criminal responsibility - BR267
Kentucky Blue Alert Network, creation of - BR41
Missing minor 12 or under, duty to report - BR162
Pawnbrokers, precious metals and gemstones, receipt and disposal - BR862
Personal watercraft, inland navigation rules, citation for - BR448
Probate fees, estate of officer killed in line of duty, exemption for - BR284
Public property, naming to honor individual or group - BR48
Reporting of death, add State Police, increase penalty to felony - BR136
Retired, carrying concealed deadly weapon, LEOSA update - BR390
Unsolicited advertising, littering, penalty for - BR239

Personnel and Employment

E-verify, employers verify employment eligibility of employees - BR58
Job sharing program for state employees, Personnel Cabinet study of - BR829
State service, sufficiency of high school diploma for promotion whether or not school is accredited - BR153
Vocational education recipients, substance abuse testing, requirement for - BR151

Pharmacists

Durable medical equipment providers, instate office requirement, parity with other states - BR22
Interpharmacy medication exchange, permit if immediate need - BR375
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396
Pseudoephedrine-based drugs, provisions relating to - BR101; BR403

Physicians and Practitioners

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Board of Medical Licensure, composition of - BR106
Charitable health care, income tax deduction for - BR398
Durable medical equipment providers, instate office requirement, parity with other states - BR22

Medicaid waiver enrollees, medical supplies, direct purchase of - BR843
Medical imaging technologists and radiation therapists, licensing and regulation of - BR210
Pain management facilities, licensure requirements - BR188
Pseudoephedrine-based drugs, provisions relating to - BR101; BR403

Planning and Zoning

Airport noise overlay district - BR173
Boards of zoning adjustment, creation when in county containing consolidated local government - BR358

Police, City and County

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Failure to report missing child - BR111; BR119
Federal “Secure Communities” program, required use of - BR37
Funding, KLEFP fund salary supplements - BR217
Junkyards, report of copper transactions, requirement for - BR141
Kentucky Blue Alert Network, creation of - BR41
Missing minor 12 or under, duty to report - BR162
Public property, naming in honor of individual or group - BR48
Report of dead child, increased penalty, report of missing child, creation of offense - BR108
Reporting of death, add State Police, increase penalty to felony - BR136
Retired, carrying concealed deadly weapon, LEOSA update - BR390
Search for lost person with a disability, procedures - BR300
Unclaimed body, cremation of - BR432
Unsolicited advertising, littering, penalty for - BR239

Police, State

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Failure to report missing child - BR111; BR119
Federal “Secure Communities” program, required use of - BR37
Kentucky Blue Alert Network, creation of - BR41
Missing minor 12 or under, duty to report - BR162
Naming in honor of individual or group - BR48
Pawnbrokers, background checks, precious metals and gemstones - BR862
Report of dead child, increased penalty, report of missing child, creation of offense - BR108
Reporting of death, add State Police, increase penalty to felony - BR136
Retired, carrying concealed deadly weapon, LEOSA update - BR390
Search for lost person with a disability, procedures - BR300

Unsolicited advertising, littering, penalty for - BR239

Pollution

404 mitigation, straight pipe and sewer projects, use for - BR315

Popular Names and Short Titles

Caylee’s Law - BR162
Kentucky Computer Decency Act - BR71
Trooper Jonathan K. Leonard Kentucky Blue Alert System Act - BR41

Poverty

Public assistance, substance abuse screening - BR63

Probation and Parole

Shock probation, prohibit, DUI death - BR320

Property

Disabled children, homeowner rights in relation to - BR880
Profits of crime, seizure, payable to Crime Victims Compensation Board - BR259
Real, deeds in lieu of foreclosure, filing requirements - BR237
Trusts and estates, administration of, probate matters - BR341
Unsolicited advertising, littering on private property, penalty for - BR239

Public Advocate

Juvenile, age of criminal responsibility - BR267

Public Assistance

Eligibility for benefits, substance abuse screening - BR63
Food stamp cards, requirement of ID and display of fraud hotline for stores that accept - BR475
Vocational education recipients, substance abuse testing, requirement for - BR151

Public Buildings and Grounds

Naming in honor of individual or group - BR48
POW/MIA flag, made in United States - BR79

Public Ethics

Legislative ethics, changes to code - BR324

Public Health

Body mass index, preventative health care examination forms, require on - BR165
Colon Cancer Screening Program - BR275
Kentucky Commission on Public Health, creation of the - BR158
Living organ donation, promotion of -

BR31
Local health departments, direct proceeds of NASCAR license plates to - BR156
Pregnancy resource centers, encourage financial assistance to - BR221
Raw milk, sales of at farm location - BR294
Vital records, security of - BR105

Public Medical Assistance

Colon Cancer Screening Program - BR275
Eligibility for benefits, substance abuse screening - BR63

Public Officers and Employees

Council and mayoral positions, minimum age requirement, lower - BR399
Full-time state employees with status, promotional or reclassification of salaries - BR412
Legislators’ Retirement Plan, restrict account consolidation with other state systems for new hires - BR389
Probate fees, estates of those killed in line of duty, exemption for - BR284
Retirement, close Legislators’ Retirement Plan to new entrants and establish new plan - BR240; BR409
close Legislators’ Retirement Plan to new members and restrict account consolidation - BR400
Search for lost person with a disability, procedures - BR300
State registrar, vital records, security of - BR105
service, sufficiency of high school diploma for promotion whether or not school is accredited - BR153
Unclassified employees, removal of - BR14

Public Records and Reports

Criminal records expungement, exclusion from public record - BR804
Dissolution of marriage electronic forms, requirement for - BR254
Failure to report missing child - BR111; BR119
Real estate, sale under judicial process, appraisal of - BR9
Report of dead child, increased penalty, report of missing child, creation of offense - BR108
Vital records, security of - BR105

Public Safety

Interstate mutual aid agreement - BR160
Mentally ill, release of, notice - BR316
Personal watercraft, inland navigation rules, citation for - BR448
Search for lost person with a disability, procedures - BR300

Public Salaries

Full-time state employees with status, promotional or reclassification of salaries

- BR412
Police officers, KLEFP fund salary supplements - BR217

Public Utilities

Cities, franchise bidder, prohibition on recovering franchise fee through fee or surcharge - BR197
Pipeline safety, Public Service Commission, civil penalties, change of - BR466

Public Works

Pipeline safety, Public Service Commission, civil penalties, change of - BR466

Purchasing

POW/MIA flag by public institution, made in United States - BR79

Racing

Casino gaming at approved tracks - BR214
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189
Racing associations, limited casino licensing of - BR246

Railroads

Crossings, urging of CSX corporate officials to require maintenance of - BR485

Real Estate

Deeds in lieu of foreclosure, filing requirements - BR237
Disabled children, homeowner rights in relation to - BR880
Foreclosure and deficiency judgments, time for bringing action - BR459
Judicial sales, appraisal of land offered for sale - BR9

Reproductive Issues

Pregnancy resource centers, encourage financial assistance to - BR221

Retirement and Pensions

Charter schools, employees of - BR117
Confederate pensions, repeal of - BR222
Judicial Retirement Plan, restriction of account consolidation with other state systems - BR149; BR323, 409
Kentucky employees retirement fund, funding of - BR214
Legislators' Retirement Plan, close plan to new entrants and establish new plan - BR240; BR409
Retirement Plan, close plan to new members - BR400
Retirement Plan, cost of purchasing service credit - BR400
Retirement Plan, restrict account consolidation with other state systems for new hires - BR389
Retirement Plan, restriction of account

consolidation with other state systems - BR149; BR323; BR400; BR409
Peace officer, retired, carrying concealed weapon, LEOSA update - BR390

Safety

Missing minor 12 or under, duty to report - BR162
Search for lost person with a disability, procedures - BR300

Sales

Real estate, sale under judicial process, appraisal of - BR9

Science and Technology

Angel investments in knowledge-based businesses, create tax credit for - BR322

Secretary of State

Candidates for Governor, running mate, delay selection of - BR455
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189

Securities

Trusts and estates, administration of, probate matters - BR341

Sheriffs

Arrest for misdemeanor assault in hospital emergency room permitted - BR276
Federal "Secure Communities" program, required use of - BR37
Funding, KLEFP fund salary supplements - BR217
Junkyards, report of copper transactions, requirement for - BR141
Kentucky Blue Alert Network, creation of - BR41
Local option elections for gaming, advertising of - BR246
Missing minor 12 or under, duty to report - BR162
Real estate, sale under judicial process, appraisal of - BR9
Retired, carrying concealed deadly weapon, LEOSA update - BR390

Small Business

Angel investments in small businesses, create tax credit for - BR322
Bed and breakfast establishments, definition of - BR50
Dextromethorphan, possession and retail sale, restriction - BR306
Food stamp cards, requirement of ID and display of fraud hotline for stores that accept - BR475
Industrial hemp, licensing and growing of - BR261
Junkyards, prohibition on purchasing copper, exemptions - BR141
Restaurants, retail drink license requirement - BR175

Special Districts

Library district boards, county judge/ executive appointments to - BR347

State Agencies

Administrative regulations with major economic impact, establishment of delayed effective date for - BR356
Audits, findings of improper financial handling, reports of - BR14
Board of Education, body mass index, require inclusion of - BR165
Cabinet for Health and Family Services, tattoo facilities, notice requirement - BR120
Charter schools, employees of - BR117
Contracts, licenses, and tax incentives; suspension for employers - BR58
Council on Postsecondary Education, bachelor's degree attainment, tracking of - BR435
on Postsecondary Education, postsecondary affordability, require assessment of - BR429
Department for Environmental Protection, green cleaning programs in schools, promotion of - BR430
of Education, personnel evaluation system, creation of - BR75
Federal "Secure Communities" program, required use of - BR37
Kentucky Board of Education, high school technology diploma, requirements for - BR85
Board of Education, physical activity assessment, requirements of - BR281
Board of Education, response-to-intervention, district-wide use of - BR282
Board of Education, students with disabilities, alternative diploma for - BR104
Department of Education, career and technical education accessibility fund, creation of - BR84; BR159; BR245
Department of Education, charter schools, role - BR117
Department of Education, evidence-based assessment of at-risk students - BR84; BR159; BR245
Department of Education, green cleaning programs in schools, promotion of - BR430
Department of Education, standards for technical education, implementation of - BR84; BR159; BR245
Personnel Board, unclassified employees, removal of - BR14
Medical imaging and radiation therapy board, creation of and professional licensing by - BR210
Personnel Cabinet, study of job sharing program for state employees - BR829
Profits of crime, seizure, payable to Crime Victims Compensation Board - BR259
Public Charter School Commission, duties of - BR117
Transportation Cabinet, payment of licensing fees to NASCAR for NASCAR

license plates - BR156
Vehicles owned by, mandatory inspections of - BR18
Vital Statistics electronic dissolution of marriage forms, requirement for - BR254

State Employees

High school diploma or equivalent, sufficiency for promotion whether or not school is accredited - BR153
Job sharing program for state employees, Personnel Cabinet study of - BR829
Promotional or reclassification of salaries - BR412
Unclassified employees, removal of - BR14

State Symbols and Emblems

Public property, naming in honor of individual or group - BR48

Statutes

Certified mail, definition of - BR495

Studies Directed

Job sharing program for state employees, Personnel Cabinet study of - BR829
Timber Theft and Trespass Reduction Task Force, establishment of - BR114

Substance Abuse

Dextromethorphan, possession and retail sale, restriction - BR306
Pseudoephedrine-based drugs, provisions relating to - BR101; BR403
Testing of vocational education recipients, requirement for - BR151

Surface Mining

404 mitigation, straight pipe and sewer projects, use for and report on - BR315
Office of Surface Mining Reclamation and Enforcement, stream protection rule, express concern about - BR802

Taxation

Angel investor tax credit program, create - BR322
Broad based reform, income, sales estate, film tax credits - BR373
Casino admission tax, establishment of - BR214
admissions, taxation of - BR246
Charitable health care, income tax deduction for - BR398
Gaming tax, establishment of - BR214
Gross gaming revenue, taxation of - BR246
revenues and excise tax fund, hold harmless amount, increase - BR121
Income tax, community rehabilitation tax credit - BR233
tax, Great Schools Tax Credit Program, tax years beginning after December 31, 2012 - BR116
Local property tax, amend application of

HB 44 provisions - BR46
Organ donation, income tax credit established for promotion of - BR31
Property tax, veterans' organization, tangible personal property, rate - BR8
Public financing for judicial campaigns, tax refund designation for - BR211
Roll
call vote in House, rule for - BR329
call vote, requirement for - BR330
Sales
and use tax, bees and beekeeping supplies, exempt - BR816
and use tax, direct mail delivery charges, exemption - BR325
and use tax, holiday - BR91, 307
and use tax, nonprofit organizations, exemption - BR842
Tax
credits and incentives, denial of - BR58
reform - BR236
Trusts and estates, administration of, probate matters - BR341
Watercraft taxation, allow for alternative apportionment - BR852

Taxation, Income--Corporate

Community rehabilitation tax credit, tax periods after January 1, 2013 - BR233
Great Schools Tax Credit Program, tax years beginning after December 31, 2012 - BR116
Organ donation, tax credit established for promotion of - BR31
Tax reform, applicable to taxable years beginning before January 1, 2013 - BR236

Taxation, Income--Individual

Adjust rates, expand taxable base, provide for earned income credit - BR373
Angel investor tax credit program, create - BR322
Charitable health care, income tax deduction for - BR398
Community rehabilitation tax credit, tax periods after January 1, 2013 - BR233
Great Schools Tax Credit Program, tax years beginning after December 31, 2012 - BR116
Organ donation, tax credit established for promotion of - BR31
Public financing for judicial campaigns, tax refund designation for - BR211
Tax reform, modification to lower rates and expand the tax base - BR236
Trusts and estates, administration of, probate matters - BR341

Taxation, Inheritance and Estate

Reinstate estate tax, decouple from federal estate tax - BR373
Trusts and estates, administration of, probate matters - BR341

Taxation, Property

Local, amend application of HB 44 provisions - BR46
Trusts and estates, administration of, probate matters - BR341

Veterans' organization, tangible personal property, rate - BR8
Watercraft taxation, allow for alternative apportionment - BR852

Taxation, Sales and Use

Bees and beekeeping supplies, exempt - BR816
Direct mail delivery charges, exemption - BR325
Holiday - BR91, 307
Nonprofit organizations, exemption - BR842
Services, extend sales tax to selected - BR373
Tax reform, expansion of the base to include selected services - BR236
Veterans' organization, tangible personal property, digital property, services, exempt - BR8

Taxation, Severance

Transfer of funds to Worker's Compensation fund, deletion of requirement for - BR368

Teachers

Charter schools, employees of - BR117
Digital citizenship, inclusion in professional development - BR433
Districts of innovation, schools of innovation - BR76
Early childhood assessment and intervention, district-wide implementation of - BR282
Evaluation, statewide system - BR75
Green cleaning products in schools, promotion of - BR430
High school technology diploma, requirements for - BR85
Hiring of, preference given to regular certification - BR248
Physical activity of children, assessment of and data use - BR281
School
buildings, naming in honor of - BR48
calendar, adjustments to - BR57
School-based decision making councils, teacher member, requirements for - BR23
Standards
for career and technical education - BR84; BR159
for career and technical education, establish - BR245
Students with disabilities, alternative high school diploma for - BR104

Technical Corrections

KEES supplemental award - BR77
Veterans' organization, property tax rates - BR8

Tourism

Bed and breakfast establishments and farmstays, definitions for - BR50
Casinos and gaming at horse racing tracks, constitutional amendment to let county voters decide - BR189

Film tax credit, make nonrefundable and nontransferable - BR373
Kentucky Wood Products Competitiveness Corporation, abolishment of - BR218
Tourism development projects, employment and wage requirements - BR185
Tourist and convention commissions, membership of - BR234

Trade Practices and Retailing

Dextromethorphan, possession and retail sale, restriction - BR306
Food stamp cards, requirement of ID and display of fraud hotline for stores that accept - BR475
Kentucky
Computer Decency Act, prohibition on anonymous postings - BR71
Wood Products Competitiveness Corporation, abolishment of - BR218
Pawnbrokers, precious metals and gemstones, receipt and disposal - BR862
Pseudoephedrine sales, prohibitions for certain drug offenders - BR396

Traffic Safety

DUI, ignition interlock device, utilization of - BR350
Motorless
vehicles, alternate lighting and marking requirements - BR481
vehicles, alternate reflective marking requirements - BR834
Publicly owned vehicles, mandatory inspections of - BR18
Railroad crossings, urging of CSX corporate officials to require maintenance of - BR485
Speed bumps, local government requirements for - BR122

Transportation

"Coach Earl Rogers Highway," designate in Harlan County - BR484
"Magoffin County Civil War Highway," designation of in Magoffin County - BR848
"Pound Gap/Mount Sterling Road," designation of in Magoffin County - BR848
John D. Risen Memorial Bridge, designation of - BR414
Kentucky
Aviation Hall of Fame, nomination of Sgt. George E. Larkin - BR817
Blue Alert Network, creation of - BR41
Motor vehicle insurance requirement violation, threshold for - BR813
Motorless
vehicles, alternate lighting and marking requirements - BR481
vehicles, alternate reflective marking requirements - BR834
Operator's licenses and personal identification cards, permit veteran designation on - BR62; BR74
Public transportation, offenses against user or operator of - BR30
Publicly owned vehicles, mandatory inspections of - BR18

Purple Heart license plate, design requirements - BR397
Railroad crossings, urging of CSX corporate officials to require maintenance of - BR485
Speed bumps, local government requirements for - BR122

Treasurer

Office of State Treasurer, abolition of - BR821
Presentation of stale check claims to General Assembly annually - BR83
Unclaimed life insurance benefits, escheat of - BR487

Unemployment Compensation

Vocational education recipients, substance abuse testing, requirement for - BR151

Unified Local Governments

Local option election for casino gaming - BR246
Residential care facilities, licensing, preemption of local authority for stricter requirements - BR78

United States

Federal "Secure Communities" program, required use of - BR37
Move federal terrorism trial from Bowling Green, Kentucky to the Guantanamo detention facility - BR88
Peace officer, retired, carrying concealed weapon, LEOSA update - BR390
Presidential election by national popular vote, compact for - BR125

Universities and Colleges

Bachelor's degree completion, board responsibility for - BR435
Board members, removal of - BR14
Charter schools, authorizers of - BR117
Foster children, tuition waived - BR283
Postsecondary affordability, require assessment of - BR429
School buildings, naming of - BR48
Tuition and fee waiver, family members of veterans eligibility, time limitations for - BR336

Veterans' Affairs

"Medal of Honor Way," Designation of US 641 in Murray, KY - BR377
Benton, Brett Patrick, memorializing - BR68
Confederate pensions, repeal of - BR222
Disabled veteran license plates, no charge for 50% service-connected disability - BR135
Gold Star Sibling special license plate, establishment - BR135
Postsecondary education tuition waiver, family eligibility, time limitations for - BR336
Prisoner of War and Missing in Action flag, definition of - BR79
Public property, naming in honor of -

BR48
Purple Heart license plate, design requirements - BR397
Veterans designation, permit on operator's licenses and personal identification cards - BR62; BR74
Veterans' organization, property tax, sales tax, exempt - BR8
Veterans Personal Loan Program, provide funding for - BR154

Waste Management

Recyclers and junkyards, nonferrous metal purchases, requirements for - BR205

Water Supply

Water quality, funding for - BR439

Waterways and Dams

Personal watercraft, inland navigation rules, citation for - BR448
Watercraft taxation, allow for alternative apportionment - BR852

Wills and Estates

Estate tax, modify and decouple from federal tax - BR373
Estates, informal periodic settlement - BR157
Probate fees, estates of those killed in line of duty, exemption for - BR284
Trusts and estates, administration of, probate matters - BR341
Unclaimed life insurance benefits, escheat of - BR487

Wines and Wineries

Restaurants, retail drink license requirement - BR175

Women

Domestic violence, coverage of dating couples - BR166
Pregnancy resource centers, encourage financial assistance to - BR221

Workers' Compensation

Severance tax, transfer of funds to Worker's Compensation Fund, deletion of requirement for - BR368

LRC Publications

Informational Bulletins

237 Final Reports of the Interim, Joint, Special, and Statutory Committees 2011

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Research Reports

382 Kentucky District Data Profiles School Year 2010

381 Certification and Escrow Requirements Associated With the Tobacco Master Settlement Agreement

371 Leadership Training for Superintendents, School Board Members, Principals, and School-based Decision Making Council Members

370 Compendium of State Education Rankings (2009)

368 Kentucky District Data Profiles (2009)

367 Program Review and Investigations A Review of the Kentucky Agency for Substance Abuse Policy and the Office of Drug Control Policy

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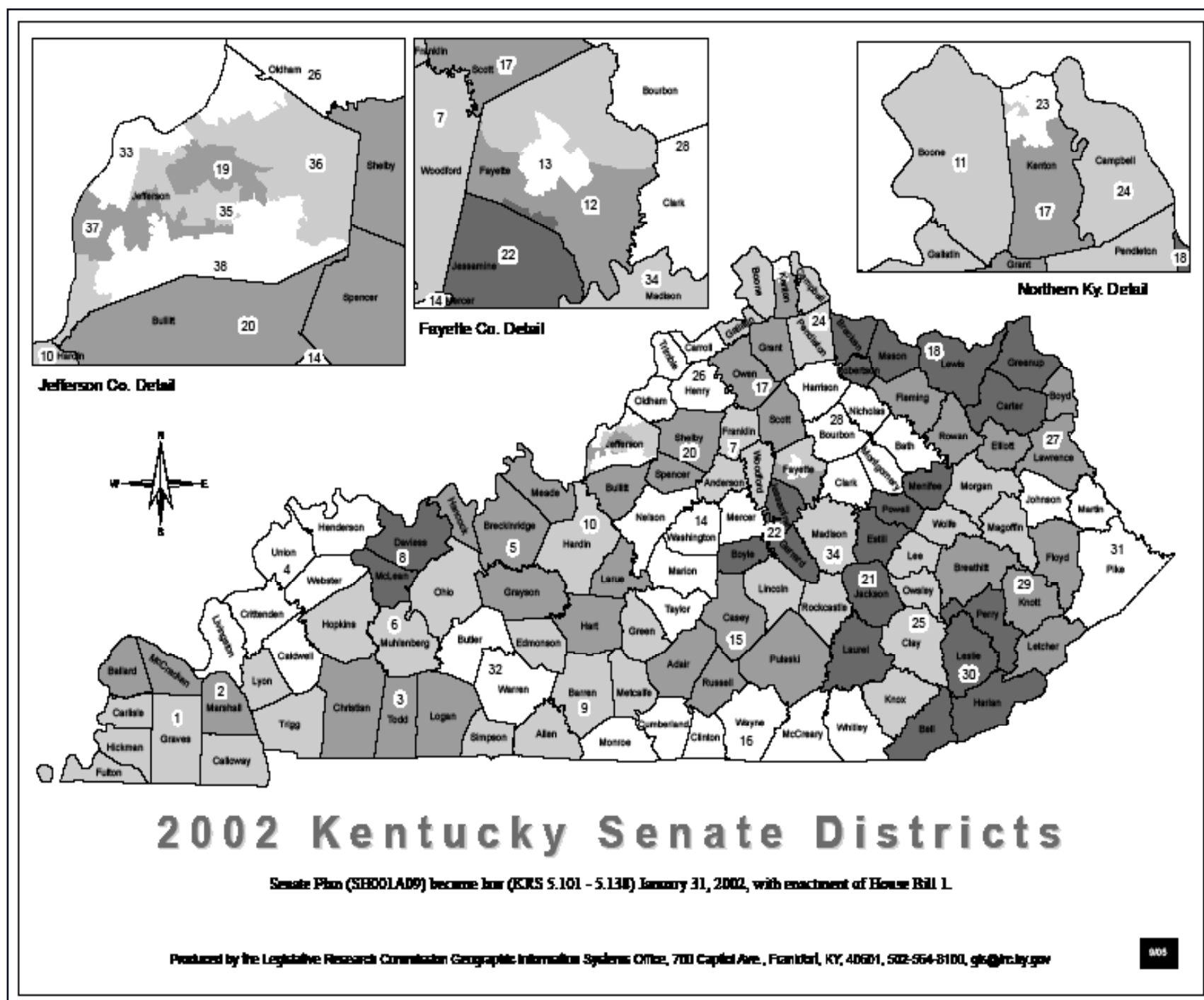
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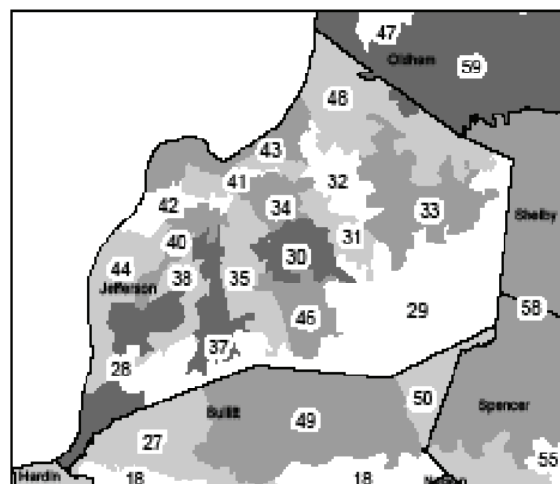
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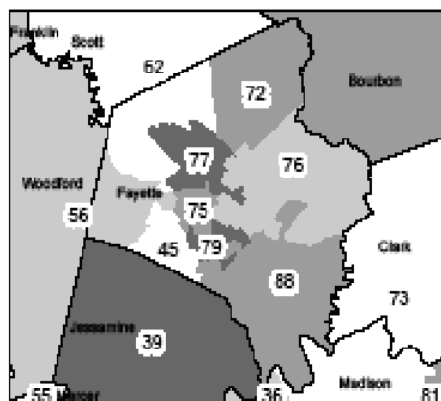
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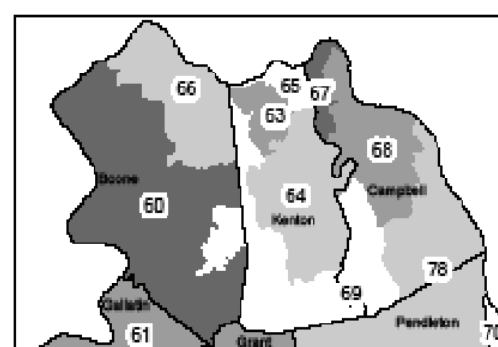




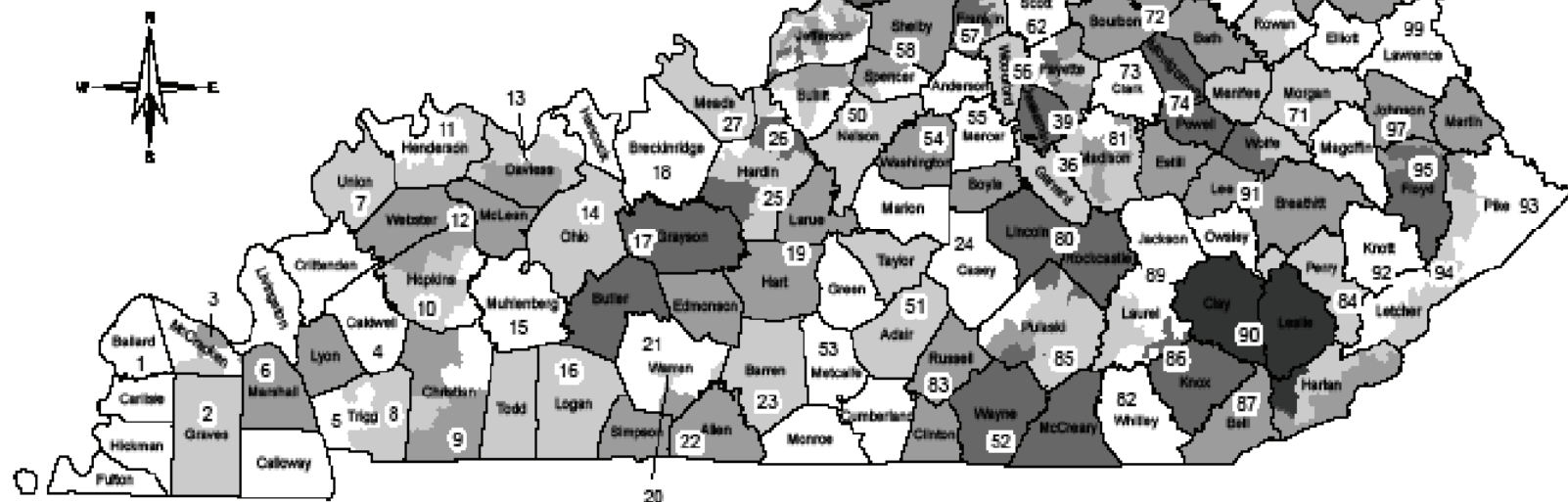
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2002 Kentucky House Districts

House Plan (HB001A.11) became law (SRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

Produced by the Legislative Research Commission Geographic Information Systems Office, 700 Capitol Ave., Frankfort, KY 40601, 502-564-8100, gis@lrc.ky.gov

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