

# 2013 Interim LEGISLATIVE

Volume 26, No. 3  
June 2013

\* Read on-line at [www.lrc.ky.gov/legislation.htm](http://www.lrc.ky.gov/legislation.htm)\*



## RECORD

## Veterans Treatment Court a success, lawmakers told

by Amy Rose Karr  
*LRC Public Information*

A specialty court in Jefferson County is the first in the state dedicated to serving veterans involved in the criminal justice system, members of the Interim Joint Committee on Veterans, Military Affairs and Public Protection heard on June 13.

Based on the drug court model, the Jefferson County Veterans Treatment Court (JCVTC) is a four-phase evidence-based program for veterans charged with non-violent crimes.

According to Judge David Holton of the Jefferson County District Court, the goal of JCVTC is to identify and address veterans' needs so they can return to productive lives and reintegrate with society.

Many veterans suffer from Post Traumatic Stress Disorder, Traumatic Brain Injury, or other conditions and sometimes self-medicate with drugs and alcohol, Holton said.

"Combining mental illness with drugs and alcohol is like adding gasoline to fire. The results are often broken homes, failed marriag-

es, homelessness, unemployment. And these are all factors that lead directly to the criminal justice system," he said.

The 18-month program is voluntary for eligible veterans and involves counseling, random drug testing, case management, support groups, community service and mentorship. A team including court staff, mental health professionals and Veterans Administration employees create an individual treatment plan for

**The Jefferson  
County Veterans  
Treatment Court  
is a four-phase  
evidence-based  
program for  
veterans charged  
with non-violent  
crimes.**

each participant.

"I don't want anyone to believe this is a get-out-of-jail-free card. This is a very rigorous program," Holton said. Veterans are required

**Continued on page 2**

## Lawmakers briefed on autism coverage

by Amy Rose Karr  
*LRC Public Information*

Members of the Interim Joint Committee on Banking and Insurance were updated June 25 on implementation of legislation to expand health insurance coverage for autism treatments.

House Bill 159, passed during the 2010 Regular Session, increased claim amounts and expanded treatment options covered by insurance for patients with autism.

"The passage of House Bill 159 gave hope to many families who struggle with autism. The idea that these services would be reimbursed became a lifeline for families who have sacrificed so much for their children," said Dr. Shelli Deskins, program director at the Highlands Center for Autism.

Deskins utilizes an intensive, scientifically-based autism treatment called applied behavioral analysis (ABA) therapy that was included in HB 159. She told lawmakers that families

**Continued on page 3**

## Nominations now accepted for Vic Hellard Jr. Award

The Kentucky Legislative Research Commission is now accepting nominations for the 2013 Vic Hellard Jr. Award.

The award, given annually in memory and recognition of the longtime LRC Director's contributions to an independent legislative institution and devoted service to the Commonwealth, recognizes a person who has advanced the interests of citizens of Kentucky by example and leadership. It is the highest honor the Legislature can bestow.

Letters of nomination should be submitted by Oct. 31, 2013 and should explain how the candidate meets the following criteria, drawn from Hellard's own career:

1) Demonstrates vision, considering long-term implications for the public good; 2) Demonstrates innovation, finding new approaches while appreciating history; 3) Champions the equality and dignity of all; 4) Enhances the processes of a democratic society, promoting public dialogue, educating citizens and decision makers, and fostering civic engagement, and; 5) Approaches work with commitment, caring, generosity and humor.

Please submit nominations to: Hellard Award Selection Committee, Legislative Research Commission, Attn: Ben Payne, 702 Capitol Avenue, Room 101, Frankfort, KY 40601, or online at [www.lrc.ky.gov/HellardAward.htm](http://www.lrc.ky.gov/HellardAward.htm).



Vic Hellard Jr.

# Food banks seek General Fund dollars, lawmakers told

by Rebecca Hanchett  
LRC Public Information

Kentucky's food banks want state General Fund support for their operations, a state legislative committee was told on June 12.

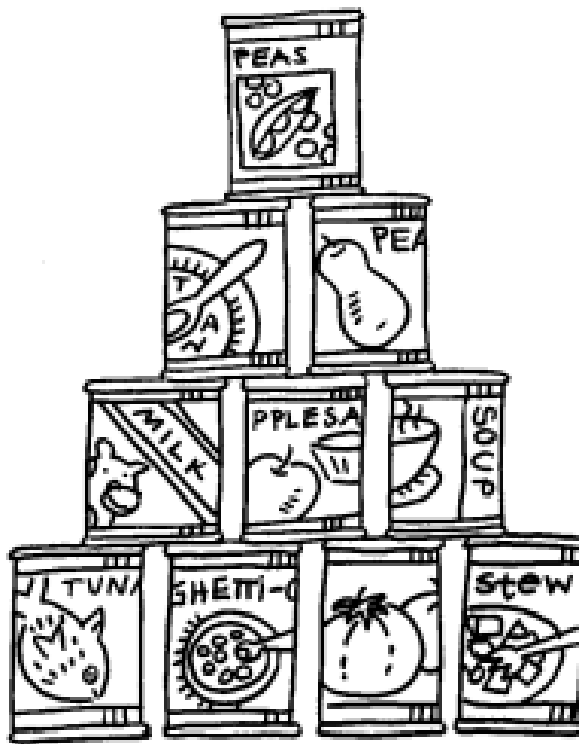
Thirty eight states provide General Fund support for food banks, according to Tamara Sandberg with the Kentucky Association of Food Banks, but Kentucky is not one of them. She told the Interim Joint Committee on Agriculture that Kentucky's food banks need around \$300,000 a year in General Fund support to meet their clients' needs.

"Kentucky is at the bottom of too many lists," she told the committee, adding that food banks would appreciate consideration during the 2014 Kentucky General Assembly. The next regular session, beginning in January, is a budget session.

The KAFB's seven member food banks—nonprofit food distribution centers that supply food to people throughout their regions—are now

funded mostly by grants or other available sources, such as state tobacco settlement funds which the KAFB or member food banks have received off and on since 2002.

The 2013 Kentucky General Assembly took action to support food banks, food pantries and shelters when it passed Senate Bill 1, sponsored by Senate President Robert Stivers, R-Manchester. Now law, the legislation



will allow producers to receive a tax credit of 10 percent of the value of edible agricultural products they donate to nonprofit food programs.

The tax credit provisions in SB 1 were originally found in House Bill 141, sponsored by committee co-chair Rep. Tom McKee, D-Cynthiana, and Rep. Mike Denham, D-Maysville. The provisions were attached to SB 1 for final passage late in the session.

McKee praised the food banks and their Farms to Food Banks program. The program was created in 2009 by legislation (HB 344) sponsored by McKee.

"One of the interesting things is when you expose people to fresh vegetables they've never been exposed to (before)," he told the committee.

Food banks and pantries will also benefit from a state income tax check-off that was created with the passage of House Bill 419, sponsored by former State Rep. Fred Nesler, D-Mayfield, and Rep. Tommy Turner, R-Somerset, in 2012. Kentucky taxpayers can begin using the check-off on their 2013 tax forms, Sandberg said.

Approximately 17 percent, or 750,000, of individuals including one in four children are considered hungry or "food insecure" in Kentucky today, Sandberg said. The national average food insecurity rate is 16.4 percent, according to the charity Feeding America.

## Planned boating restrictions along Cumberland put on hold

by Rebecca Hanchett  
LRC Public Information

A two-year moratorium on boating restrictions planned by the U.S. Army Corps of Engineers both above and below dams on the Cumberland River took effect in early June, protecting boater access to popular fisheries on Lake Cumberland and Lake Barkley, state Fish and Wildlife Resources officials said on June 6.

The moratorium is part of the Freedom to Fish Act which was signed into law by President Obama on Monday, KDFWR Deputy Commissioner Benjy Kinman told the Interim Joint Committee on Natural Resources and Environment. The ban took effect immediately, preventing planned "full-time" restrictions while a permanent solution to the Corps of Engineers' concerns is worked out, he explained.

"They are good partners with us," Kinman said of the Corps of Engineers. "We just kind of agreed to

disagree on this issue, and try to work it out."

The planned restrictions were scheduled to take effect this spring above and below the Corps of Engineers dams at four Kentucky lakes—Lake Barkley, Lake Cumberland/Wolf Creek Dam, Martins Fork Lake, and Laurel River Lake—although the greatest impact would have been below the dams at Lake Barkley and Lake Cumberland, Kinman explained.

Fishing and boating below the dam at Lake Barkley alone contributes about \$3 million to the economy, he said. Lake Barkley is a popular spot for fishing of striped bass, sauger, catfish, paddlefish, and other fish, while the area below Wolf Creek Dam on Lake Cumberland is popular with those fishing brown, rainbow, and brook trout, said Kinman.

The proposed restrictions were opposed last winter by the Kentucky

Senate with its passage of Senate Resolution 112, sponsored by Sens. Chris Girdler, R-Somerset, and Stan Humphries, R-Cadiz. They were also opposed by members of Kentucky's congressional delegation, and local officials whose economies would be negatively affected by the restrictions.

Committee co-chair Sen. Jared Carpenter, R-Berea, said he appreciates the many efforts to protect boating access. "We appreciate the federal delegation, and Sen. Girdler, and so many people's efforts to make sure we protect that."

The restrictions were planned by the Corps of Engineers after it faced litigation concerning boater safety in Tennessee, said Kinman.

"I think we've educated them now on the importance of the fisheries, and I think they're going to work with us," he said.

## Veterans, from page 1

to attend five to seven rehab meetings each week, in addition to mental health treatment appointments, he said.

Several lawmakers expressed interest in expanding the program to other areas of the state, including the Fort Campbell area in Christian County.

"There are some who would criticize specialty courts as too much social work and not enough legal work. ... Until we conquer substance abuse, these courts are going to have to reach out to these men and women—in the military or otherwise—to solve the problem ... We need veterans courts all over this state," Rep. John Tilley, D-Hopkinsville, said.

The program is being funded by grants from the U.S. Department of Justice and the Kentucky Department of Veterans Affairs. Morehead State University is monitoring the program to evaluate its effectiveness.



# Committee discusses possible bi-monthly SNAP ration

by Rebecca Hanchett  
LRC Public Information

Kentucky may examine whether it's possible to distribute SNAP funds twice monthly to help those on food assistance better balance their food budgets after hearing a state senator's suggestion on the matter, a legislative committee was told on July 2.

Beth Jurek, who is the Policy and Budget Director with the Kentucky Cabinet for Health and Family Services, told the Tobacco Settlement Agreement Fund Oversight Committee that she will look into whether a recipient's current SNAP (Supplemental Nutrition Assistance Program) funds—formerly known as “food stamps”—can be split into two rations per month on their EBT (electronic benefit transfer) cards. Kentucky SNAP recipients now receive their ration electronically once a month.

The change was suggested by Sen. Jimmy Higdon, R-Lebanon, a former grocer who said he has found many recipients have trouble budgeting for a month's worth of healthy food when they receive their SNAP distribution only once a month. The recipients often buy non-perishables, which Higdon explained may last longer than most fresh fruit or vegetables but are not necessarily nutritious.

“Instead of milk, (some) get Mountain Dew because they'll last all month and they can budget that; they know how many Mountain Dews they'll need to make it through



Rep. Wilson Stone,  
D-Scottsville, chairs the  
July 2 meeting of the  
Tobacco Settlement  
Agreement Fund  
Oversight Committee  
in Frankfort.

the month,” said Higdon, who said a twice-monthly distribution would be helpful.

“These low-income families—we wouldn't have them running out of food at the end of the month,” he said. “They might run out on the 13th day and 26th or 27th day, but they wouldn't go whole weeks without food.”

Jurek said changing the distribution would give recipients their distribution on a “more frequent basis,”

although it would mean less money offered at one time. She also said the federal government ultimately governs such a change.

“All the rules for food stamps are set by the federal government,” said Jurek, who said she would find out whether the EBT cards can be loaded twice a month. “If they can, I will (find out) what it would take to do that and if that's a possibility.”

Approximately 874,094 Kentuckians receive SNAP funds,

according to the USDA. The funds are distributed once monthly onto the EBT cards which are then used at grocery stores or at other food vendors like convenience stores.

Many Americans, including Sen. Robin Webb, D-Grayson, have expressed concern about the future of SNAP funds under this Congress as it debates the passage of a new U.S. farm bill.

**Continued on page 37**

## Autism, from page 1

have faced some challenges in taking advantage of the expanded benefits.

“Any time a new benefit is implemented in a state, there are going to be some difficulties as the coverage is rolled out throughout the insurance market,” said Lori Unumb, Vice President for State Government Affairs for Autism Speaks.

According to Unumb, claims for ABA treatment have been denied for many reasons, including billing code issues and misunderstandings about the treatment. Because there are no specific billing codes for ABA

treatment, patients and providers can be confused about which codes to use for each insurance company, she said.

Some insurance companies did not recognize ABA as medically-necessary treatment prior to HB 159 and have required education about the therapy, Unumb said. Those types of issues should be resolved now, she said.

Melodie Shrader, executive director of Kentucky Association of Health Plans, told lawmakers that health insurance companies in the state continue to be committed to resolving the challenges of expanded autism treatment coverage.

Insurance companies are implementing appropriate training and



Interim Joint Committee on  
Banking and Insurance Co-Chair  
Sen. Tom Buford, R-Nicholasville,  
listens to testimony during  
the June 25 meeting  
of the committee  
in Frankfort.

identifying needed resources and networks, she said.

“We will improve this. ...I want to get fixed whatever is not working correctly,” said committee co-chair Rep. Jeff Greer, D-Brandenburg.



# 2013 KENTUCKY

## General Assembly

### Senate

**Walter Blevins, Jr.**

115 Hill N Dale Morehead 40351  
Work 606-743-1200  
Home 606-743-1212  
FAX 606-743-1214

**Joe Bowen**

2031 Fieldcrest Drive Owensboro 42301  
Home 270-685-1859

**Tom Buford**

409 W. Maple Nicholasville 40356  
Home/FAX 859-885-0606

**Jared Carpenter**

PO Box 100 Berea 40403  
Home 859-623-7199

**Julian M. Carroll**

Room 229 Capitol Annex  
Frankfort 40601  
502-564-8100

**Perry B. Clark**

5716 New Cut Road Louisville 40214  
Home 502-366-1247

**Julie Denton**

1708 Golden Leaf Way  
Louisville 40245  
502-564-8100

**Carroll Gibson**

PO Box 506 Leitchfield 42755  
Home 270-230-5866

**Chris Girdler**

PO Box 395 Somerset 42502  
502-564-8100

**David P. Givens**

PO Box 12 Greensburg 42743  
502-564-8100

**Sara Beth Gregory**

PO Box 1835 Monticello 42633  
Home 606-348-9767  
FAX 606-348-3459

**Denise Harper Angel**

2521 Ransdell Ave. Louisville 40204  
Home 502-452-9130

**Ernie Harris**

PO Box 1073 Crestwood 40014  
Home 502-241-8307

**Jimmy Higdon**

344 N. Spalding  
Lebanon 40033  
Home 270-692-6945

**Paul Hornback**

6102 Cropper Rd. Shelbyville 40065  
502-564-8100

**Stan Humphries**

763 Sinking Fork Rd., Cadiz 42211  
Home 270-522-0195

**Ray S. Jones II**

PO Drawer 3850 Pikeville 41502  
Work 606-432-5777  
FAX 606-432-5154

**Alice Forgy Kerr**

3274 Gondola Dr. Lexington 40513  
Home 859-223-3274

**Bob Leeper**

229 South Friendship Paducah 42003  
Work 270-554-9637  
Home 270-554-2771  
FAX 270-554-5337

**Christian McDaniel**

PO Box 15231 Latonia 41015  
502-564-8100

**Morgan McGarvey**

2250 Winston Ave.  
Louisville 40205  
Home 502-589-2780

**Gerald A. Neal**

Suite 1250 Meidinger Twr  
462 S. 4th Street  
Louisville 40202  
Work 502-584-8500  
Home 502-776-1222  
FAX 502-584-1119

**R.J. Palmer II**

1391 McClure Road Winchester 40391  
Home 859-737-2945

**Dennis Parrett**

731 Thomas Rd. Elizabethtown 42701  
Home 270-765-4565

**Jerry P. Rhoads**

9 East Center Street  
Madisonville 42431  
Home 270-825-2949

**Dorsey Ridley**

4030 Hidden Creek  
Henderson 42420  
Home 270-826-5402  
Work 270-869-0505  
Work FAX 270-869-0340

**Albert Robinson**

1249 S. Main London 40741  
Work 502-584-8500  
Home 606-878-6877

**John Schickel**

2147 Natches Trace Union 41091  
502-564-8100

**Dan “Malano” Seum**

1107 Holly Ave. Fairdale 40118  
Home 502-749-2859

**Brandon Smith**

P.O. Box 846 Hazard 41702  
Home 606-436-4526  
FAX 606-436-4526

**Kathy W. Stein**

364 Transylvania Park Lexington 40508  
Work 859-225-4269  
Home 859-252-1500

**Katie Stine**

21 Fairway Drive Southgate 41071  
Home 859-781-5311

**Robert Stivers II**

207 Main Street Manchester 40962  
Work 606-598-2322  
Home 606-598-8575  
FAX 606-598-2357

**Damon Thayer**

102 Grayson Way Georgetown 40324  
502-564-8100  
FAX 502-868-6086

**Johnny Ray Turner**

849 Crestwood Dr. Prestonsburg 41653  
Home 606-889-6568

**Robin L. Webb**

404 W. Main Street Grayson 41143  
Home 606-474-5380

**Whitney Westerfield**

700 S. Main PO Box 1107  
Hopkinsville 42241-1107  
502-564-8100  
Work 270-885-7671

**Mike Wilson**

631 Washington Avenue  
Bowling Green 42103  
502-564-8100

**\* Members of the  
Kentucky General Assembly  
may also be contacted by calling  
502-564-8100.**

## House of Representatives

**Julie Raque Adams**

213 S. Lyndon Ln.  
Louisville 40222  
Home 502-744-9264

**Rocky Adkins**

PO Box 688 Sandy Hook 41171  
Work 606-928-0407  
Home 606-738-4242  
FAX 606-929-5213

**John A. Arnold, Jr.**

PO Box 124 Sturgis 42459  
Work 270-333-4641

**Lynn Bechler**

2359 Brown Mines Road  
Marion 42064  
Home 270-988-4171

**Johnny Bell**

108 North Green St. Glasgow 42141  
Work 270-651-7005  
Home 270-590-0110

**Robert Benvenuti III**

2384 Abbeywood Rd Lexington 40515  
Home 859-421-1464

**Kevin D. Bratcher**

10215 Landwood Drive  
Louisville 40291  
Home 502-231-3311

**Regina Bunch**

179 Mountain St. Williamsburg 40769  
Home 606-549-3439

**Tom Burch**

4012 Lambert Ave.  
Louisville 40218  
Home 502-454-4002

**Denver Butler**

PO Box 9041 Louisville 40209  
Work 502-817-3044

**Dwight D. Butler**

PO Box 9 Harned 40144  
Home 270-756-0100

**John Carney**

341 Pembroke Way  
Campbellsville 42718  
Home 270-465-5400

**Larry Clark**

5913 Whispering Hills Blvd.  
Louisville 40219  
Home 502-968-3546

**Hubert Collins**

72 Collins Dr. Wittensville 41274  
Home 606-297-3152

**Leslie Combs**

245 E. Cedar Drive Pikeville 41501  
Home 606-444-6672

**Tim Couch**

PO Box 710 Hyden 41749  
Home/FAX 606-672-8998

**Will Coursey**

285 Oak Level Elva Road  
Symsonia 42082  
Home 270-851-4433  
Work 270-252-1278

**Jesse Crenshaw**

121 Constitution Lexington 40507  
Work 859-259-1402  
Home 859-252-6967  
FAX 859-259-1441

**Ron Crimm**

PO Box 43244 Louisville 40253  
Work 502-400-3838  
Home 502-245-8905

**Robert R. Damron**

231 Fairway West Nicholasville 40356  
Home 859-887-1744

**Jim DeCesare**

PO Box 122 Rockfield 42274  
Home 270-792-5779  
Home FAX 888-275-1182  
Work 270-792-5779

**Mike Denham**

306 Old Hill City Road Maysville 41056  
Home 606-759-5167

**Bob M. DeWeese**

6206 Glenhill Rd. Louisville 40222  
Home 502-426-5565

**Jeffery Donohue**

PO Box 509 Fairdale 40118  
Work 502-439-6175

**Myron Dossett**

491 E. Nashville St. Pembroke 42266  
Home 270-475-9503

**C.B. Embry, Jr.**

PO 1215 Morgantown 42261  
Work 270-526-6237  
Home 270-791-1879

**Joseph M. Fischer**

126 Dixie Place Fort Thomas 41075  
Work 513-794-6442  
Home 859-781-6965

**Kelly Flood**

121 Arcadia Park Lexington 40503  
Home 859-221-3107

**David Floyd**

102 Maywood Ave. Bardstown 40004  
Home 502-350-0986

**Jim Glenn**

PO Box 21562 Owensboro 42304  
Home 270-686-8760

**Jim Gooch Jr.**

714 North Broadway B2  
Providence 42450  
Work 270-635-7855  
Home 270-667-7327  
FAX 270-667-5111

**Derrick Graham**

Room 329F Capitol Annex Frankfort 40601  
Home 502-223-1769

**Jeff Greer**

PO Box 1007 Brandenburg 40108  
Home 270-422-5100  
Home FAX 270-422-5100

**Keith Hall**

213 E. Fourth Frankfort 40601  
502-564-8100

**Mike Harmon**

633 N. 3rd St. Danville 40422  
Home 859-238-7792

**Richard Heath**

438 Millers Chapel Rd.  
Mayfield 42066  
Home 270-705-7539  
Work 270-247-2210  
Work FAX 270-247-2304

**Richard Henderson**

3483 Grassy Lick Rd. Mt. Sterling 40323  
Home 859-585-0886

**Toby Herald**

PO Box 1602 Beattyville 41311  
Home 606-464-8510

**Jeff Hoover**

PO Box 985 Jamestown 42629  
Work 270-343-5588  
Home 270-343-2264

**Dennis Horlander**

1806 Farnsley Rd., Ste. 6 Shively 40216  
Work 502-447-9000  
Home 502-447-2498

**Kenny Imes**

4064 US 641 N Murray 42071  
502-564-8100

**Joni L. Jenkins**

2010 O'Brien Ct. Shively 40216  
Home 502-447-4324

**Dennis Keene**

1040 Johns Hill Road Wilder 41076  
Home 859-441-5894

**Thomas Kerr**

5415 Old Taylor Mill Rd. Taylor Mill 41015  
Work 859-431-2222  
Home 859-356-1344  
FAX 859-431-3463

**Kim King**

250 Bright Leaf Drive Harrodsburg 40330  
Home 859-734-2173

**Martha Jane King**

633 Little Cliff Estates Lewisburg 42256  
Home 270-657-2707  
FAX 270-657-2755

**Adam Koenig**

No. 12 170 Harrington Ct. Erlanger 41018  
Home 859-653-5312

**Jimmie Lee**

901 Dogwood Drive Elizabethtown 42701  
Work 270-765-6222  
Home 270-737-8889  
FAX 270-765-2312

**Stan Lee**

PO Box 2090 Lexington 40588  
Home 859-252-2202  
FAX 859-259-2927

**Brian Linder**

16 Ridgeview Circle Dry Ridge 41035  
502-564-8100

**Mary Lou Marzian**

2007 Tyler Ln. Louisville 40205  
Home 502-451-5032

**Donna Mayfield**

2059 Elkin Station Rd.  
Winchester 40391  
Home 859-745-5941

**Tom McKee**

1053 Cook Road Cynthiana 41031  
Home 859-234-5879  
FAX 859-234-3332

**David Meade**

PO Box 121 Stanford 40484  
502-564-8100

**Reginald Meeks**

PO Box 757 Louisville 40201  
Work 502-741-7464

**Michael Meredith**

PO Box 292 Brownsville 42210  
Work 270-597-6049

**Charles Miller**

3608 Gateview Circle Louisville 40272  
Home 502-937-7788

**Terry Mills**

695 McElroy Pike Lebanon 40033  
Home 270-692-2757

**Brad Montell**

543 Main Street Shelbyville 40065  
Work 502-633-7017  
Home 502-633-7533

**Tim Moore**

417 Bates Rd. Elizabethtown 42701  
Home 270-769-5878

**Rick G. Nelson**

117 Gumwood Dr. Middlesboro 40965  
Home/FAX 606-248-8828

**David Osborne**

PO Box 8 Prospect 40059  
Work 502-645-2186  
Home 502-228-3201

**Sannie Overly**

340 Main Street Paris 40361  
Home 859-987-9879

**Darryl T. Owens**

1018 S. 4th St., Ste. 100 Louisville 40203  
Home 502-584-6341

**Ruth Ann Palumbo**

10 Deepwood Dr. Lexington 40505  
Home 859-299-2597

**Tanya Pullin**

1026 Johnson Lane South Shore 41175  
Work 606-932-2505

**Ryan Quarles**

PO Box 1001 Georgetown 40324  
502-564-8100

**Marie Rader**

PO Box 323 McKee 40447  
Work 606-287-3300  
Home 606-287-7303  
FAX 606-287-3300

**Rick Rand**

PO Box 273 Bedford 40006  
Work 502-255-3286  
Home 502-255-3392  
FAX 502-255-9911

**Jody Richards**

817 Culpeper St. Bowling Green 42103  
Home 270-842-6731

**Steve Riggs**

PO Box 24586 Louisville 40224  
502-564-8100  
FAX 502-564-6543

**Tom Riner**

1143 E. Broadway Louisville 40204  
Home 502-584-3639

**Bart Rowland**

PO Box 336  
Tompkinsville 42167  
502-564-810

# Committee Meetings

## Index

- A  
Administrative Regulation Review Subcommittee, 28  
Agriculture, 10
- C  
Capital Planning Advisory Board, 24  
Capital Projects and Bond Oversight, 26
- E  
Education, 11  
Education Assessment and Accountability Review Subcommittee, 30
- G  
Government Contract Review Committee, 31
- H  
Health and Welfare, 12
- J  
Judiciary, 14
- L  
Labor and Industry, 16  
Legislative Research Commission, 5  
Licensing and Occupations, 17
- N  
Natural Resources and Environment, 19
- P  
Program Review and Investigations Committee, 34
- T  
Tobacco Settlement Agreement Fund Oversight Committee, 36  
Transportation, 20
- V  
Veterans, Military Affairs, and Public Protection, 23

### LEGISLATIVE RESEARCH COMMISSION

Minutes of the 538th Meeting of the 2013 Interim  
June 26, 2013

#### Call to Order and Roll Call

The 538th meeting of the Legislative Research Commission was held on Wednesday, June 26, 2013, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators R.J. Palmer II, Jerry P. Rhoads, Dan “Malano” Seum, Brandon Smith, Katie Stine, Damon Thayer, and Johnny Ray Turner; Representatives Rocky Adkins, John Carney, Larry Clark, Bob M. DeWeese, Sannie Overly, and Tommy Thompson.

LRC Staff: Bobby Sherman and Christy Glass.

Speaker Stumbo called the meeting to order, and the secretary called the roll. Speaker Stumbo welcomed new members to the LRC. There being a quorum present, Speaker Stumbo called for a motion to approve the minutes of September 5, 2012; accept and refer as indicated items A. through P. under Staff and Committee Reports; refer prefiled bills as indicated and approve items B. through BB. under New Business; and accept and refer as indicated items 1. through 245. under Communications. A motion was made by Representative Clark and seconded by Senator Stivers. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

The minutes of the September 5, 2012, meeting, were approved.

#### Staff and Committee Reports

Information requests from September 2012 through June 2013.

Committee Activity Reports for September 2012 through May 2013.

Reports of the Administrative Regulation Review Subcommittee meetings of September 17, October 9, November 13, and December 17, 2012, and January 7, February 11, March 12, April 9, and May 14, 2013.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meetings of September 10 and November 19, 2012.

Committee review of administrative regulations by the

Interim Joint Committee on Health and Welfare during its meetings of September 19, October 17, November 9, and December 11, 2012, and June 19, 2013.

Committee review of administrative regulations by the Interim Joint Committee on State Government during its meeting of October 24, 2012.

Committee review of administrative regulations by the Senate Standing Committee on Judiciary during its meeting of March 4, 2013.

Committee review of administrative regulations by the House Standing Committee on Judiciary during its meeting of March 4, 2013.

Committee review of Executive Reorganization Order 2012-586 by the Interim Joint Committee on Education during its meeting on September 10, 2012.

Committee review of Executive Reorganization Order 2012-737 by the Interim Joint Committee on Education during its meeting on September 10, 2012.

Committee review of Executive Reorganization Order 2012-783 by the Interim Joint Committee on Health and Welfare during its meeting on November 9, 2012.

Committee review of FY 2013 Small Cities Community Development Block Grant and Section 108 Loan Guarantee Program Application Block Grant Application by the Senate Standing Committee on State and Local Government and House Standing Committee on Local Government during its meeting of February 27, 2013.

Committee review of FFY 2014-2015 Preliminary Child Care and Development Fund State Plan by the Interim Joint Committee on Health and Welfare during its meeting of June 19, 2013.

Committee review of FFY 2014-2015 Community Services Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting of June 19, 2013.

Committee review of SFY 2014 Social Services Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting of June 19, 2013.

Memorandum from Teresa Arnold, Deputy Director for Research, submitting the 2012 Report of the Unified Juvenile Code Task Force. (Staff suggested committee referral: Judiciary.)

#### New Business

Referral of prefiled bills to the following committees: **BR 1** (relating to drone surveillance) to **Judiciary**; **BR 53** (relating to problem, compulsive, or pathological gambling and making an appropriation therefor) to **Licensing and Occupations**; **BR 7** (relating to confirmation of executive appointments) to **State Government**.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing Senator Damon Thayer to the Kentucky Equine Drug Research Council.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing Hon. William T. Robinson, III as a full Commissioner to the National Conference of Commissioners on Uniform State Laws.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum regarding impending vacancy in LRC membership

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing Kenneth Galloway, James Flynn, and Jerry Green to the Local Superintendents Advisory Council.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet on August 22 in Lexington, in conjunction with the annual Kentucky Prosecutors Conference. There is one potential conflict.

From Senator Whitney Westerfield and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting authorization of and appointment of membership to the 2013 Unified Juvenile Code Task Force.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing a staff study of probation and parole pursuant to 2013 SCR 123.

From Senator Joe Bowen and Representative Brent Yonts, Co-Chairs of the Interim Joint Committee on State Government: Memorandum requesting approval to meet on November 20, rather than the regularly scheduled meeting date of November 27. There are three potential conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the Task



Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the Task Force on Economic Development of the Interim Joint Committee on Economic Development and Tourism.

From Senator Ernie Harris and Representative Hubert Collins, Co-Chairs of the Interim Joint Committee on Transportation: Memorandum requesting approval to meet on July 22, rather than the regularly scheduled meeting date of July 2. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum adjusting the membership of the Special Subcommittee on Energy.

From Senator Alice Forgy Kerr and Representative Rick G. Nelson, Co-Chairs of the Interim Joint Committee on Labor and Industry: Memorandum requesting approval to meet on September 10 at Kentucky Dam Village State Resort in conjunction with the Kentucky Labor Management Conference, rather than the regularly scheduled meeting date of September 19. There are five potential conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Derrick Graham as the Co-Chair of the Interim Joint Committee on Education.

From Senator Bob Leeper and Representative Rick Rand, Co-Chairs, Interim Joint Committee on Appropriations and Revenue: Memorandum requesting authorization and appointment of membership to the Subcommittee on 2014-2016 Budget Preparation and Submission of the Legislative Research Commission.

From Senator Bob Leeper and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on November 25, rather than the regularly scheduled meeting date of November 28. There are no apparent conflicts.

From Senator Jared Carpenter and Representative Jim Gooch, Jr., Co-Chairs of the Interim Joint Committee on Natural Resources and Environment: Memorandum requesting approval to meet on July 9, rather than the regularly scheduled meeting date of July 4. There is one potential conflict.

From Senator Robert Stivers, House Speaker Gregory D. Stumbo and State Budget Director Jane C. Driskell: Memorandum appointing Alan Bartley, Janet Harrah, James

Patrick McCoy, and David Sinclair as members of the Consensus Forecasting Group.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing Marcia Ford Seiler, OEA Director, to represent the Office of Education Accountability on the State Committee for School District Audits.

From Senator Mike Wilson and Representative Derrick Graham, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting authorization of and appointment of memberships to the Subcommittee on Postsecondary Education and the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education.

From Senator Mike Wilson and Representative Derrick Graham, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting approval to meet on August 5, rather than the regularly scheduled meeting date of August 12. There are no apparent conflicts.

From Senator Mike Wilson and Representative Derrick Graham, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting approval to meet on November 4, rather than the regularly scheduled meeting date of November 11. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum adjusting memberships of the Budget Review Subcommittees of the Interim Joint Committee on Appropriations and Revenue.

From Senator John Schickel and Representative Dennis Keene, Co-Chairs of the Interim Joint Committee on Licensing and Occupations: Memorandum requesting approval to meet on August 23, rather than the regularly scheduled meeting date of August 14. There is one potential conflict.

From Senator Jared Carpenter and Representative Richard Henderson, Co-Chairs of Subcommittee on Energy: Memorandum requesting approval to meet on August 23, rather than the regularly scheduled meeting date of August 16. There is one potential conflict.

From Senator Paul Hornback and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture: Memorandum requesting approval to meet on August 22 in conjunction with the State Fair, rather than the regularly scheduled meeting date of August 14. This will be the committee's third out-of-town meeting. There are seven potential conflicts.

From Senate President Robert Stivers and House Speaker Gregory

D. Stumbo: Memorandum adjusting memberships of the Budget Review Subcommittee on Primary and Secondary Education and the Interim Joint Committee on Appropriations and Revenue.

#### **Communications**

From Senator Christian McDaniel and Representative Fitz Steele, Co-Chairs, Program Review and Investigations Committee: Memorandum regarding opportunity for appointment of ex officio members for particular studies.

From Finance and Administration Cabinet: Monthly Investment Income Reports for the months of August 2012 through December 2012, January 2013, and March through May 2013.

From the Office of the Attorney General: Constitutional Challenge Reports for the months of July through November 2012 and January through March 2013.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs for the months of August, , September, November, and December 2012 and January through May 2013 and year-to-date activity for FY 2013.

From the Cabinet for Economic Development, Office of Compliance and Administrative Services: Loan data sheets for each loan approved as of the quarters ending September 30 and December 31, 2012, and March 31, 2013.

From the Cabinet for Health and Family Services: FY 12 Operations and Activities Report for Hospital Inpatient Discharge and Outpatient Services.

From the Justice and Public Safety Cabinet, Department of Corrections: FY 13 Annual Report.

From the Department of Education: FY 12 Interim Accountability Testing System: Validation and Research Agenda, Validation Studies, and Evidence for Reliability.

From the Cabinet for Economic Development, Office of Compliance and Administrative Services: FY 12 Agricultural Warehousing Sites Cleanup Fund Annual Report.

From the Tourism, Arts, and Heritage Cabinet: FY 12 Kentucky Tourism Development Act Incentives Annual Report.

From the Tourism, Arts, and Heritage Cabinet: FY 12 Kentucky Production Industry Incentives Annual Report

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Kenton County School District.

From the Kentucky Pollution

Prevention Center: FY 12 Annual Report.

From the Kentucky Department of Fish and Wildlife Resources: The Status of Hunting Land Access in Kentucky.

From the Kentucky Department of Fish and Wildlife Resources: FY 12 Hunger Relief Program Report.

From the Personnel Cabinet: Kentucky Group Health Insurance Board Executive Summary.

From the Education and Workforce Development Cabinet: Unemployment Insurance Report.

From the Department of Revenue: FY 12 Disaster Relief Sales and Use Tax Refund Totals.

From the Energy and Environment Cabinet, Department for Energy Development and Independence: FY 12 Center for Renewable Energy Research and Environmental Stewardship Annual Report.

From the Justice and Public Safety Cabinet: 2012 HB 463 Implementation Report.

From the Teachers' Retirement System: FY 12 In-state Investment Report and Interim Financial Statements for the Quarter ending June 30, 2012.

From the Teachers' Retirement System: FY 12 Annual Report.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Department of Veterans Affairs Veteran's Program Trust Fund.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Cabinet for Health and Family Services Breast Cancer Research and Education Trust Fund Grant Program.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Department of Insurance Kentucky Access Program.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Heritage Land Conversation Fund.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky River Authority.

From the Auditor of Public Accounts: Federal FY 11 Independent Accountant's Reports on Applying Agreed-Upon Procedures to the Kentucky Department of Education.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Artisan Center at Berea.

From the Cabinet for Economic Development: FY 12 Office of Commercialization and Innovation Annual Report.

From the Kentucky Public Service Commission: Energy Rate

Impacts on Kentucky Industry.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the second quarter of 2012.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending September 30, 2012.

From Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of June 30, 2012.

From Kentucky Employers' Mutual Insurance Authority: 2013 Annual Budget.

From the Cabinet for Economic Development: FY 12 Bluegrass State Skills Corporation Annual Report.

From the Auditor of Public Accounts: Report of the Audit of the Kentucky Public Employee Health Insurance Program for FYS 11 and 12.

From Kentucky Higher Education Assistance Authority: FY 12 Annual Actuarial Valuation of the Prepaid Tuition Trust Fund for Kentucky's Affordable Prepaid Tuition.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Mason County School District.

From Eastern Kentucky University: FY 12 Audited Financial Report.

From the University of Kentucky: FY 12 Kentucky Interagency Groundwater Monitoring Network Annual Report.

From the University of Kentucky, Office of the Treasurer: FY 12 University of Kentucky Capital Construction Status Report.

From the Kentucky Office of Homeland Security: 2012 Annual Report.

From the Cabinet for Economic Development: FY 12 Kentucky Enterprise Initiative Act Annual Report.

From the Public Protection Cabinet, Department of Housing, Buildings, and Construction: 2012 HB 215 Task Force Report.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Garrett Fire District and Garrett Area Volunteer Fire Department.

From the Personnel Cabinet: October 2012 Semi-annual Report listing filled positions, exempted from classified service.

From Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of September 30, 2012.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2012.

From the Auditor of Public Accounts: FYS 11 and 12 Report of the Audit of the Kentucky Lottery Corporation.

From the Cabinet for Economic Development, Department of Financial Incentives: FY 12 Kentucky Investment Fund Act Annual Report.

From the Cabinet for Economic Development: FY 12 Incentives for Energy Independence Act Annual Report.

From the Kentucky Personnel Board: FY 12 Annual Report.

From the University of Kentucky: FY 12 Audited Financial Statements of the University of Kentucky and its affiliated corporations.

From the Kentucky Judicial Form Retirement System: FY 12 Audited Financial Statements of the Kentucky Judicial Form Retirement System.

From the Kentucky Judicial Form Retirement System: GASB Disclosure Reports as of July 1, 2012, for the Kentucky judicial and legislators retirement plans.

From the Cabinet for Economic Development: Kentucky Business One Stop Portal Annual Report.

From the Kentucky Department of Agriculture, Office of State Veterinarian: 2012 Annual Report on the Cervid Chronic Wasting Disease Surveillance Identification Program.

From Northern Kentucky University: FY 12 Annual Financial Report.

From the Department of Revenue, Division of Corporation Tax: FY 12 Energy Efficiency Products Credits Claimed Report.

From the Department of Revenue, Division of Corporation Tax: FY 12 Energy Star Home and Energy Star Manufactured Home Credits Claimed Report.

From the University of Kentucky: FY 12 Athletic Association Financial Statements.

From the Personnel Cabinet: FY 12 Kentucky Group Health Insurance Board Annual Report.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Horse Park.

From the Department of Corrections: 2011 HB 463 Evidence-Based Practices and Programs Annual Report.

From the Department of Revenue, Office of Property Evaluation: FY 10 Report on Real Property Assessment Equity and Quality in Kentucky.

From Kentucky Pollution Prevention Center: FY 12 Mandatory Participation in Kentucky Energy Efficiency Program for Schools (KEEPS) Annual Report.

From the Department of Fish and

Wildlife Resources: 2012 Status of Cervid Chronic Wasting Disease and Other Diseases.

From the Cabinet for Health and Family Services: 2012 Charitable Health Providers Annual Report.

From the Legislative Ethics Commission: FY 12 Annual Report.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Bluegrass Regional Mental Health-Mental Retardation Board, Inc.

From the Public Protection Cabinet, Department of Insurance: FY 12 Fourth Quarter Report of Kentucky Access to the Kentucky Health Care Improvement Authority and 2013 Kentucky Access Report.

From the Public Protection Cabinet, Department of Insurance: 2012 Annual Report of the Kentucky Health Care Improvement Authority.

From the State Inter-Agency Council: SFY 13 Recommendations regarding the provision of services for children with an emotional disability.

From the Education and Workforce Development Cabinet: 2012 Fourth Quarter Unemployment Insurance Report.

From the Justice and Public Safety Cabinet: 2012 Annual Carrying Concealed Deadly Weapons Report.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Educational Development Corporation.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Central Kentucky Education Cooperative.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Green River Regional Educational Cooperative, Inc.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Valley Educational Cooperative.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending December 31, 2012.

From the Energy and Environment Cabinet, Division of Waste Management: 2012 Report of Kentucky's Waste Tire Program.

From the Kentucky Retirement Systems: FY 12 Audited Financial Statements.

From Murray State University: FY 12 Annual Financial Report.

From the Cabinet for Health and Family Services: 2013 Kentucky Diabetes Report.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Northern Kentucky Cooperative for Educational Services, Inc.

From the Auditor of Public Accounts: FY 12 Report of the Audit

of the West Kentucky Educational Cooperative.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Ohio Valley Educational Cooperative.

From the Public Protection Cabinet, Department of Insurance: January 2013 Kentucky Access Report.

From the Personnel Cabinet: Personnel Cabinet Quarterly Reports as of December 30, 2012, and March 31, 2013.

From the Kentucky State Nature Preserves Commission: 2013 Biennial Report.

From the Auditor of Public Accounts: FY 12 Report of the Statewide Single Audit of the Commonwealth of Kentucky.

From the Cabinet for Health and Family Services: 2012 Annual Report of the Kentucky Spinal Cord and Head Injury Research Board.

From the Cabinet for Health and Family Services: FYS 08-12 Breast Cancer Research and Education Trust Fund Report.

From the Administrative Office of the Courts: FY 12 Report of State Citizen Foster Care Review Board.

From the University of Kentucky, College of Agriculture: FY 12 Kentucky Tobacco Research and Development Center Annual Report.

From the Cabinet for Health and Family Services, Office of the Inspector General: FY 12 Medicaid Fraud and Abuse Report.

From the Cabinet for Economic Development: December 2012 Semi-Annual Report of the Riverport Marketing Assistance Trust Fund.

From the Kentucky Department of Agriculture: 2012 Kentucky Equine Health and Welfare Council Administrative, Programmatic, and Financial Activity Report.

From Kentucky Employers' Mutual Insurance: 2012 Annual Statement and Letter of Actuarial Opinion.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for 2012 Third Quarter.

From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Dayton Independent School District.

From the Education and Workforce Development Cabinet: 2013 First Quarter Unemployment Insurance Report.

From Bluegrass Regional Psychiatric Services: Response of Bluegrass.org to the report of the Auditor of Public Accounts of December 20, 2012.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Department of Fish and Wildlife Resources Statutory



Audit.

From the Auditor of Public Accounts: Report of the Audit of Motor Vehicle and Motorboat Taxes and Registration Fees Collected and Remitted to the Commonwealth of Kentucky by Each County Clerk for the year ended December 31, 2012.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending March 31, 2013.

From the Louisville Firefighters Pension Fund: January 1, 2013, Valuation and Report of the Louisville Firefighters Pension Fund.

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period January 1 through March 31, 2013.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the 2012 Fourth Quarter.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Breckinridge County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the Daviess County Clerk for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Franklin County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Owen County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Bracken County Fiscal Court for the fiscal year ended June 30, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Caldwell County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Carroll County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Fayette County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Casey County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the Carlisle County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through May 8, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Bell County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of Bell County Sheriff's Settlement – 2011 Unmined Coal Taxes for the period July 16, 2011, through August 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Spencer County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Franklin County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Powell County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Pike County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Harlan County Sheriff's Settlement – 2011 Unmined Coal Taxes for the period July 17, 2011, through July 16, 2012.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Monroe County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Lee County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the Interim Campbell County Sheriff for the period August 1, 2012, through November 8, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Lyon County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Graves County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Lee County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Harlan County Sheriff's Settlement – 2011 Taxes for the period April 17, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Knott County Sheriff's Settlement – 2011 Unmined Coal Taxes for the period July 16, 2011, through August 15, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Pulaski County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Knott County Sheriff's Settlement –

2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Nicholas County Sheriff's Settlement – 2011 Taxes for the period April 12, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Spencer County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Owen County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Clinton County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Leslie County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Metcalfe County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Calloway County Sheriff's Settlement – 2011 Taxes for the period April 16, 2011, through April 16, 2012.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Robertson County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the Edmonson County Clerk for the year ended December 31, 2011.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Spencer County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the former Garrard County Clerk for the period January 1, 2012, through August 31, 2012.

From the Auditor of Public Accounts: Report of the Audit of the Knott County Clerk for the year ended December 31, 2011.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Mason County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of Scott County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Edmonson County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Oldham County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Nelson County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Marshall County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the Floyd County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Hart County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Knott County Fiscal Court.

From the Auditor of Public Accounts: Report of the Audit of the Jessamine County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: Report of the Audit of the Letcher County Sheriff for the year ended December 31, 2011.

From the Auditor of Public Accounts: FY 12 Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Pike County Property Valuation Administrator.

From the Auditor of Public Accounts: FY 11 Report of the Audit of the Livingston County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Meade County Fiscal Court.

From the Auditor of Public Accounts: FY 12 Report of the Audit of the Northern Kentucky Convention Center Corporation.

From the Auditor of Public Accounts: FY 12 Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Perry County Property Valuation Administrator.

From the Auditor of Public Accounts: FY 12 Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Bell County Property Valuation Administrator.

From the Auditor of Public Accounts: Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Former Hancock County Property Valuation Administrator for the period July 1, 2012, through February 28, 2013.

From the Auditor of Public Accounts: FY 12 Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Simpson County Property Valuation Administrator.

From the Auditor of Public Accounts: FY 12 Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Estill County Property Valuation Administrator.

From the Auditor of Public Accounts: FY 12 Report of the Auditor of Public Accounts Agreed-Upon Procedures Engagement of the Robertson County Property Valuation Administrator.

From the Auditor of Public Accounts: FY 12 Report of the



From the Auditor of Public  
Accounts: FY 12 Report of the Audit

From the Auditor of Public  
Accounts: Report of the Audit of the  
Webster County Sheriff's Settlement

From the Auditor of Public  
Accounts: Report of the Audit of the

From the Auditor of Public  
Accounts: Report of the Audit of the  
Pike County Sheriff's Settlement –

2011 Oil and Gas Taxes for the period April 19, 2011, through April 17, 2012.

From Kentucky Employers' Mutual Insurance: Quarterly Statement and Financial Status for the period ended March 31, 2013.

From Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of March 31, 2013.

From the Personnel Cabinet: 2012 Annual Turnover Report.

From the Kentucky Employers' Mutual Insurance: 2012 Annual Report.

From the Cabinet for Health and Family Services: 2012 Public Health Child Fatality Review Program Annual Report.

From the Cabinet for Health and Family Services, Department for Public Health: FYS 10 and 11 Status of Breast Cancer in the Commonwealth Annual Report.

From the Auditor of Public Accounts: FY 12 Report on Compliance with Civil Rights Laws Including Agency Title VI Implementation Plans, Updates, and Compliance Reports as Required by KRS Chapter 344.

From the Auditor of Public Accounts: Copy of letter to Secretary of Finance and Administration Cabinet regarding Division of Local Government County Fees Systems Branch Review.

#### Adjournment

There being no further business, the meeting was thereby adjourned at 1:50 p.m.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 1st Meeting of the 2013 Interim

June 12, 2013

### Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Agriculture was held on Wednesday, June 12, 2013, at 10:00 AM, at God's Pantry Food Bank, Lexington, Kentucky. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Tom McKee, Co-Chair; Senators Sara Beth Gregory, Stan Humphries, Dennis Parrett, Kathy W. Stein, Damon Thayer, and Whitney Westerfield; Representatives Lynn Bechler, Mike Denham, Myron Dossett, C.B. Embry Jr., Derrick Graham, Richard Heath, Richard Henderson, Kim King, Martha Jane King, Michael Meredith, Terry Mills, Ryan Quarles, Tom Riner, Steven Rudy, Jonathan Shell, John Short, Rita Smart, Wilson Stone,

Tommy Turner, and Susan Westrom.

Guests: Marian Guinn, CEO, Kentucky Association of Food Banks; Tamara Sandberg, Executive Director, Kentucky Association of Food Banks; Commissioner Beth Mills, Social Services, Lexington Fayette Urban County Government; Glen Abney, Bourbon County producer; Dr. Timothy Woods, UK Food Systems Innovation Center; Roger Thomas, Executive Director, Governor's Office of Agricultural Policy; and John McCauley, State Director, Farm Services Agency.

LRC Staff: Lowell Atchley, Kelly Ludwig, Stefan Kasacavage, and Susan Spoonamore, Committee Assistant.

John McCauley, FSA, discussed disaster assistance programs for the farms that suffered severe tornado damage. Mr. McCauley said that the 2013 Farm Bill, which has yet to be approved by Congress, contains the funds that are necessary for the disaster assistance programs.

### Opening Remarks:

Commissioner Beth Mills, Social Services, Lexington Fayette Urban County Government welcomed the members to the distribution center. She explained that God's Pantry Food Bank is a national model, and that it plays a vital role in providing quality food for families.

### Update on Industrial Hemp:

Representative McKee, Representative Mills, and Representative Stone reported on their respective meetings with officials in Canada and Washington, D.C. regarding industrial hemp. Representative McKee said that Canada is building a plant for processing hemp that would cost approximately \$5 million and employ 30 people. The plant is owned by China. Senator Hornback said that he met with officials in Washington to get an amendment to the Farm Bill that would move the legalization of hemp and hemp regulations from the Drug Enforcement Administration (DEA) to the Department of Agriculture. Although the amendment failed, it created discussion. He said that Governor Beshear sent a letter to the President and Kentucky's congressional delegation encouraging the United States Attorney General, the Office of National Drug Control Policy, and the Secretary of the U.S. Department of Agriculture to work with DEA to identify economic opportunities in the hemp industry that do not negatively impact drug eradication efforts. Representative Mills and Representative Stone agreed that the trip to Canada was informative and positive and confirmed that industrial hemp should be grown.

**God's Pantry Food Bank: Statewide hunger issues; HB 141 as**

**a part of SB 1, the results of a limited study on the usage of food banks; commitment of the Agriculture Development Board to the Farms to Food Bank organizations.**

Marian Guinn, CEO, Kentucky Association of Food Banks, and Tamara Sandberg, Kentucky Association of Food Banks, stated that the distribution center consists of 46,000 square feet. The Kentucky Association of Food Banks (KAFB) serves all counties in partnership with a network of over 1,000 local food pantries and shelters. KAFB feeds one in seven Kentuckians each year. The federal Emergency Food Assistance Program and the Commodity Supplement Food Program have sustained significant funding cuts that resulted in terminating approximately 400 senior citizens from the programs.

Ms. Guinn said that 17 percent of the state's population, over 700,000 people, are food insecure. They do not know where their next meal will come from. Since 1984, the need has been increasing, and the number of people needing assistance has increased to 84 percent. Ms. Sandberg said that Food Bank clients report having to choose between paying for food, utilities, gas for their vehicle, or medicine. The Food Bank is building alliances to impact hunger relief in Kentucky.

Ms. Sandberg also explained that the Farms to Food Banks program increases the availability of fresh, healthy produce and helps farmers reduce the amount of wasted food and recover losses. The goals of the Farms to Food Banks program are to increase access to healthy food, pay fair prices to farmers, and reduce the amount of wasted food. As a result of the passage of the Farms to Food Banks legislation, approximately 2,148,975 pounds of food has been distributed to 116 counties. The fiscal impact to producers resulted in an average payment of \$1,079. Starting in 2014, taxpayers will be given the option through a tax check-off on their Kentucky state tax form to donate to the nonprofit food banks. Also, taxpayers donating any edible agricultural products to nonprofit food programs will receive a tax credit equaling 10 percent of the value. The food banks would appreciate any General Assembly funding to support needy families.

Mr. Glen Abney, a Bourbon County producer, has been selling produce to the Food Bank for the past four years. The number one income for him is tobacco, and the number two income is selling produce. Selling produce to the Food Banks helps offset expenses and is a way to help needy Kentuckians who need fresh produce in their diet.

Dr. Timothy Woods, University of Kentucky Food Systems Innovation

Center, Department of Agriculture Economics, explained the impact of the Kentucky Department of Agriculture Specialty Crop Produce Sourcing Project. The objective of the evaluation was to determine the impact of the program for food bank clients. Surveys were distributed to three food banks supporting nine food pantries. A total of 217 usable surveys were collected from different individuals. The vast majority of responses came from persons who were primarily responsible for grocery shopping and preparing meals at home. The average client prepared 13.2 meals at home per week, which is equivalent to about 52 meals per month. Based on a 2011 Kentucky Food Consumer Survey, only 11 meals per month were prepared at home by the average Kentucky food consumer. He said that 88 percent of the clients surveyed had intentions of using fresh produce in 2012 as compared to 2011. The biggest barrier for purchasing fresh produce was the price. Other barriers included home storage, bulky transport, and no access to stores that that sell produce.

The survey found that there was a strong interest in seeing more fresh produce available through food pantries. Dr. Woods said that there was strong evidence of expanded awareness and use of fresh produce among food bank clients. Interest was also strong in seeing the program extended in both volume and the variety of items. The role of the food bank was helping consumers lower cost barriers for produce consumption.

In response to questions from Representative Bechler and Senator Stein, Mr. Woods said that only adults were considered as consumers. The serving size of a meal portion was smaller than recommended by the United States Department of Agriculture.

Mr. Roger Thomas, Governor's Office of Agricultural Policy, described the Agricultural Development Boards' state and county fund grants to the food bank effort, beginning in 2009 and extending to this year. The Board has approved up to \$75,000 with matching county funds so far in 2013.

In response to Representative Westrom, Ms. Sandberg said that the guideline for obtaining food from the Food Pantry was proof of residence, but if a client needed food, the Food Pantry would find a way to provide it.

Representative Graham said that he strongly encouraged the General Assembly to work across party lines to serve the needs of approximately 800,000 Kentuckians.

The meeting adjourned at 12:00 p.m.



## INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 1st Meeting  
of the 2013 Interim  
June 10, 2013

### Call to Order and Roll Call

The first meeting of the Interim Joint Committee on Education was held on Monday, June 10, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Mike Wilson, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative Derrick Graham, Co-Chair; Senators Walter Blevins Jr., Joe Bowen, Jared Carpenter, David P. Givens, Denise Harper Angel, Jimmy Higdon, Stan Humphries, Alice Forgy Kerr, Gerald A. Neal, Kathy W. Stein, and Katie Stine; Representatives Regina Bunch, John Carney, Hubert Collins, Jeffery Donohue, C.B. Embry Jr., Jim Glenn, Richard Heath, Brian Linder, Mary Lou Marzian, Reginald Meeks, Rick G. Nelson, Ruth Ann Palumbo, Jody Richards, Tom Riner, Bart Rowland, Wilson Stone, Addia Wuchner, and Jill York.

Guests: Paul Vincelli, University of Kentucky (UK); Richard Innes, Bluegrass Institute for Public Policy; Trent Garrison, American Institute for Professional Geologists; Felicia Cummings-Smith, Cindy Parker, Sandra Hamon, and Robin Hill, Kentucky Department of Education (KDE); Rick Clement; Daniel Phelps, Kentucky Paleontology Society; Robert Bevins, Kentuckians for Science Education; Sherry Sims, Washington County Schools; Melody Stacy, Woodford County Schools; Jennifer Gream, Mayfield Independent Schools; Valerie O'Rear; Steve Shreeve; Bruce Smith; Tony Summons; A.C. Donahue, Esquire, Christian Home Educators of Kentucky; Elaine R. Hall; Mary M. Olson; Katherine Bulinski; Roberta Burnes; Jim Foltz; Trescott Robbins; Maureen Carmen; Shannon Buzard; William Deines, Jefferson County Public Schools; Terri Seymour; Marty White; Erin Klarer, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation; Daniel Churchman; Greg Clark; Margaret Hendrix, ACT; Charlotte and Robert Carpenter, Shelby County Republicans; Gary Stallings, Jefferson County; and Rick Wagler.

LRC Staff: Kenneth Warlick, Jo Carole Ellis, Ben Boggs, Erik Carlsen-Landy, and Lisa W. Moore.

Legislative Guest: Representative Arnold Simpson.

Senator Wilson recognized new House Co-Chair Derrick Graham and guest Representative Arnold Simpson. He introduced the new president of

the Kentucky Education Association (KEA), Stephanie Winkler, a 16 year teacher from Madison County.

Senator Wilson referenced the tentative meeting schedule for the 2013 Interim Joint Committee on Education (IJCE) in members' folders. The next IJCE meeting will be hosted by Jefferson County Schools. He also referenced a resolution by the Prichard Committee for Academic Excellence supporting the Kentucky Core Academic Standards (KCAS). Copies of a letter from Senator Rand Paul, United States Senate, regarding the Common Core State Standards (CCSS), were also distributed.

### Implementation of Career and College Readiness Standards Required by 2009 RS Senate Bill 1

Dr. Lee Todd, former University of Kentucky President from 2001-2011, reported that Kentucky has slipped backwards in economic development compared to more progressive states and countries. CCSS will play a significant role in Kentucky becoming internationally competitive. Fifty-one companies are supporting next generation science standards because business leaders know the standards will better prepare employees to work.

Dr. Todd said other states are impressed with the education momentum that has occurred in Kentucky. He commended the General Assembly on the passage of the Kentucky Education Reform Act (KERA), the "Bucks for Brains" program, and 2009 RS SB 1.

Dr. Felicia Smith, Associate Commissioner, Office of Next Generation Learners, Kentucky Department of Education (KDE), provided an update on the implementation of 2009 RS SB 1. She said the Kentucky Board of Education (KBE) recently reiterated its support of SB 1, the KCAS, and its commitment to the goal of college and career readiness for all Kentucky high school graduates.

Dr. Smith said the KCAS are aligned across elementary, middle, high, and postsecondary education. They were developed by education experts and state partners, and included broad input from Kentucky teachers, administrators, higher education officials, business and industry, and the staffs of the Council on Postsecondary Education (CPE), and KDE. Over 340 teachers and education professionals participated in discussions and negotiations to revise Kentucky's academic standards.

Dr. Smith said the CCSS initiative, led by the National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO), resulted in new standards in English

and language arts and mathematics that align with the college and career requirements of SB 1. The standards provide a framework for curriculum development. Dr. Smith also shared that Kentucky is increasing Kentucky is increasing the percentage of students who are meeting college and career ready benchmarks.

Dr. Smith said technology is essential for teachers to access exemplary lessons for teaching the new standards. The Continuous Instructional Improvement Technology System (CIITS), launched August 1, 2011, will ensure equitable access to all educators.

Dr. Smith introduced three teachers to share their experiences in implementing the new KCAS. Jennifer Gream, Mayfield Independent Schools, Melody Stacy, Woodford County Schools, and Sherry Sims, Washington County Schools, spoke of how the standards were assisting students in understanding concepts. They indicated that teachers appreciate the clarity that the standards bring to classroom instruction.

### Assessment Update

Mr. Ken Draut, Associate Commissioner, Office of Assessment and Accountability, KDE, discussed recent problems with the ACT QualityCore® End-of-Course (EOC) Kentucky Online Testing System. From April 29 to May 3, ACT experienced significant capacity issues with online testing in high schools in Alabama, Ohio, and Kentucky. ACT informed KDE on May 3 that it was closing the online system to make repairs. KDE offered a paper version of the test as an alternative.

Mr. Draut said some schools were allowed to complete their tests using the repaired online system starting on May 8. These schools either had partially completed tests in the online system, scheduling issues, or problems with delivery of paper tests. Approximately 2,000 students in 30 schools had interrupted online test sessions but were able to complete the tests. Local grading policies were reviewed for impact and some schools revised policies or delayed grade reports. One hundred percent of high school students expected to take EOC tests completed testing in the online system or with paper.

Mr. Draut said the KDE, Education Measurement, HumRRO and ACT psychometricians will evaluate the impact of the testing problems on scores for individual students and schools. KDE will review accountability scores for the affected schools and notify district test coordinators regarding the use of scores. KDE will issue a Request for Proposals (RFPs) for a new vendor if ACT cannot resolve the issues.

Mr. Draut said local administration of Constructed Response (CR) tests will offer instructional value. Teachers will be able to identify strengths and weaknesses in student writing and instruction modified based on data. Students will take multiple choice sections for state accountability but CR scores will not be included in the accountability index. Schools will receive Scale Scores (MC/MC). CR scores can be included in the student's final exam grade. There is also potential savings of \$2 million annually.

Mr. Draut said EOC test results may be used for a percentage of a student's final grade in the course, as outlined in local policy. If that percentage is less than 20 percent, schools districts will submit reports to KDE providing justification. KDE has developed a policy collection tool that is to be completed by December 31 of each year.

Responding to Senator Carpenter, Mr. Draut said 30 minutes of time was added to each K-PREP test this year. KDE will be sending out a survey to see if the extra testing time helped the two to five percent of students who did not complete the test in time last year.

Responding to a question from Senator Givens, Mr. Draut indicated the current EOC courses which are based on a portion of the Common Core Standard are English II and Algebra II. A Biology EOC test will be developed after the science standards adoption is completed. Kentucky social studies teachers will begin work soon in drafting social studies standards part of which will be used for the US History EOC test.

Dr. Smith said standards can be revised at any time. Usually, states follow a multi-year cycle when revising standards so that standards and expectations are stable for a period of time. Kentucky adopted the KCAS because KCAS aligned with the SB 1 goal to have fewer internationally benchmarked standards.

Representative Wuchner expressed her disappointment that Dr. Holliday did not attend the meeting. Responding to a question from her, Dr. Smith said school districts can include additional standards if they wish. She noted the ACT benchmarks set by CPE match the subsets of the standards in KCAS. Mr. Draut said if students meet the KCAS standards, they should meet CPE's college readiness benchmarks. Dr. Smith said she will provide the members of the committee with the research that was reviewed to ensure the standards are evidence based.

Senator Neal asked if evaluation of standards is an on-going process. Dr. Smith said student learning outcomes as evidenced through assessments are monitored as standards are implemented to ensure student



learning is occurring. Dr. Smith said SB 1 initiated the 2010 standards revision. Previously, revisions were made to the standards every five to seven years, and she assumes the same will hold true in the future.

Responding to Representative Bunch, Mr. Draut said KDE requires the CR scorers to have college coursework and two years teaching in the field, or a bachelor's degree in the subject matter he or she is scoring. ACT requires a bachelor's degree. He said anchor papers are utilized that have been scored by experts that provide exemplars for scoring. The assessment vendor does read behind scoring that will identify if a scorer is consistently misscoring papers. If errors are found, the scorer will be retrained or will have to requalify to continue scoring CR tests.

Richard G. Innes, Staff Education Analyst, Bluegrass Institute for Public Policy Solutions, testified that the CCSS does not meet international benchmarks, although he believes it is better than the Commonwealth Accountability Testing System (CATS) standards. The standards should be used as a framework for states but not as a federal mandate. A file copy of his complete testimony can be found in the official meeting folder located in the LRC library.

Responding to questions from Representative Graham, Mr. Innes said he was an instructor pilot in the United States Air force where it is critical that students learn skills quickly. Representative Graham said teachers and administrators across Kentucky have been developing a curriculum based upon years of experience in what they know will work in the classroom. He said the educators should be the ones making the recommendations for best practices in educating our public school students to enable them to compete internationally.

Mr. Innes said he wants Kentucky students to be competitive and perform at high levels. However, the National Assessment of Educational Progress (NAEP) shows only one-third of Kentucky students scoring proficiency. He said it is unacceptable for two-thirds of the students to be left behind. Inflexible standards are not the answer for fixing the education problems.

Representative Graham said the federal government is prohibited by the Elementary Secondary Education Act (ESEA) of 1965 from mandating states to adopt a national curriculum standard or assessment. He said his research indicates that the federal government was not involved in developing the CCSS. The standards were funded in part by the Bill and Melissa Gates Foundation. Bill Gates saw a need to equip the future workforce with the skills

needed to compete with international corporations all around the world.

Mr. Innes said the federal government has been the sole funder for tests being developed by the consortia Partnership for Assessment of Readiness for College and Careers (PARCC) and Smarter Balanced. In addition, he said that the U.S. Department of Education has announced that it will review the academic content in the tests to be released in 2015.

Senator Stine commended Mr. Innes for his military service. Responding to her question, Mr. Innes said the NGA and the CCSSO documents do not show anyone from Kentucky on the various Common Core workgroups. He said due to the lack of transparency, claims that Kentuckians had significant input in developing CCSS simply cannot be confirmed and appear unlikely.

Valerie O'Rear, citizen of Louisville, Kentucky, and parent of three, spoke against CCSS. She said there is great concern over a lack of math books in the classroom. Teachers are being told not to voice opinions about the standards. She submitted letters for the record from Governor Beshear about his rationale for vetoing House Bill (HB) 279, the religious freedom bill, a letter from Mr. Brent McKim, Jefferson County Teacher Association President (JCTA) and DeeAnn Flaherty, JCTA Executive Director, asking Governor Beshear to oppose HB 279, and a paper written by Dr. Gary Thompson entitled: "Common Core: A Mental Health Professional & Parent's Perspective." She said only one in 60 of the CCSS authors were teachers. These documents have been filed in the LRC library.

Mr. Steve Shreeve, citizen of La Grange, Kentucky, and father of four, spoke against the CCSS citing perceived poor content, intrusion on privacy, and high implementation costs. CCSS represents a top-down, one-size fits all, government takeover of the education system. He submitted a personal letter for the record containing his views and comments. It is filed in the LRC library.

Responding to Representative Riner, Mr. Draut said there are a number of accommodations learning disabled students may use if they meet specific criteria. The appropriate accommodation is provided based on data received about a student's disability. He noted CR test policies permit students to use a reader or a scribe because CR is measuring whether students answered the question correctly, not if they wrote it properly. He said some students can also answer CR questions in diagrams or tables.

Responding to Representative

Graham, Mr. Draut said local school districts decide how to score the CR responses. He said discussions will be held with teachers to implement a new more standardized scoring system. Representative Graham said it is important that students are taught the difference between facts and propaganda.

#### **Other Business**

Senator Stein asked for clarification on the letter distributed to committee members on United States Senate letterhead. Senator Wilson clarified that Senator Paul's office called and asked that it be distributed in the meeting to share his views on the CCSS.

#### **Adjournment**

With no further business before the committee, the meeting adjourned at 3:30 PM.

### **INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

#### **Minutes of the First Meeting of the 2013 Interim**

June 19, 2013

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

The first meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, June 19, 2013, at 2:00 p.m., at the Northern Kentucky Convention Center, One West RiverCenter Boulevard, Third Floor, Ballroom E, Covington, Kentucky. Representative Tom Burch, Co-Chair, called the meeting to order at 2:05 p.m., and the secretary called the roll.

Present were:

Members: Representative Tom Burch, Co-Chair; Senators Tom Buford, Perry B. Clark, David P. Givens, Denise Harper Angel, Kathy W. Stein, and Katie Stine; Representatives Julie Raque Adams, Robert Benvenuti III, Kelly Flood, Joni L. Jenkins, Mary Lou Marzian, Tim Moore, Ben Waide, Russell Webber, Susan Westrom, and Addia Wuchner.

Guests: Lawrence Kissner, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Tom Awe and Franz Corneille, eHealthPath; Audrey Tayse Haynes, Secretary, Cabinet for Health and Family Services; Dr. Kraig Humbaugh, Senior Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services; Teresa James, Commissioner, Mark Cornett, Deputy Commissioner, and Elizabeth Caywood, Policy Analyst, Department for Community Based Services, Cabinet for Health and Family Services; Dr. Kevin Kavanaugh, MD, FACS, Board Chairman, Health Watch USA; Dr. Jeremy Engel; Sarah S. Nicholson, Kentucky Hospital Association; Andrea Flinchum, HAI Program Manager, Division of

Epidemiology, Department for Public Health, Cabinet for Health and Family Services; and John Giordullo, St. Elizabeth Healthcare.

LRC Staff: DeeAnn Mansfield, Ben Payne, Jonathan Scott, Sarah Kidder, Gina Rigsby, Cindy Smith, and Wesley Whistle.

#### **Medicaid Expansion**

Lawrence Kissner, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that there has been an improvement in vaccinations and performance measurements since changing to managed care. One area that needs to improve is the number of women getting mammograms. Information was provided on the activities of Coventry Cares, Kentucky Spirit Health Plan, and Wellcare. When a member is transferred to a different MCO or a member voluntarily changes to a different MCO during open enrollment, the cabinet provides the new MCO 12 months of information on the member. The Affordable Care Act (ACA) was passed to provide Americans, including Kentuckians, better access to health care coverage. A major component of increasing access to coverage is new federal funding for states to expand the Medicaid eligibility to 138 percent of the Federal Poverty Level (FPL). The United States Supreme Court made Medicaid expansion optional for states. Expansion is the right choice for Kentucky. Not expanding the program would hurt both Kentucky's health and taxpayers' bottom line. On May 9, 2013, Governor Beshear announced that Kentucky would expand Medicaid to more than 300,000 uninsured Kentucky residents.

In the 2012 edition of America's Health Rankings from the United Health Foundation, Kentucky was ranked 44<sup>th</sup> overall in the health rankings. Multiple studies show improved health outcomes with increased insurance coverage. Individuals without insurance coverage are more likely to go to the emergency room for treatment. There are currently 640,000 uninsured Kentuckians or 17.5 percent of the state's population under age 65. An estimated 332,000 of these uninsured individuals will be able to gain coverage through the Health Benefit Exchange, including 276,000 individuals whose income is between 138 percent and 400 percent of the FPL who will be able to get subsidized coverage.

With Medicaid expansion, the other 308,000 uninsured Kentuckians will be able to receive health insurance coverage through Medicaid. From SFY 2014 to SFY 2021, Kentucky will receive \$15.6 billion in federal funds and see \$802.4 million in savings.



The federal government will pay 100 percent of the costs for the first three years, and decrease to 90 percent by 2020. By 2021, there will be a \$287.5 million reduction in Disproportionate Share Hospital (DSH) payments for indigent care to state facilities. Not expanding Medicaid would cost Kentucky even more money.

Upon full implementation of the ACA in SFY 2021, Kentucky would see a negative \$38.9 million impact to the state. Not expanding Medicaid eligibility would mean that Kentucky taxpayers would subsidize the 20 states that do expand. Choosing the option to allow Medicaid eligible individuals to purchase private insurance would cost taxpayers more than the Medicaid expansion. If Kentucky opts to not expand its Medicaid program, employers would be responsible for up to \$3,000 in fines for every employee who received a premium subsidy from the Health Benefit Exchange costing employers an estimated \$32 million to \$48 million every year.

Kentucky's Healthcare Connection will help individuals find out if they eligible for services in the current or expanded Medicaid programs or the health benefit exchange. The ACA states that the cabinet must comply with the new Modified Adjusted Gross Income (MAGI) so there will be only one income category of eligibility. There are approximately 50 possible categories of eligibility. The ACA Request for Proposal (RFP) was released June 11, 2013 for seven regions excluding Region 3. The benefits will be the same between the existing Medicaid program and the Medicaid expansion. Benefits are essentially unchanged with the exception of additional substance abuse coverage as mandated by the ACA. There will be no data book for the new population of uninsured, and rates will be based on current rate cells with appropriate modifications that are actuarially sound. If someone is eligible for Medicaid services before going to prison, the prison is currently responsible for all medical costs. Under the Medicaid expansion, Medicaid will cover nonprison hospitalization which will save the prison system money.

In response to questions by Senator Stine, Commissioner Kissner stated that the expansion is MAGI based, but he would find out if assets are also considered and get the information to the committee. On January 1, 2013, the cabinet entered into an 18-month contract with Wellcare, Coventry Cares, Passport, and Humana in Region 3 and is still in the initial contract period under the old Medicaid. The contract allows all of these MCOs to participate in the new Medicaid expansion.

In response to questions by Representative Benvenuti, Commissioner Kissner stated that the other options discussed were to not expand, follow the Arkansas model where the state would take what would be paid to buy an individual insurance through the exchange, expand to 100 percent of the FPL instead of 138 percent, or expand during a different timeframe. It was determined that all of these options would be more costly to the state than the expansion. The Centers for Medicare and Medicaid Services (CMS) stated the ACA requires the expansion of eligibility to 138 percent of the FPL. If a state chooses to expand after the January 1, 2014 deadline, it will lose the three-year 100 percent funding. The Medicaid expansion may create jobs but it is not a job or economic development program. It is a program to improve the healthcare of Kentuckians.

In response to questions by Representative Moore, Commissioner Kissner stated that the state is improving in the areas of care and coding. Under the current fee-for-service Medicaid program, a physician can submit a claim for one service, such as an office visit, that covers other services without having to submit a separate report of each of the services. This has meant that all services provided were not coded. The MCOs are driven by NCQA and HEDIS scores and require better documentation from providers of each service provided. Information is available on the Governor's Office web site that shows the number of providers by county. Kentucky currently uses a 70 percent federal funds and 30 percent state funds rate for Medicaid services.

In response to questions by Representative Jenkins, Commissioner Kissner stated that recipient eligibility will be tracked through quarterly wage and tax statements. Because there is good data on medical information for state prisoners, it is easy for the state to track its liability for this Medicaid population. The cabinet had to estimate its liability at the county level because it was harder to track the information. The white paper, Analysis of the Affordable Care Act (ACA), Medicaid Expansion in Kentucky, includes a spreadsheet that shows the financial impact and is available on the Governor's Office web site.

In response to questions by Representative Marzian, Commissioner Kissner stated that on August 15 the Health Exchange call center will start answering basic questions, October 1 enrollment begins for expanded Medicaid, and the expansion will be effective January 1, 2014. The 138 percent of the FPL equates to \$7.25 per hour.

In response to questions by

Senator Givens, Commissioner Kissner stated that in 2021 expenditures will become revenue neutral. The greatest concern for the cabinet is that it may have underestimated the number of individuals who are eligible for Medicaid but are not currently enrolled who will enroll. These individuals will be covered at a 70 percent federal, 30 percent state match not the 100 percent federal match. The cabinet has an external quality review organization that monitors the MCOs business plan for quality improvement. The MCOs will have benchmark data that will help show where improvements need to be made and help drive costs down.

In response to questions by Representative Adams, Commissioner Kissner stated that the current contracts require quality statistics to drive improvements in performance measures. Money needs to be spent upfront on services that could result in savings later. The indigent population cannot afford to pay co-pays or other financial obligations to receive health care. Legislators were not consulted during the RFP process. Medicaid is the payer of last resort. The national Medicare average of 76 percent is what Kentucky pays providers for Medicaid services. The Department of Insurance is responsible for prompt payments to providers. Approximately 77 percent of provider payment disputes have been resolved or are actively in the process of being resolved. Dual eligibles do not have to be transitioned into Medicaid managed care.

In response to questions by Representative Waide, Commissioner Kissner stated that the Medicaid expansion model will pay for itself and get a positive revenue return.

In response to questions by Representative Wuchner, Commissioner Kissner stated that by spending \$24.9 million in 2014, the cabinet will get a positive general fund and revenue savings of \$87.7 million.

In response to questions by Representative Wuchner, Commissioner Kissner stated that ACA requires states to maintain the current level of the basic benefit structure already in place for a two-year period. On January 1, 2014 the maintenance of effort portion is gone. It will be tough to change the Medicaid core benefits, but changes could be made to optional benefits, such as pharmaceuticals.

In response to questions by Senator Stein, Commissioner Kissner stated that improvements in one or more health related conditions will impact other conditions.

#### **Preparing Healthy Foods**

Franz Corneille stated that eHealthPath is a systemic approach to better nutrition and eating healthier. The International Association of Diabetes states that diabetes and obesity are

the biggest public health challenge of the 21<sup>st</sup> century. The USDA conducts a study every ten years, Impact of Meals Away from Home, which states one meal per week away from home adds two additional pounds per year. One problem from eating away from home is the lack of vegetables and fruits served in restaurants. The percentage of adults with a Body Mass Index (BMI) of 25 or over has not increased much between 1962 and 2010. Unfortunately, the percentage of adults with a BMI of 26 or over has increased. In 2012, approximately \$61 million was spent on weight lost programs, and 95 percent of people regain the weight lost within six months. It is important to learn how to cook and eat nutritional meals at home.

In response to questions by Representative Adams, Tom Awe, Chairman and Co-Founder of eHealthPath, stated that one of the design principles incorporated into the program is to be able to have it available online to make it easier to use. The objective is to do something that is beneficial.

#### **Hospital Acquired Infections**

Dr. Kevin Kavanaugh, MD, FACS, Board Chairman, Health Watch USA, stated that a carbapenem-resistant enterobacteriaceae (CRE) is virtually resistant to all antibiotics. Infections in the bloodstream have an almost 50 percent fatality rate. Four percent of United States hospitals and 18 percent of long-term care facilities have reported at least one case of CRE. The Center for Disease Control and Prevention (CDC) recommends surveillance of close contacts, isolation of patients in dedicated rooms, and dedicated staff taking care of patients. If one facility in a region performs poorly, it places all facilities at risk. The National Institute of Health (NIH) adopted a more complex and expensive decontamination process, using robot-like machines to spray germ-killing hydrogen peroxide into the tiniest of crevices in all affected rooms and equipment. In some parts of the world, CRE appears to be more common, and evidence has shown it can be controlled. Only a few types of facilities are reporting CRE infections. Critical care hospitals and nursing homes are not required to report.

Administrative regulation 902 KAR 2:020 states that a report shall be made immediately by telephone if in the judgment of a health professional licensed under KRS Chapters 311 through 314, or a health facility licensed under KRS Chapter 216B, there is an unexpected pattern of cases, suspected cases, or deaths which may indicate a newly-recognized infectious agent, an outbreak, epidemic, related public health hazard, or an act of bioterrorism, such as smallpox. The

definition of an outbreak is when the number of infections is above the facility's baseline, and the definition of a baseline is up to the facility. To prevent the emergence and further spread of CRE, a coordinated regional control effort among healthcare facilities is recommended. Transparency is the right thing to do in matters of public health. There needs to be more oversight and responsibility for CRE reporting.

In response to questions by Senator Stein, Dr. Kavanagh stated that the opposition to reporting initially started with having mandates. It is hard to tell if MRSA is increasing or decreasing in the pediatric population because of the lack of a good data reporting system.

In response to questions by Representative Westrom, Dr. Kavanagh stated that infections are transmitted primarily by contact. The number one recommendation is transparency. Currently, the CDC does not mandate reporting. Another recommendation is to get health departments involved, funded for education, and engaged in prevention.

Dr. Kraig Humbaugh, Senior Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services, stated that Healthcare-Associated Infections (HAIs) are infections that patients acquire during the course of receiving healthcare treatment for other conditions. The organisms which cause these infections are often multidrug-resistant organisms (MDROs). HAIs are a challenging public health and community health problem. Approximately one out of twenty hospitalized patients will contract an HAI. The CDC has identified eliminating HAIs as a winnable battle. With additional effort and support for evidence-based, cost-effective strategies that can be implemented now, there can be a major impact on our nation's health.

The mission of the Healthcare-Associated Infection (HAI) Prevention Program in the Department for Public Health is to provide resources and support for reduction of HAIs in Kentucky. A multidisciplinary collaborative group plans and executes prevention activities statewide. There is an integration of laboratory activities with HAI surveillance, prevention, and control efforts in identifying emerging pathogens. The HAI Prevention Program staff collaborates with local and regional partners to identify specific prevention targets consistent with federal goals. The program facilitates the implementation of evidence-based practices for infection prevention and control in all healthcare settings through educational and training activities, consultation, and provision

of resource materials. Kentucky has a model program, Long-Term Care Collaborative Statewide Project, to teach long-term care facilities to how to do a better job of surveillance, determine the burden of infection, how to report infections voluntarily, and help identify the facility's strengths and gaps.

The department supports a very comprehensive infection control prevention program in every facility across the state rather than looking at individual HAIs. In 2012, there was an increase in reporting in hospitals and long-term care facilities. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires hospitals to conduct yearly risk assessments to determine what types of prevention should be done based on surveillance data. Every hospital should have an infection control program. Kentucky law requires outbreak reporting.

In response to questions by Representative Benvenuti, Dr. Kavanagh stated that an infection only has to be reported if in the judgment of a healthcare professional it needs to be reported.

Jeremy Engle, family physician at St. Elizabeth Physicians in Bellevue, stated that Northern Kentucky and Kentucky in general should continue to develop a new social contract between its leadership and its citizens placing health above all other priorities. Individuals can be saved from heroin and opioid overdoses if resources are available. Kentucky needs to address treatment, harm reduction, primary prevention, and recovery.

#### **Legislative Hearing on the FFY 2014-2015 Preliminary Child Care and Development Fund State Plan**

Teresa James, Commissioner, Mark Cornett, Deputy Commissioner, and Elizabeth Caywood, Policy Analyst, Department for Community Based Services, Cabinet for Health and Family Services were present to answer questions. A motion to accept the preliminary Child Care and Development Fund State Plan was made by Senator Buford, seconded by Senator Harper Angels, and accepted by voice vote.

#### **Legislative Hearing on the FFY 2014-2015 Community Services Block Grant**

Teresa James, Commissioner, Mark Cornett, Deputy Commissioner, and Elizabeth Caywood, Policy Analyst, Department for Community Based Services, Cabinet for Health and Family Services were present to answer questions. A motion to accept the Community Services Block Grant was made by Senator Buford, seconded by Senator Harper Angels, and accepted by voice vote.

#### **Legislative Hearing on the SFY 2014 Preliminary Social Services**

#### **Block Grant Annual Plan**

Teresa James, Commissioner, Mark Cornett, Deputy Commissioner, and Elizabeth Caywood, Policy Analyst, Department for Community Based Services, Cabinet for Health and Family Services were present to answer questions. A motion to accept the Social Services Block Grant was made by Senator Buford, seconded by Senator Harper Angels, and accepted by voice vote.

#### **Consideration of Referred Administrative Regulations**

The following administration regulations were referred to the committee for consideration: **201 KAR 2:074** – establishes requirements for pharmacy services in hospitals or other organized health care facilities; **201 KAR 20:059** – establishes limitations for the prescription of specific controlled substances by advanced practice registered nurses; **201 KAR 20:500** – permits nurses to practice in states participating in the Nurse Licensure Compact; and **921 KAR 2:015 & E** – establishes the provisions of supplemental programs for persons who are aged, blind or have a disability. A motion to accept the administrative regulations was made by Senator Buford, seconded by Senator Harper Angels, and accepted by voice vote.

#### **Adjournment**

There being no further business, the meeting was adjourned at 4:30 p.m.

#### **INTERIM JOINT COMMITTEE ON JUDICIARY**

Minutes of the 1st Meeting of the 2013 Interim

June 7, 2013

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

The 1st meeting of the Interim Joint Committee on Judiciary was held on Friday, June 7, 2013, at 10:00 AM, in Fredonia, KY at the Western Kentucky Correctional Complex. Representative John Tilley, presiding Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Sara Beth Gregory, Dan "Malano" Seum, and Robin L. Webb; Representatives Joseph M. Fischer, Kelly Flood, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Ryan Quarles, Tom Riner, Steven Rudy, Gerald Watkins, and Brent Yonts.

Guests: Alicia Webb-Edgington, APPRISS, Inc.; Lynn Pryor, Commonwealth Attorney Association; and Representative Jim Gooch.

LRC Staff: Jon Grate, Matt Trebelhorn, Dallas Hurley, Nicole Straus, and Natalie Burikhanov.

Prior to the presentations, Chairman Tilley called the

Committee's attention to the meeting plan memo in their packets. He reminded the members that there will be no July meeting, but that there will be two meetings in August.

#### **"Doggone Good Work" – Inmate handlers working with rescued dogs**

Commissioner LaDonna Thompson of the Department of Corrections (DOC) testified about the dog-training program at Western Kentucky Correctional Complex (WKCC). The Saving Animals from Euthanasia (S.A.F.E.) Program began in Spring 2011 by partnering with Safe Haven of Kentucky to rehabilitate dogs from rescue shelters that are not adoptable. The inmates train these animals through a voluntary program within the prison; by the end of the program, the dogs are able to be adopted. Overall, Commissioner Thompson and her staff are proud of the program's success and impact on the inmates, animals, and community.

#### **The Population is Dropping! Where did they all go and are they coming back?**

Commissioner Thompson testified about the decrease in prison population and programs that are positively impacting this decline. Due to the effects of the 2011 HB 463, inmate population has been declining since February 2013, with the biggest drop occurring in the past three months. The current population of 21,000 is still 2,000 higher than projected. To offset these additional inmate costs, \$25 million has been allocated to Corrections from the FY12 General Fund Surplus.

As explained by Commissioner Thompson, the Mandatory Reentry Supervision (MRS) Program has had the greatest impact on the decline in inmate population. This program is designed to help inmates in the last six months of their sentence transition into their communities successfully under the supervision of parole officers. Chairman Tilley reminded the Committee that MRS is not an early release program but is a system that helps inmates improve their chances of successful reentry and reduce repeat offenses. It requires inmates to follow 11 mandatory conditions. The most serious offenders (such as Class A felony offenders) are not part of the MRS program, and they must complete an additional year of supervision. The benefits of the MRS Program discussed include protecting public safety through a better, smoother transition from the structure of prison to the freedom of the community, overall savings, community involvement, and better internal management. Since January 2012, the MRS system has saved \$16.3 million by cutting down on days in prison, inmate care, and supervision



costs.

Commissioner Thompson announced that paroled inmates are able to complete the their Substance Abuse Program (SAP) within the community rather than in prison. This allows them to be treated at home by their community health services, teaching them to transition into their daily lives and utilize local services. Furthermore, under HB 463, inmates have their parole hearing 60 days prior to their release, allowing DOC to prepare a personal program for each inmate and to succeed in releasing them on time.

Two other programs discussed were the Substance Abuse Program (SAP) and the Kentucky Online Offender Lookup (KOOL). SAP is offered inside prisons and in communities, helping inmates treat their substance abuse problems. KOOL, an already existing system, was expanded from incarcerated inmates to include offenders currently under DOC supervision. DOC is working on a calculator for KOOL that would show the amount of time an inmate would serve for a crime under various sentencing scenarios and estimated future costs for the state. According to Commissioner Thompson, SAP and the KOOL expansion are still young programs, but the DOC is working with a research team to obtain information on their impacts.

Reentry Assessment Tools, which resulted from HB 463, have also been instrumental in reducing prison population. Brigid Adams, Reentry Branch Manager, discussed how these tools provide risk and needs assessment, helping the DOC better manage and provide for inmates and their situations. Needs and risks are reviewed monthly by an executive level team, KARE, who makes these assessments for men and women in jails, prisons, halfway houses, probation, and parole. Since these Reentry Assessment Tools have been implemented in July 2010, over 62,000 assessments have been conducted, and it is predicted that 39,000 will be completed by the end of 2013 alone.

Many programs have been created in an effort to address the risk levels and difficulties offenders face with reintroduction to civilian life. The programs must be evidence-based in order to earn participants sentencing credit, with an emphasis on cognitive-therapy, and they must address criminogenic needs identified by DOC's assessment. Examples of these programs include InsideOut Dads, Moral Reconciliation Therapy, Pathfinders, SAP, and Sex Offender Treatment. Program enrollment throughout the prison system is 2,045. Probation and parole programs differ from the former, and they are meant to help an offender with their specific

sentence. The Supervision, Monitoring, Accountability, Responsibility, and Treatment (SMART) Program is a program operating in six parole districts to target individuals for pre-trial diversion opportunities. The PORTAL Program, developed by District Supervisor Mark Stonex, uses community-based agencies to teach life skills. Other new and emerging programs include prison extension programs such as 24/7 Dads, in-office programs that help probation officers improve communication with offenders, distance programs like the Carey Guides that offer workbook alternatives ideal for rural communities, and in-community programs such as New Directions.

Responding to Senator Webb's concerns that these risk assessment tools and the subsequent programs do not address the needs of clients with disabilities, Ms. Adams suggested that parole officers work with their clients to consider these limitations during their pre-sentence investigations. Commissioner Thompson further responded that the DOC is looking at tools to fix this. Addressing Senator Clark's concerns about proper identification, Ms. Adams stated that inmates receive their birth certificate before release and that the DOC is working with the Social Security Office to help inmates receive their cards.

Ms. Adams identified nine reentry challenges that former inmates face: limited housing opportunities, unemployment, educational needs, mental health issues, healthcare needs, financial instability, family concerns, public perceptions, and transportation. Of these, transportation is the most helpful opportunity for reentry because it allows individuals to attend programs and find employment.

Ms. Adams also discussed the Governor's Reentry Taskforce, which was created in 2009 to bring state agencies together to improve inmate reentry. Its Kentucky legislative recommendations package included improvements in four areas: housing, treatment, employment, and other needs. Housing improvements recommended by the taskforce were removing barriers for affordable housing and halfway houses, creating tax incentives for those providing housing to former felons, and providing additional funding for the Homeless Pilot Prevention Program. It also suggested addressing treatment needs by reinvesting future savings into treatment services, mandating community SAPs be included in the public benefits section of the new Medicaid bill, creating an intensive case management system for justice officials involved with offenders dealing with mental health issues, ensuring adequate community

treatment services through increased funding, and reviewing child support obligations during incarceration and post-treatment. In order to address employment, the taskforce felt that the process needed to be simplified, employment restrictions based on felon status should be modified or removed, the federal work opportunity tax credit should be promoted and a parallel state tax credit should be created, and that prerelease and community-based life skills training should be created and funded. Other needs recognized included automatic restoration of voting rights for ex-felons, the expansion of the DPA's Social Worker Program, and the support of public assistance and Supplemental Nutrition Assistance Program (SNAP) benefits.

#### **More Good News**

Deputy Commissioner James Erwin of the DOC discussed the success of three additional programs within the Department: SAP, Medicaid, and Energy Savings Performance (ESP). The SAP program has grown since HB 463 by including inmates who are paroled upon completion. Today there are 3,987 inpatient beds in prisons, jails, and community centers, all of which are filled full-time. The DOC has partnered with Community Mental Health Centers (CMHCs) to treat additional patients, including those inmates recommended for parole. As a result of the 13 new CMHC contracts, an additional 2,000 beds are available for outpatient treatment of offenders. Community outpatient programs outside CMHCs have also been contracted, which will allow a further 700 inmates to be treated, eliminating the waiting list for SAPs. Total DOC substance abuse treatment, including contracted services, assists about 6,000 inmates. Responding to questions from Senator Webb, Deputy Commissioner Erwin stated that the length of stay within a SAP is six months and the average outpatient services cost \$17 a day compared to \$37 a day for jail services. Additionally, the University of Kentucky is conducting a study on the effects and costs of the SAPs, with subjects being observed for the six months of treatment and a year outside the program.

For medical treatment generally, the DOC has also been working with the state Medicaid program to include inmates who require over 24-hours of inpatient treatment. A pilot program by the DOC enrolled previously disqualified inmates in Medicaid for 2012, and the savings were about \$4 million.

The DOC is also making efforts to become more energy efficient through ESP contracts. In 2005, the DOC began a partnership with the Finance and Administration Cabinet to implement ESP contracts for all prison facilities.

ESPs utilize low-interest loans for funding and labor to make energy saving changes to facilities and use the cost savings to pay off the loans. The five main types of improvements are lighting, water conservation, HVACs, boilers/chillers/piping, and utility equipment. Responding to questions from Representative Marzian, Deputy Commissioner Erwin stated that the DOC sees the savings from these improvements and immediately puts the money towards loan repayment. However, longer range energy-saving measures, such as solar energy, cannot be implemented because loans require a payback within 12 years while longer term programs such as solar require up to 20 years before a payback.

#### **Now a Word from the Front Line**

Warden Steve Woodward of WKCC and Warden Randy White of the Kentucky State Penitentiary (KSP) provided testimony of their experiences as correctional officers and the current financial, personal, and security situation of the employees they manage. Warden Woodward began his career in 1990 as a correctional officer at WKCC where he worked for seven years before being moved into an administrative position, and he has stayed in administrative positions for the past 13 years. Since he began his career, he has seen the WKCC develop its farming operation with about 200 minimum-security inmates and the secure management of about 475 medium-security inmates. Most of the women within the prison struggle with a substance abuse problem and about 18 percent of them have homicide-related charges.

Warden Woodward listed several reasons why corrections work is difficult. First, the bar has been raised nationally with new accreditation, technology standards, and computer-driven management. This has changed the profession and requires a more sophisticated officer. Second, the turnover rate for the profession is high. For example, WKCC has the lowest correctional officer turnover rate in the state, but it remains at 22 percent per year. Furthermore, the prisons are losing their employees to industries offering the same pay with less risk, such as food-service or factory work. This is due to the lack of experience within the field, with about 57 percent of officers possessing less than 5 years of experience. Third, it is a high-risk environment with many opportunities for inmate confrontations and physical altercations, which can involve bodily fluids from high-risk individuals. Fourth, the pay is low and flat with few opportunities for advancement. Warden Woodward, addressing a question from Representative Yonts, stated that the starting salary for a correctional officer is \$23,000, making



an officer with children eligible for food stamps. West Virginia is the only state with a lower salary, but it offers more benefits to their correctional officers than Kentucky.

Warden Randy White served in the armed forces and attended college before starting as a correctional officer in 1996 at Northpoint. He has since worked in six prisons throughout Kentucky and is currently the warden at KSP. Warden White addressed the primary difficulties facing his staff at KSP, which averages about one violent incident every other day. The first difficulty is severe job-related stress that affects all levels of personnel at the facility. Warden White attributed this stress to the natural adversarial relationship that exists between the inmates and the officers. The second is prison reorganization. Over one-fifth of the Warden's positions are vacant due to terminations, resignations, stress, or on-duty injuries. This leads to extra stress, overtime, and resources for those officers reporting for work, and the impacts include burnout, early retirement, suicide rates (with KSP reporting three in the past four years), PTSD, impaired family life, death threats, and health problems.

Improvements have been made at KSP though. Warden White stated that the facility had received federal grants for new personal radios with emergency features, an additional 250 high-resolution security cameras, and protective equipment for staff, and KSP is working towards obtaining additional emergency outreach and mental health services for employees attacked on the job.

#### **Fighting Crime More Effectively with Cutting-Edge Technology – APPRISS, Inc.**

Alecia Webb-Edgington, Director of the Public Information Management Division at APPRISS, Inc., gave a presentation on the Louisville-based operations and its e-Warrants program. It is the product of all three branches of government, resulting from work with the Kentucky State Police, Kentucky Office of Homeland Security, Office of the Attorney General, the Administrative Office of the Courts (AOC), and legislators. It was created in response to an LRC study in 2005 which found Kentucky had 385,000 unserved warrants and an average of 674 days required to serve 75 out of 100 warrants. The project began in Jefferson County in 2008, and as of March 2012, it is used in all counties statewide with an average service rate of 81.86 percent for Kentucky, double the national average for warrant service.

e-Warrants generates about 1,011 warrants a day, with the average time to authorize a warrant being 1.55 days and the average time to serve a warrant being 36.6 days. As of

May 28, 2013, the total authorized records stood at 1.1 million, as well as 515,913 warrants served and 255,646 rescinded. A majority of records are created in 22 minutes, 20 percent are authorized within an hour, and 40 percent are served in less than a week. Overall, the product has increased speed, data quality, officer and public safety, and efficiency. e-Warrants is predicted to serve 270,000 warrants in 2013 with a possible net revenue of \$9.1 million for the year being returned to the General Fund.

Responding to questions from Chairman Westerfield, Director Webb-Edgington stated that the program costs \$2.7 million, which comes from Kentucky Homeland Security and the Office of the Attorney General. Fifteen percent of the cost is maintenance, with the possibility of this being offset by allowing non-violent warrants to be prepayable online. Additionally, e-Warrants cannot include search warrants at this time because of previous resistance faced from the General Assembly; Senator Webb reminded the Committee that this was due to concern for the 4<sup>th</sup> Amendment.

Jim Aquisto, Vice-President of Government Affairs with APPRISS, Inc. discussed the NPLEX program, which is the meth-check system in Kentucky. It is a database that provides real-time information on the purchase of pseudoephedrine-containing cold medicines from stores for law enforcement use. The system matches pending transactions against past purchases throughout the state and across the country to determine if the purchase is legal, if the purchaser has reached their legal limit, or if the purchaser is legally prohibited due to prior convictions from making the purchase. NPLEX operates at no cost to the state, retailer, or law enforcement and is instead funded by the pharmaceutical companies. There are 27 states that operate NPLEX, and retailers in those states are required to submit real-time records of pseudoephedrine purchases. This prevents offenders from going across state lines to purchase illegal amounts.

In Kentucky, NPLEX recorded 1.2 million purchases of cold medicine in 2012 with 32,993 being found illegal and subsequently blocked. In the first quarter of 2013, around 20,000 sales have already been blocked, and NPLEX has been accessed by 600 law enforcement users. The blocked sales are occurring at the same time that a 14 percent drop in meth labs is being recorded in Kentucky.

The meeting adjourned at 12:20 pm.

## **INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY**

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

June 20, 2013

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

The 1st meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, June 20, 2013, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Rick G. Nelson, Co-Chair; Senators Chris Girdler, Denise Harper Angel, Ernie Harris, Dennis Parrett, and Mike Wilson; Representatives Lynn Bechler, Regina Bunch, Denver Butler, Jeffery Donohue, C.B. Embry Jr., Toby Herald, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Mary Lou Marzian, Tanya Pullin, Tom Riner, Jim Stewart III, and Brent Yonts.

Guests: Dwight Lovan, Commissioner, Department of Workers' Claims; Ray Gillespie, Secretary, Kentucky Individual Self Insurance Guaranty Fund; Albert Cates, Vice President, Castellini Company; Judy Long, HealthSmart Casualty Claims Solutions; Peter McFarland, Vice President and Financial Advisor, UBS Bank; and Gary Davis, Kentucky Coal Self Insurance Guaranty Fund.

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

#### **Report and Update on the Workers' Compensation Black Lung Claims Relating to the December 2011 Ky. Supreme Court Decision *Vision Mining v. Gardner***

Commissioner Dwight Lovan, Department of Workers' Claims, gave a presentation regarding the action the department has taken as a result of the Supreme Court decision, *Vision Mining v. Gardner*, on the consensus process for coal workers' pneumoconiosis (CWP) claims. CWP is commonly referred to as black lung disease. Under the consensus procedure in HB 348, enacted in 2002, a panel of three "B" reader physicians was used to interpret x-rays, and benefits would be awarded based on the consensus of the panel. A showing of clear and convincing evidence was necessary to overcome the consensus reached by the panel. The consensus process was used from July 14, 2002 until June 2010 when the process was declared unconstitutional based on *Vision Mining v. Gardner*.

Commissioner Lovan stated from July 2002 through June 2010, a total of 2309 CWP claims were filed. Of those, 1612 claims completed panel evaluations and 1569 claims reached

consensus. Negative consensus was reached on 1291 of those claims. Positive consensus was awarded to 263 claims and further broken down into three categories, category one (211 claims), category two (45), and category three, including progressive massive fibrosis (7). Category three/ progressive massive fibrosis claims or "complicated CWP" receive total disability awards.

The Supreme Court's December 22, 2011 decision in *Vision Mining v. Gardner* affirmed the Court of Appeals decision that found the consensus process was unconstitutional because it treated CWP differently than it treated other occupational pneumoconiosis claims. CWP claims were held in abeyance since 2010 until the Supreme Court ruling. The Department of Workers' Claims began using the same provisions used for other pneumoconiosis claims, which is to undergo a university evaluation. CWP claims are filed and processed at the University of Kentucky and at the University of Louisville, where x-rays and medical histories are evaluated by a B reader and a pulmonary specialist. Initially, 10 cases were submitted based on the type of evidence involved, then any claim with evidence of progressive massive fibrosis, and finally those that were filed first. A total of 142 claims have been referred for university evaluation, 57 claims are pending appointments, 54 claims have appointments scheduled, 41 claims have completed the evaluation process, and 547 claims continue to be temporarily assigned to the chief Administrative Law Judge, which includes all new cases.

Internal logistical issues at the universities have held up the process, as well as an increase in filings in 2012 and 2013. Commissioner Lovan stated that a B reader physician has been specially trained and certified by the National Institute of Occupational Safety and Health in classifying x-rays of pneumoconiosis, but based on the Supreme Court decision a B reader may not be necessary. A full pulmonary exam is required of any other occupational disease claims and is mandatory to receive income benefits because an impairment rating, based on the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment, must be given. In the past, an impairment rating was not necessary for awarding CWP benefits. A positive x-ray reading under the AMA Guides does not have an impairment rating, not even progressive massive fibrosis.

Commissioner Lovan said he has formed a work group comprised of physicians, attorneys for employees and businesses, professors, and individuals working in insurance, labor, and coal industries to bring



recommendations to the legislature. So far, the work group has recommended adding universities beyond UK and UofL and providing a funding mechanism for the universities to provide assistance in managing CWP claims.

In response to questions from Representative Yonts, Commissioner Lovan said there is currently one B reader at each university and they are not required to be certified radiologists. The B reader and the university's participating pulmonary expert examine the claimant and receive their medical and occupational histories, as well as their exposure history. At present, blood gases are not included in the examination.

### **Report and Update on the Workers' Compensation Self Insurance Guaranty Funds**

Commissioner Lovan gave an overview of the Workers' Compensation Self Insurance Guaranty Funds. The self insurance guaranty funds were established by the General Assembly in 1996. Three separate funds were established, for individual self insured employers, coal employers, and self insured groups. All individual employers who self insure their workers' compensation liability are approved and regulated by the Department of Worker's Claims. The self insured employers are required to be members of the guaranty fund.

If a self insured employer becomes insolvent or declares bankruptcy and is unable to pay its workers' compensation, the commissioner may call the security deposit, which would be a bond, letter of credit, or escrow account, of the self insured and turn it over to the appropriate guaranty fund. The guaranty fund then begins to administer the workers' compensation claims and pay the claimant appropriately. If the security deposit is insufficient to pay all the workers' compensation claims, then the members of the guaranty fund may be assessed to help pay the remaining workers' compensation claims.

All self insured groups are approved and regulated by the Department of Insurance. The groups are made up of individual self insured employers. The groups are members of the group guaranty fund but the individual members of each group are jointly and separately liable for defaults on payments of workers' compensation claims.

Following Commissioner Lovan, Co-Chair Nelson introduced Secretary Ray Gillespie, Kentucky Individual Self Insurance Guaranty Fund, and guests. Secretary Gillespie reported the guaranty fund has insured 169 firms since its creation in 1997. At this time, the fund insures 110 firms, not counting coal entities. Judy Long, Claims Consultant, HealthSmart

Casualty Claims Solutions, works as a third-party consultant for Kentucky's guaranty funds. Ms. Long reported HealthSmart handles 128 open claims. Peter McFarland, Vice President and Financial Advisor, UBS Bank, discussed the fund's investments that are limited by statute. Albert Cates, Vice President, Castellini Company, explained his supporting role to the guaranty funds and complimented Ray Gillespie on his job as secretary.

In response to questions from Representative Yonts, Secretary Gillespie and Commissioner Lovan explained the "920 Fund", based upon KRS 342.920. Any fines the Department of Workers' Claims collects can be used if surety is insufficient for pre-1997 claims not covered by the guaranty funds.

In response to a question from Senator Parrett, Ms. Long stated that of the 128 open claims with HealthSmart Casualty Claims Solutions, 109 are Fruit of the Loom claims.

### **Kentucky Coal Employers Self Insurance Guaranty Fund**

Co-Chair Nelson introduced Gary Davis, Kentucky Coal Employers Self Insurance Guaranty Fund, who presented information for the committee. The coal guaranty fund was created in 1996. The Board of Directors includes members from Alliance Coal, Arch Coal, James River Coal, Patriot Coal, and TECO Coal. Once a member leaves the fund, they are subject to being assessed for three years. Former self insured members still subject to assessment are Consol Energy and Massey Coal Services. The guaranty fund utilizes the investment management services of UBS Bank (Peter McFarland) as well as third party claims administration through HealthSmart (Judy Long) and American Mining Insurance. General legal counsel services are provided by Walther, Gay and Roark. Fister, Williams and Oberlander serves the fund as the independent CPA firm. Actuarial services are done by Complete Actuarial Solutions (CASCO).

Mr. Davis reported the coal guaranty fund is currently administering claims for Quaker Coal, Golden Oak Mining, Lodestar Energy, Horizon Natural Resources, and Manalapan Mining.

There being no further business the meeting adjourned.

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

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

June 14, 2013

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

The 1st meeting of the Interim Joint Committee on Licensing and

Occupations was held on Friday, June 14, 2013, at 10:00 AM, at the Kentucky Horse Park in Lexington, KY. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Denise Harper Angel, Jimmy Higdon, Christian McDaniel, Morgan McGarvey, R.J. Palmer II, Dan "Malano" Seum, and Damon Thayer; Representatives Tom Burch, Denver Butler, Dennis Horlander, Joni L. Jenkins, Reginald Meeks, Brad Montell, Darryl T. Owens, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, Diane St. Onge, Ken Upchurch, and Susan Westrom.

Guests: Arch Gleason, President/CEO, Mary R. Harville, Senior Vice President/General Counsel, Howard Kline Senior Vice President of Finance and Administration/CFO, Kentucky Lottery Corporation; Danny Percell, Chairman, Letricia Chandler, Executive Director, Kentucky Board of Embalmers and Funeral Directors; Kelly Wasson, President, Funeral Consumers Alliance of the Bluegrass; John Nicholson, Executive Director, Kentucky Horse Park.

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

Representative Keene thanked John Nicholson, Executive Director of the Kentucky Horse Park for inviting the committee to meet at the park. Representative Keene asked for a moment of silence in honor of the passing of Barbara Upchurch, Representative Ken Upchurch's mother.

#### **Approval of minutes**

A motion to approve the minutes from the November 20, 2012 meeting was made by Representative Burch and seconded by Senator Schickel. It carried by voice vote.

#### **Kentucky Lottery Corporation**

Arch Gleason, President and CEO of the Kentucky Lottery Corporation (KLC), testified about projected sales for 2013 and reported on the Lottery revenues since its inception. Over \$1.8 billion has gone to the General Fund, \$2.4 billion to grants and scholarships, \$42 million to literacy development, and \$20.8 million to the Affordable Housing Trust Fund. Players have been paid \$8.8 billion in prizes. Retailers have been paid \$919 million in commissions.

Mr. Gleason said that, during the March meeting of the board of directors, the state treasurer moved to direct lottery management to proceed expeditiously with the implementation of the game, Keno. The motion included the pursuit of internet sales of lottery tickets. The board adopted

the motion, and KLC has begun planning to implement the new game. Keno is a draw game played on the current terminal system at retailer locations. The type of Keno the KLC is proposing is commonly known as Club Keno, with drawings conducted at 5 minute intervals. Retailers may offer the game at their option. A group of new retailers is expected to come from the social environment such as restaurants, bowling alleys, fraternal organizations, bars, and taverns. This allows KLC to expand to new retailers with the ability to reach younger players from higher economic and educational backgrounds. Thirteen United States lotteries offer this style of game with a sales yield that averages approximately 5 percent of total lottery sales of all products, or 10 percent of sales from terminal lottery games. It is estimated that in the first full year sales could total \$53 million. Annual dividends would amount to \$15 million.

The lottery board believes that Keno can be conducted under the current lottery statutes. It could be offered by amending an existing contract with GTECH. GTECH has accepted the amendment, and the amended contract was presented at Government Contract Review's June meeting. The amendment is expected to be more cost effective than a contract with a new vendor, but there will be a minor increase in the rate from 1.5 percent to 1.5395 percent and a three year extension on the contract's length.

Keno is played from a field of 80 numbers. The lottery randomly draws 20 numbers from the field. Players win by matching up to 10 of the 20 numbers drawn. The more numbers a player matches, the higher the payout. The Keno play slip is similar to other draw games like Powerball. Retailers have one or more monitors in their stores that display the results of the game every five minutes. Recruitment of retailers from the social environment will begin in July, and KLC representatives will visit with retailers to determine if the game is suitable for their environment. It is expected that convenience stores will not participate due to inconsistencies with their basic business and traffic flow. Smaller locations with an area where people eat are better suited to accommodate the business model. Equipment and software installation must be completed by October, and the game will begin in early November.

In response to a question from Representative Keene, Mr. Gleason said present regulation of the lottery suggests that all retailers sell all products. Restaurants, bars and taverns, and social clubs do not sell tickets due in part to scratch off tickets being covered with latex. The

scrapings from these tickets create a problem for restaurants and bars that sell food and beverages.

Mr. Gleason told committee members that KLC is also considering iLottery, or the sale of lottery tickets over the internet. KLC's outside counsel and counsels of most other lotteries in the United States believe that lottery tickets can be sold "intra" state by lotteries under state and federal law. Thus, tickets sold by the Kentucky lottery could only be sold within Kentucky. The transaction could not cross state lines. This project will not be launched until after Keno is in place and operation has started. This is to avoid re-negotiation of the GTECH contract. Also, to operate internet sales, KLC must negotiate with a bank, set up player accounts, verify location and age, set up time limits for wagering, and establish spending limits. The development of internet sales would be a slower process than the implementation of Keno. KLC believes sales over the internet would generate a similar or higher yield than Keno sales.

Mr. Gleason asked for the members' confidence in the management of the Kentucky Lottery Corporation. KLC is proud of its achievements from the standpoint of business integrity and in dealing with players and retailers. The lottery has been recognized twice as an outstanding government agency in the Kentuckiana area relating to responsible gaming, and has been honored by the National Council on Problem Gambling. Mr. Gleason told members it is his pledge to the committee, to the General Assembly, and to the Commonwealth that KLC will move forward with its initiatives in a responsible manner.

In response to a question from Senator Thayer, Mary Harville, KLC General Counsel, responded that the constitutional amendment to allow the state lottery passed in 1988. KRS Chapter 154A sets out numerous provisions specifying the lottery's boundaries. The definition for lottery, in KRS 154A.010(3), means any game of chance, approved by the corporation and operated pursuant to this chapter, except for games prohibited by the General Assembly as provided for in KRS 154A.063. KRS 154A.063 has a subsection that specifically requires the corporation not to approve and operate any casino, or similar gambling establishment, and not to approve or operate any game played with playing cards, dice, dominos, slot machines, roulette wheels, or where winners are determined by the outcome of a sports contest. Keno is just like other draw games in many respects in that it is a number match game that comes from the same terminal as other games. It is offered in different venues, but it

is a game of chance that in no way involves skill. Previous general counsels have looked at this internally with the lottery and consulted with the law firm Goldberg Simpson, and all believe that Keno is consistent with the statute. It is the KLC's belief that neither Keno nor iLottery will undermine existing lottery ticket sales.

Senator Thayer opined that this type of gambling should require, at the least, an Act by the General Assembly, if not a constitutional amendment. He disagreed with the KLC's implementation that by-passed the General Assembly.

In response to a question from Senator Higdon, Mr. Gleason said when Kentucky first looked at Keno in 1988, it was premature. The gaming footprint has changed since then. To preserve the level of revenue, other options need to be considered. The statutes direct KLC to look at other lotteries and seek to offer games that are successful elsewhere. Other games have been offered and gone forward, and the lottery believes that it is on solid legal footing.

In response to a question from Representative Keene, Mr. Gleason said the policy on retailer commission is that no more than one percent of the sales of the lottery at the retailer level can be paid to the retailer as a bonus. This has been modified to either one percent or \$100,000 maximum per winning ticket. The \$100,000 maximum was necessitated by some of the large payouts in the multi-state Powerball drawings.

In response to a question from Representative Palumbo, Mr. Gleason said that the World Lottery Association has established criteria for a corporate and social responsibility framework. The Kentucky Lottery has achieved Level 3 out of 4 possible. Achieving level 4 would require extensive research on Kentucky demographics and could cost up to \$50,000. The Lottery's budget does not support that expenditure for research, but Mr. Gleason told Representative Palumbo that he would forward information on the criteria and what was required for each level.

In response to a question from Representative Owens, Mr. Gleason said the lottery is offline from 2:00 AM to 4:00 AM, and the hours of operation for Keno will be the same. The profile of the Keno player across the United States is higher both from an educational and socio-economic standpoint. There is no indication that Keno has contributed disproportionately or significantly to compulsive gambling problems in any other jurisdiction.

In response to a question from Senator Palmer, Mr. Gleason said that there are distinctions between iLottery and a slot machine. The KLC could

not offer a simulation of a slot machine online. The initial approach would be to offer terminal based games via the internet. This is still in the developmental stage in lotteries across the country. To maintain revenue, the lottery needs to products that appeal to future generations.

In response to a question from Senator McGarvey, Mr. Gleason said players would need an account to facilitate play on the internet. One option is prepaid cards sold at retail establishments. GTECH has an arrangement with VISA Corporation to allow a player who plays on a funded card to do so with no handling fees. Depending on the retailer, payment of lottery tickets or scratch-off cards by credit cards is not prohibited under statute.

In response to a question from Representative Simpson about the state mandated reduction in amounts paid to winners, Mr. Gleason said the adjustment in the amount of prize money paid to players was a negative impact on sales. Sales have recovered since that time. There was also a negative impact on sales when Tennessee instituted their state Lottery. In FY 09, 10, and 11 and 12, the budget allocated 22 percent of KLC profit to higher education rather than the scholarship program.

Representative St. Onge encouraged Mr. Gleason and KLC to request an opinion from the Attorney General regarding the legality of Keno.

Senator Thayer stated that he disagreed with the implementation of Keno, saying that Keno and iLottery were expansions of gambling that require, at the least, action by the General Assembly and may require a constitutional amendment. Senator Thayer requested that KLC cease implementation of the game and work directly with the General Assembly and relative committees to protect the right of the people to have input on the changes.

#### **Kentucky Board of Embalmers and Funeral Directors**

Danny Purcell, Chairman of the Board, said that legislation passed in 2013 giving funeral directors a reciprocal agreement to use a "courtesy card" with Indiana and Ohio, allowing out-of-state directors to use their licenses in Kentucky and for a Kentucky licensed funeral directors to practice in those states. Consumers will no longer need to hire funeral directors from multiple states to assist in arrangements.

New requirements are in place for continuing education. Twelve hours are required over a two year period. At least six of those hours must be in-person training.

Mr. Purcell reported that receipts for the board in the past year totaled

\$441,081.74. Disbursements were \$372,328.76, with a carryover of \$68,752. The amount of fines levied in the past year was a record number, \$81,400.

An Attorney General's opinion stated that a licensed funeral director is required to provide all aspects of the funeral service, from time of death until the final disposition and time of burial. An AG opinion was determined that a licensed funeral director is required to sell a funeral. Notice was sent to all licensees giving all funeral homes an opportunity to acquire more licenses and pre-need licenses. An inspector found several violations, and a warning letter was sent to those businesses. Formal complaints were settled by agreed order, and fines were charged based on the severity of the violation.

A concern, after meeting with the Funeral Directors Association of Kentucky and the Kentucky Association of Morticians, is that retirees are moving to other states and not renewing their licenses. The majority of the boards' funding comes from renewal fees.

Senator Schickel suggested that the board inform members when changes are proposed to the funeral statutes. Also, pre-filing future legislation can help inform the public.

In response to a question from Representative Simpson, Mr. Purcell said a poll regarding removal of remains from the place of death to a mortuary concluded that a licensed funeral director should perform the removal. A licensed professional should attend due to training in microbiology, grief psychology, and other skills.

#### **Funeral Consumers Alliance of the Bluegrass**

Kelly Wasson, President of Funeral Consumers Alliance of the Bluegrass, said the alliance is one of two local chapters of the national group in Kentucky. It educates people who want to do home funerals. A general price guide of services offered by different funeral homes in the area is given to families to make them are aware of their options. The group supplies material, state by state, that provides laws and regulations for funeral homes and home burials.

There is a trend toward "green" funerals. Families may construct their own casket. Under Kentucky law, a body can be transported when accompanied by a provisional death certificate that can be obtained at a health department. Vaults are not required by law, but rather by individual cemeteries. Funerals should be about doing what is best for the family.

Senator Schickel commented that when he planned the funeral of both his parents the funeral home was



cooperative and the funeral director was very helpful with all aspects of the green burial. Mr. Wasson said that he was not opposed to the funeral industry.

Representative Palumbo stated that there are issues regarding green burial and health and public safety.

#### **Kentucky Horse Park**

John Nicholson, Executive Director of the Kentucky Horse Park, said that from mid-March through Thanksgiving there are equine events taking place at the park on a daily basis. The current event is the Country Air Hunter/Jumper Show. Horses from around the country are competing at what has become the most prestigious competition center in the world. Competitors are at the park for extended periods of time. They spend money in different sectors of the economy generating tax dollars that ultimately return to the general fund. The average economic impact per year has been about \$180 million.

The 2012 budget had language asking the horse park to develop a business plan and deliver it to both Appropriations and Revenue committees by June 30, 2012, which the horse park completed. This is the road map for the horse park's measure of success. The General Assembly asked the park to write a plan for operation with no revenue from the General Assembly. At the time the park submitted its plan, in June of 2012, the projected cash balance for June of 2013 was \$128 thousand. Instead, the park will have a cash balance of \$623 thousand at the end of this fiscal year.

New for the park is ownership of the park's food service, providing everything from burgers and fries to high-end catered events. This has been a dramatic revenue producer adding over \$2 million. The park owns a convention liquor license and is increasing marketing to public and private sponsors.

In answer to the question of operation with no General Fund dollars: 1) the park will need to expand the campground, which is part of its six-year capital plan; 2) a public/private partnership to build a hotel on park property is essential. Proposals would come from the private sector, and the hotel would operate under a ground lease with a cut of the gross sales going to the park; 3) local support would be needed, which could come from a share of the Fayette County transient hotel tax.

In response to a question from Representative Simpson, Mr. Nicholson said the business plan has an eight-year progression leading to the Horse Park operating independently from the General Fund.

Representative Palumbo commented that the committee appreciates the vision of the park and

the tax dollars being generated by activities at the park that flow to the state.

Senator Schickel reminded members that the July meeting topic is "Advanced Practice Registered Nurses" and asked that anyone who has an interest in this topic to contact committee staff to get on the agenda.

There being no further business, the meeting was adjourned at 12:08 PM.

### **INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT**

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

June 6, 2013

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

The 1st meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, June 6, 2013, at 1:00 PM, in Room 149 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 Jim Gooch Jr., Co-Chair; Senators Joe Bowen, Chris Girdler, Ray S. Jones II, Bob Leeper, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives Hubert Collins, Keith Hall, Reginald Meeks, Tim Moore, Marie Rader, John Short, John Will Stacy, Fitz Steele, Jim Stewart III, and Jill York.

Guests: Deputy Director Benjy Kinman and Major Shane Carrier, Kentucky Department of Fish and Wildlife Resources; Mr. Don Dott, Kentucky State Nature Preserves; Mr. Jody Thompson, Kentucky Division of Forestry; and Dr. John Obrycki, Kentucky State Entomologist.

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

#### **Division of Fish and Wildlife Resources enforcement program on Boating Safety**

Mr. Kinman described the fishing restrictions below dams owned or operated by the United State Army Corps of Engineers (USACE) and the actions taken in the United States Congress to resolve the dispute between USACE and the Kentucky Department of Fish and Wildlife Resources (KDFWR). USACE commenced a program of full-time waterborne restrictions on ten dams in the Cumberland River system in Tennessee and Kentucky. Four facilities were impacted in Kentucky, but the two main facilities that were at issue were Wolf Creek Dam and Lake Barkley.

USACE placed buoys and eventually placed permanent physical barriers to prevent boaters and anglers from accessing hazardous waters

above and below the dam. USACE argued that when the gates are open on the dam, a reverse flow is created in the river channel. The reverse flow of water can cause a boat to capsize. KDFWR agrees that the reverse flows are dangerous but are only a threat to boaters when gates are open and KDFWR contends there are ways to inform the public of the dangers and still allow the waters to be fishable.

The problem is that there are many high value species of fish that can be caught in these locations making it very popular for sport fishermen. It is also of interest for communities that rely on recreational tourism. During the 2013 session of the General Assembly, two resolutions were adopted that requested USACE to delay the implementation of the full-time waterborne restrictions. Senate Resolution 112 and House Resolution 88 also encouraged USACE and KDFWR to develop a different solution. Additionally, Governor Steve Beshear sent a letter to USACE's Nashville District Office asking that the full-time permanent waterborne restrictions not be implemented.

Senator McConnell and Congressmen Whitfield, Barr, and Guthrie introduced the 2013 Freedom to Fish Act, which prevents USACE from installing the physical barriers along portions of the Cumberland River system and remove any existing barriers along the 10 dams on the Cumberland River system. Signed by President Obama on June 4, 2013, the Act imposes a two-year moratorium on further implementation of USACE's protocol to allow KDFWR and USACE ample time to develop a warning system that will let boaters and anglers know when the waters are hazardous and fishing is prohibited.

In response to a question about whether KDFWR or USACE has estimated the value of the sport fishing at Wolf Creek Dam, Mr. Kinman said no. However, there is significant value and KDFWR is restocking the lakes. KDFWR appreciates the state and Congressional delegations for their assistance in this matter.

In response to a question about whether there is a siren system currently in place to warn when the gates are open, Mr. Kinman said yes. However, USACE was impacted several years ago by litigation regarding the use of the sirens. As a result, USACE shut the siren down.

In response to a question about the summer pool at Buckhorn Lake, Mr. Kinman replied that the normal pool is 723 feet, and the pool is being increased in phases. Senator Girdler thanked Mr. Kinman for KDFWR's efforts to design a new way of warning boaters and allowing fishing to continue.

Major Carrier discussed law

enforcement presence on Kentucky's lakes and rivers, KDFWR's boater education and enforcement program, and boating under the influence (BUI). The reason why enforcement and education are important is that there are 175,286 registered boats in Kentucky. Additionally, there are thousands of nonresident visitors who use Kentucky's waterways each year.

KDFWR's objective with the boating education and enforcement initiative is to provide safe waterways in Kentucky for recreational enjoyment. The boating education program is staffed by one full-time boating education coordinator. KDFWR partners with local businesses to promote boating safety by offering promotions and with BoatUS to offer loaner life jackets. KDFWR also promotes boating safety through public service announcements. KDFWR offers online and traditional classroom educational opportunities. The education classes are mandatory for minors between the ages of 12 and 17 who operate a boat over 10 horsepower. KDFWR issued 6,424 safe boating certificates in the past five years.

Regarding BUI, Kentucky's boating enforcement data show that between 2008 and 2012 there were 854 alcohol related arrests of which 45 percent were attributed to BUI. During the same time frame, there were 342 boating accidents that were alcohol related and 17 deaths that were alcohol related. KDFWR enforcement officers work in conjunction with local law enforcement to detect intoxicated boaters and enforce BUI laws during the National Boating Safety Effort, which is a weekend event.

Major Carrier described the BUI statutes and KDFWR proposal for strengthening the probable cause section. KDFWR wants the statutes to mirror the drinking under the influence (DUI) statutes. If an officer comes upon an accident, the officer does not automatically have probable cause to determine if intoxication was a causal factor.

In response to a question regarding how many officers are on the water to enforce the boating statutes, Major Carrier responded that all enforcement officers are on the water during the weekends. There are 123 filled uniformed enforcement officers

#### **Threat from and response to invasive and exotic plant and insect species**

Don Dott, executive director of Kentucky State Nature Preserves, discussed the problems for habitat and natural plants and animals from exotic and invasive species. Exotic species do not have natural enemies that mitigate their growth patterns, mature earlier than native species,

have profuse seed production, and remain in the soils for a long time. The impact of exotic and invasive species is severe for agriculture, tourism, industry, and natural habitats. Kudzu, for example, affects the Jackson Purchase area of Kentucky and is responsible for spreading soybean rust. It was brought to Kentucky as a way to control erosion, but it quickly spread out of control.

Exotic and invasive species are in every county in Kentucky. There are several corridors for exotic and invasive species such as the Kentucky River. Exotic and invasive species thrive in disturbed areas, including rock quarries, and in riparian zones. Exotic and invasive species are often carried as seed or small plants in rock or dirt loads which create problems for industry and farmers respectively. These species can become a resource drain because the landowner then must treat the plants with a herbicide.

In response to a question regarding how landowners can manage the problem of exotic and invasive species and kudzu in particular, Mr. Dott said that herbicides are the best treatment, and the problem is difficult to control. Kudzu, when present on nature preserves, is hard to control. The roots are long, and repeated treatment with herbicides is necessary. Programs such as habitat improvement under the United States Department of Agriculture have been helpful to landowners in subsidizing the cost of herbicide treatment.

In response to a question regarding the prognosis for exotic and invasive control in Kentucky, Mr. Dott said it is poor. Unless there are more resources, exotic and invasive plants cannot be controlled. Kentucky State Nature Preserves uses money from Heritage Land Trust to deal with the problem, but private landowners use their own resources. In regards to quantifying the role of exotic and invasive purchased at nurseries, Mr. Dott stated that all nurseries in Kentucky carry some exotic and invasive species and that education is one of the more powerful tools for controlling the spread by purchase.

Dr. Obrycki, the State Entomologist, testified about invasive insect species such as the gypsy moth, Hemlock woolly adelgid, and the emerald ash borer. Selecting a few prominent examples of invasive insect species, Dr. Obrycki described the magnitude of the problem and the Commonwealth's efforts to eliminate it. The University of Kentucky is attempting to minimize damage from the gypsy moth, which has infested Jefferson, Carroll, and Fleming counties. The university has set up trapping surveys to measure the growth of the moth infestation and to determine the value of different

control measures. The Hemlock woolly adelgid is an invasive species that attacks Hemlock trees. The state cannot afford to treat all Hemlock trees and has taken the approach of treating soils of certain old growth tree stands and using a native predator beetle specie called *laricobius nigrinus* as a natural control because it feeds on the Hemlock woolly adelgid. The emerald ash borer is a metallic green beetle that feeds on ash trees. Kentucky has documented the growth and spread of the beetle using trap surveys. Kentucky has had an internal state quarantine since 2009 in hope of restricting the ash beetles coming into the state. The quarantine controls the movement of regulated materials such as hardwoods, nursery stocks, firewood, and lumber in and out of the state. There are natural controls such as the stingless wasps which feed on the emerald ash borer larvae.

Jody Thompson, forest health specialist with the Division of Forestry, explained that the cost of tree death from invasive species is significant to both private landowners as well as to cities and counties. A large ash tree can cost more than \$2,000 to remove so a stand of trees can significantly burden public budgets. Tree deaths also create a visual blight and can create dangerous conditions from trees falling on people, cars, and homes.

In response to a question about what Kentucky is doing to address the problem of insect infestations and tree deaths, Mr. Thompson replied that Forestry is involved in the Hemlock project which involves treatment crews working with county agriculture agents. There is no indication of the efficacy of the project. Foresters work with landowners if the landowners have a management or forest stewardship plan. In that instance, Forestry helps to identify resources and provide education and training.

When asked what is needed to keep infestations from becoming a serious threat, Mr. Thompson stated that networks are needed. Networks could identify tasks and engage in early detection of species. These networks could lead to rapid response. There is no way to address the problem after the infestation has occurred. The best approach is to get ahead of the problem because treatment programs are too costly. The network in Kentucky is fragmented and cannot be as productive as it could be. In response to a question regarding past budget cuts in the Division of Forestry, the reliance on federal dollars, and ways to become more efficient, Mr. Thompson said that Forestry relies heavily on federal funds, but those funds are declining. Communication is important to improving efficiency. There are a myriad of offices involved in this effort but the individuals

involved have cross cutting responsibilities. Eradication of exotic and invasive pests is one of many tasks, and sometimes the prioritization of the task is a problem.

In response to a question about whether purple traps are conducted as a state or federal project, Mr. Thompson stated that purple traps are likely set out by a contractor dealing with emerald ash borers. In response to a question about the type of insect that bores holes into wood such as outdoor decks and patios, Mr. Thompson said that the insect is likely a carpenter bee. The treatment, according to Dr. Obrycki, is to set traps to attract the bees and fill in the holes bored by the bees. Carpenter bees are a problem and are likely to recur.

After a motion and a second, the meeting adjourned at 2:30 PM.

## INTERIM JOINT COMMITTEE ON TRANSPORTATION

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

June 4, 2013

#### Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Transportation was held on Tuesday, June 4, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Jimmy Higdon, Bob Leeper, Morgan McGarvey, Albert Robinson, John Schickel, Johnny Ray Turner, and Whitney Westerfield; Representatives Denver Butler, Leslie Combs, Will Coursey, David Floyd, Richard Henderson, Kenny Imes, Jimmie Lee, Donna Mayfield, Terry Mills, Rick G. Nelson, Marie Rader, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, John Will Stacy, Fitz Steele, Jim Stewart III, Tommy Turner, and Addia Wuchner.

Legislative Guests: Representative Dennis Horlander.

Guests: For the Kentucky Transportation Cabinet: Michael W. Hancock, Secretary; Tom Zawacki, Commissioner of the Department of Motor Vehicle Regulation; Terry Barnes, Project Manager, KAVIS project; Tammy Branham, Executive Director of the Office of Budget and Fiscal Analysis; Steve Waddle, State Highway Engineer; For 3M: Tracy Williams, Project Manager; and Steve Edwards, Government Services Manager; and for the Governor's Office of Economic Analysis: Greg Harkenrider, Deputy Executive Director for Financial Analysis.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Christina Williams.

## Implementation of transportation-related legislation from 2013 Regular Session

Michael W. Hancock, Secretary of the Transportation Cabinet, and Steve Waddle, State Highway Engineer, Department of Highways, Kentucky Transportation Cabinet, discussed the implementation of HB 445. House Bill 445 allows the Transportation Cabinet to have design-build capability for up to five projects each fiscal year that have a construction cost of less than \$30 million. Secretary Hancock stated that process will begin on July 1, 2013 for FY 2014, and the cabinet staff is evaluating reasonable alternatives and candidates for using the design-build process.

Mr. Waddle reiterated HB 445 provides that the projects for design-build must be existing projects in the biennial plan, and that staff in all 12 districts are evaluating all projects in the biennial plan to identify good candidates for the potential design-build process. The cabinet has not selected any projects, although some are strong candidates.

Mr. Waddle stated that one criterion for determining a design-build project is completion of the initial design, including completion or near completion of environmental clearance. Environmental clearance includes having all necessary permits obtained and historical assessments made. A second major criterion is non-complex right of way acquisition and minimal utility impact. The potential for substantial time savings is also a determining factor. A common misconception with the design-build process is that money is saved upon the completion of the project. Design-build projects rarely save money; instead, the savings that is realized is time savings. The cabinet wants to ensure that a potential design-build project is in the best interest of taxpayers.

In response to a question by Chairman Collins, Secretary Hancock stated that the Mountain Parkway at Campton project was labeled a design-build project, but what was done on the Campton project, as well as few others, is known as a turn-key project. A construction firm was instructed to obtain a designer, buy the right of way, coordinate the relocation of utilities, and then build the project. In this particular case, the contractor seemed to realize the difficulty in buying the right of way and relocating utilities. He was unsure if the Campton project was completed faster than it would have been if the normal course of action had taken place.

In response to a question by Chairman Harris, Mr. Waddle stated that the federal requirements for the environmental portion of a design-build project are slightly stricter.



In response to a question by Chairman Harris, Mr. Waddle stated that design-build is an accepted method by the Federal Highway Administration (FHWA), and that Chairman Harris is correct in assuming that a state-funded project nearing completion of the environmental process can be completed in a timelier manner. A little more control is given to the cabinet if the project is state funded rather than federally funded. If a project is chosen appropriately, the funding source should not make a difference.

Secretary Hancock and Tom Zawacki, Commissioner of the Department of Motor Vehicle Regulation, discussed the implementation of HB 440.

Commissioner Zawacki stated that a working group has been formed between the Transportation Cabinet and the Department of Revenue to work out details to accommodate the implementation of HB 440. The cabinet has established data requirements to be pulled from the vehicle regulations database for vehicle registration and drivers licensing. The cabinet is automating the preparation of letters to be sent to delinquent taxpayers. The letters will include the specific vehicle make and model, vehicle identification number (VIN), and color.

Commissioner Zawacki stated that the majority of revocations would occur on individual driver's licenses. The Department of Revenue believes there is more leverage on the revocation of driver's licenses than a non-renewal for registration. Other licenses such as professional licenses may or may not be suspended or revoked if the taxpayer is delinquent.

Commissioner Zawacki stated the implementation of HB 440 should be utilized in AVIS starting in the fall of 2013. The cabinet is studying the cost and time needed for the necessary changes after KAVIS is activated.

Chairman Collins stated he was troubled with the potential implementation of HB 440. A taxpayer may not have the money available to pay the taxes and, if the driver's license is revoked, will be unable to travel to work to earn the money needed to pay the delinquent taxes. Revocation provisions in the bill are permissive and not mandatory. The new enforcement mechanism is different from the process for vehicle property taxes, where the license is suspended for not paying property taxes, of which people are already aware.

Chairman Collins stated it does not rest easy with him that the bill is going to this extent considering a taxpayer already must pay taxes on an automobile before renewing a license. There is a common misunderstanding

that a person trading a vehicle does not owe property taxes on it for that year. A person under this misconception is surprised with having to pay taxes on a vehicle no longer owned in order to renew a driver's license.

Chairman Harris said the bill almost creates the potential for a sort of "debtor's prison," and that HB 440 was never seen by the Transportation Committee and would not have passed if it had been.

In response to a question by Chairman Harris, Commissioner Zawacki stated HB 440 was not a Transportation Cabinet bill, but the cabinet is before the committee to discuss implementation of the revocation process.

In response to a question by Chairman Harris, Commissioner Zawacki stated the Department of Revenue (DOR) is responsible for implementing HB 440. It is his understanding that a delinquent taxpayer who pays in full or agrees to a payment plan will not be subject to any license revocation or suspension.

Representative Lee stated he would like to have a discussion with all parties at a future meeting date to discuss the possible prorating of the ad valorem taxes on vehicles. Chairman Collins agreed.

In response to a question by Chairman Collins, Commissioner Zawacki stated he was unaware if someone were able to see if there was tax due on a title lien through the Kentucky.gov website.

Representative Floyd stated it was disturbing to know that HB 440 as the General Assembly implemented it is permissive in the language and thus may allow for selective enforcement of the law by the Department of Revenue. He said the language should either be changed to make it uniformly applicable or it should be removed all together.

Chairman Collins stated that these issues will be discussed by the Department of Revenue at a future meeting.

#### **Implementation of Plate 2 Customer vehicle licensing system and delays in implementation of the new Kentucky Automated Vehicle Information System (KAVIS)**

Chairman Collins stated that the 2010 General Assembly, in order to adjust the statutes to conform to the KAVIS system under development, passed legislation requiring a person who traded or sold a vehicle to keep the tag to place on a new vehicle. This is known as the Plate 2 Customer system. The bill was to come into effect January 1, 2013; after several delays, the effective date was pushed back to January 1, 2014 during the 2012 session. It now appears that KAVIS will not be ready until the summer of 2014.

Tom Zawacki, Commissioner of the Department of Motor Vehicle Regulation, Terry Barnes, project manager, KAVIS, Tracy Williams, 3M project manager, and Steve Edwards, Government Services Manager of 3M and an executive sponsor on behalf of 3M for the KAVIS project testified about the background and schedules of the Plate 2 Customer and KAVIS programs.

Mr. Edwards stated the Plate 2 Customer program is tied to the KAVIS effective date, which is expected in mid-year 2014. The statute requires the Plate 2 Customer program to be effective by January 1, 2014, but that is not possible because KAVIS will not be ready.

Mr. Barnes stated the anticipated effective date was in 2013. The reasoning behind the 2013 year was the year was not an election year, allowing county clerks to focus on implementing the new system. The project managers overscheduled their resources and realized a quality product was not going to be provided. Because a quality product was necessary, they had to delay the project's effective date to mid-year 2014.

Mr. Barnes addressed the committee's concerns regarding the new schedule and provided reasons why the committee should remain confident in the new schedule. The cabinet and project managers have worked hard to gather feedback and understand the work that must be completed. The cabinet has built additional time into the schedule and allowed time to complete administrative work.

Mr. Barnes stated there are risks and issues that could affect the project schedule. The project team must understand how that affects KAVIS. The team has utilized a design-build and test process to be incorporated into the KAVIS application.

Mr. Barnes stated SB 96, a 2013 bill that required motor safety training as a condition of registering some large trucks, could impact KAVIS. The biggest impact will be new change requests resulting from testing of the software. Change requests are carefully evaluated to determine if the change is critical or can be initiated later.

In response to a question by Chairman Collins, Mr. Barnes stated the KAVIS budget is a capital budget, funded by a one dollar charge on every motor vehicle registration. This was allocated before the project start date. The maintenance budget will be managed by Jon Clark, Executive Director for Transportation's Office of Information Technology, and Commissioner Zawacki after implementation of KAVIS. Commissioner Zawacki said there is no way to assure the project will

continue to be under budget because of the change orders that occur during each testing process and the unknown cost impact. Each change order is carefully evaluated to ensure it is critical before the KAVIS effective date.

In response to questions by Chairman Collins, Commissioner Zawacki stated there are no contractual penalties for not meeting timelines, and that the mid-year date that has been given for the implementation of KAVIS is approximately June, July, or early August of 2014. Commissioner Zawacki could not promise that KAVIS will be ready by those dates, but that is the goal.

Chairman Collins said there are three options that the General Assembly could take. One option is to repeal the statutory changes and consider adopting them when KAVIS is operational. The second option is to extend the effective date to another fixed time. The third option is to take no action and allow the effective date for the statutes to remain. When KAVIS becomes operational, the statutes will go into full effect, even though there will be a time period where the statutes do not mesh with the actual vehicle licensing process.

Commissioner Zawacki suggested making the new Plate 2 Customer statutes effective when KAVIS goes live with no specific date provided.

In response to a question by Representative Lee, Commissioner Zawacki stated KAVIS will be capable of issuing paperless titles, but the issuance of paperless titles will not be one of the features that will be available at first because it was not one of the requirements in the request for proposal. KAVIS could support paperless titles, but a statutory change is required.

In response to a question by Chairman Collins, Mr. Edwards stated there are approximately 15 full-time employees and five full-time employees are assigned to the KAVIS project.

In response to a question by Chairman Collins, Mr. Edwards stated that other states that have implemented a system comparable to KAVIS have needed three to four years to complete and launch their systems.

In response to a question by Chairman Collins, Mr. Edwards said the features Kentucky included in KAVIS are not things that 3M has not experienced in other states, but some of the processes are different and require customization. Ms. Williams stated the mandatory insurance program in Kentucky is unusual and is an area of the system that had to be created from scratch. Imaging solution with the technical solution components was put together as a customized solution

for Kentucky. Even though there are aspects of the rebuilt title process in other states, Kentucky is also unique in that area. All of the items on the list have a component of customization to them.

In response to a question by Chairman Harris, Mr. Barnes stated the cabinet and project team refer to statute and existing policies within the Transportation Cabinet when deciding how to initially build the system and input the requirements. When they evaluate possible changes to the system, the first question is whether the change is driven by statute.

In response to a question by Senator Westerfield, Mr. Barnes stated that many components have been completed and are being tested by county clerks, members of the Department of Revenue (DOR), Property Value Administrators (PVAs), and Motor Vehicle Licensing in test labs located in Transportation Cabinet facilities. While some items have completed the testing process, because each item is system interrelated, they may need to be retested with other changing aspects of the system as change requests surface.

In response to a question by Senator Westerfield, Mr. Barnes stated that change orders are being received as a result of new requests for the system to accomplish new or different tasks. Change orders are received as a result of issues arising in the statutes or in regulatory structure that were not anticipated.

In response to a question by Representative Wuchner, Mr. Barnes stated that data cleansing consists of project employees taking the unstructured data that has been entered into the AVIS system over the previous 30 years and transforming it into a database for KAVIS. For example, a county clerk can currently enter a social security number for a customer as all zeros in AVIS, and the system will pass it with no errors. With KAVIS, a county clerk will have to validate the social security number. Data cleansing entails evaluating the old data in the database and writing rules that state how to transform the current data to be able to input it in the new database. This process has been done four times and involves approximately four million vehicles. He estimated that the system is approximately 65 percent to 70 percent complete on data cleansing, on the application to manage that data, and on the functions the clerks, PVAs, and DOR need within the system.

In response to a question by Chairman Collins, Mr. Barnes stated that the capital budget for KAVIS is \$25 million and has remained unchanged. About \$11.5 million has been spent or allocated.

In response to a question by Chairman Collins, Mr. Edwards stated

that, to assure that KAVIS will be available by fall of 2014, the project managers have added more staff and resources. He added that the project teams continue to evaluate processes to find ways to improve with design-build and test. The teams make sure any defects that arise are accurately identified and meet the cabinet and county clerks' expectations. All parties with the KAVIS project are fully committed to the success of the project and understand the committee's frustration.

In response to a question by Chairman Collins, Mr. Barnes stated that a critical change will be incorporated by the team before the go live date. If the change is not crucial, it will be addressed after implementation.

In response to a question by Chairman Collins, Mr. Barnes stated that the counties are utilizing the lien management process in a variety of ways. Some counties have obtained legal advice as to the correct way to manage liens. This advice has become a factor in how lien management has been built into KAVIS.

In response to a question by Representative Mills, Mr. Barnes stated that KAVIS will not have any impact on processing charges that are assessed by county clerks when a person uses their credit or debit card.

In response to a question by Senator Higdon, Mr. Barnes stated that the software and hardware that is being used to develop KAVIS is the latest technology.

In response to a question by Representative Stacy, Mr. Barnes stated that the three biggest cost drivers of the KAVIS project were the fixed price for the 3M contract (\$10.2 million), labor cost from the Kentucky Transportation Cabinet (KYTC) and Commonwealth Office of Technology (COT) (\$7 million), and the hardware to support the new system (\$1.5 million), for a total of approximately \$19 million. There are change requests totaling approximately \$3 million.

In response to a question by Representative Stacy, Mr. Barnes stated that the \$10.2 million is based on services delivered. 3M has been paid approximately \$4 million. Software costs are covered by the 3M contract. At the completion of the contract, KYTC will own the software.

In response to a question by Representative Stacy, Mr. Barnes stated that 60 to 65 percent of the project is complete, but there is not necessarily a correlation that can be drawn between how close the application is to being completed and the amount budgeted and spent. Change requests total about \$2.7 million, which is in addition to the \$10.2 million allocated for the payment of the 3M contract.

In response to a question by

Representative St. Onge, Mr. Edwards stated that 3M has implemented similar systems in other states. 3M develops a plan for a project that is done collaboratively based on the requirements of the Commonwealth, and it is substantiated based on what 3M's course system provides. Factors include how much of those requirements can be met, how much can be edited or configured relatively modestly, and what has to be customized. Changes can occur that either come from specific county requests or evaluation of the process after the course system in action. Additional legislation or different business processes the project team may want to implement into the project also factor into the development.

#### **Motor fuel tax rates for FY 2013-14**

Tammy Branham, Executive Director of the Office Budget and Fiscal Analysis, Transportation Cabinet, testified about the motor fuel tax rates for FY 2013-14. The variable portion of the rate is based on a calculated average wholesale price (AWP) of gasoline, which is surveyed four times per year. In the April survey, the actual average wholesale price was \$2.884, resulting in a tax increase of 10 percent, which is the maximum allowable increase from one fiscal year to the next. For most of the survey month, the average rolling wholesale price was several cents below the calculated maximum rate. Nine percent of the AWP rate nets an additional 2.4 cents a gallon, bringing the total rate to 32.3 cents per gallon for the first quarter of FY 2014.

There will be another survey completed in July, when the rate cannot increase for the second quarter of FY 2014, but it is subject to change and could fall to the base rate established by legislation in 2009 of an AWP of \$1.78. If that were to happen, the state would lose 9.8 cents per gallon from the first quarter rate in FY 2014.

If all numbers were evaluated on a quarterly basis and consumption remained stable, Kentucky could expect \$18 million in revenue from this adjustment in the first quarter of FY 2014. This amount was already built into the FY 2014 Consensus Forecasting Group revenue estimate and is not additional money. All motor fuel tax collections are shared with the rural and municipal aid program. About 48.2 percent of these revenues are shared with the city and county road aid programs and the rural secondary programs.

Ms. Branham stated that the Consensus Forecasting Group set the motor fuel revenue estimate for FY 2013 at \$850.4 million. Revenue collections of motor fuels through April, which is the last

official collection info available, were at \$688.4 million, leaving a gap of \$162.0 million needing to be collected in May and June. Based on the most recent interim report from the Governor's Office for Economic Analysis, Kentucky will miss the entire road fund revenue estimate by approximately \$36 million, with the bulk of that in motor fuels. In FY 2014 the Consensus Forecasting Group has set the motor fuels revenue estimate at \$901.9 million, which includes the anticipated maximum wholesale price of gasoline in the first quarter.

Fuel consumption is down and taxable gallons have been down 10 of the last 12 months. May and October of 2012 were exceptions and only slightly above the previous year. According to the Department of Revenue, taxable gallons are down five percent overall.

Ms. Branham stated vehicle miles traveled (VMT) fluctuated in 2012 from one month to the next. VMT has been down the last two months, but she only has data through March of 2013. VMT was down slightly in February and moderately in March.

In response to a question by Chairman Collins, Ms. Branham stated that the projected revenue total is expected to be down from what the forecast. For FY 2013, the estimate is just under \$1.5 billion.

In response to a question by Chairman Collins, Greg Harkenrider, Deputy Executive Director for Financial Analysis, Governor's Office of Economic Analysis, stated that gallonage is down across the country. For a substantial period of time, Kentucky was an exception to the trend in that fuel revenues were growing steadily due to the state being a crossroads for several interstates. This is the first time Kentucky has taken a sizeable pinch in gallonage. There is no question that hybrid and electric vehicles will cause a drop in gallonages. As the vehicle fleet becomes newer, and the rates of miles per gallon increase, gallonage will drop without an increase in miles driven.

Chairman Collins stated an idea that has been mentioned is to charge the electric or hybrid vehicle owners a certain fee per year for the use of roads since they will not be using gasoline to help fund roads.

Mr. Harkenrider stated gasoline usage was actually higher in 1999. The motor vehicle usage tax is not a growing source of revenue for the road fund. The FY 2003 motor vehicle usage tax was \$432.9 million, and in FY 2012 it was \$416 million. Cars are lasting longer, and consumers do not replace them as often.

Chairman Harris stated that there was a change made in HB 440 on new vehicles that allowed a new vehicle



trade in credit for usage tax on motor vehicles.

With no further business before the committee, the meeting was adjourned at 2:50 P.M.

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

Minutes of the 1st Meeting of the 2013 Interim

June 13, 2013

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

The 1st meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, June 13, 2013, 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 Jimmy Higdon, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Carroll Gibson, Ernie Harris, Christian McDaniel, Dennis Parrett, Jerry P. Rhoads, Albert Robinson, Kathy W. Stein, Whitney Westerfield, and Mike Wilson; Representatives Robert Benvenuti III, Tom Burch, Denver Butler, Leslie Combs, Tim Couch, Will Coursey, Ron Crimm, Myron Dossett, David Floyd, Jeff Greer, Kenny Imes, Martha Jane King, Jimmie Lee, Donna Mayfield, David Meade, Terry Mills, Rick G. Nelson, Tom Riner, Rita Smart, John Tilley, and Russell Webber.

**Guests:** Judge David Holton II, Jefferson County District Court; Lewis Nicholls and Matthew Mitchell, Secure Continuous Remote Alcohol Monitoring (SCRAM); Col. (Ret.) David Thompson, Executive Director, Stacey Shane, Kentucky Commission on Military Affairs (KCMA); Alecia Webb-Edgington, Director, Public Information Management Division, Jim Acquisto, Vice President, Government Affairs, Tom Seigle, President of Public Safety, and Ron Hatfield, Program Director of Health Information Solutions, Appriss, Inc.; Ken Lucas, Commissioner, Gilda Hill Executive Director, Office of Kentucky Veterans' Centers, and Dennis Shepherd, Staff Attorney, Kentucky Department of Veterans Affairs; and Carlos Pugh, Legislative Liaison, Joint Executive Council of Veterans Organizations.

**LRC Staff:** Erica Warren, Tiffany Opii, Kristopher Shera, and Rhonda Schierer.

### **Resolutions**

Representative Smart read a resolution in memory and honor of Staff Sergeant Daniel Fannin. Representative Dossett read a resolution in memory and honor of Sergeant Michael C. Cable. Representative Pullin moved to adopt

the two resolutions. Representative Floyd seconded the motion. The resolutions were adopted.

### **Veterans Treatment Court**

Judge David Holton gave a brief overview of the Jefferson County Veterans Treatment Court and the devastation of veterans in the jail system. Judge Holton stated that in Jefferson County alone, there are over 56,000 veterans. He stated that the Jefferson County Treatment Court is based on the drug court model to reduce recidivism and to return veterans into productive lives. Judge Holton stated that the veterans' treatment court is a voluntary program that includes regular court appearances before the judge. Treatment in the program includes weekly individual and group counseling, drug and alcohol testing, mental health treatment, and regular attendance at recovery support/self-help meetings. Judge Holton added that the treatment program is not a get out-of-jail card. He provided a copy of the Jefferson County Veterans Treatment Court Participant Handbook which tells veterans what is expected of them and what the program will do for them. A copy of the treatment handbook is on file with the minutes in the LRC Library.

In response to a question from Representative Floyd, Judge Holton stated that the court is happy to serve other counties as well. If another county judge refers a case to him, he asks his team to review to insure that the charges fall within the court's jurisdiction. Cases that are crimes of violent or sexual nature are not accepted.

### **Kentucky Department of Veterans Affairs: Kentucky Veterans' Centers**

Gilda Hill testified about the three Kentucky Veterans Centers. Ms. Hill gave the statistics of the three centers in Wilmore, Hazard, and Hanson, Kentucky. Because the number of admissions and deaths are about equal, the centers rarely achieve full capacity. Services provided in the centers include 24 hour medical and nursing care, rehabilitation, nutritional support, recreational therapy, social services, laundry, transportation, spiritual needs, computers, and wireless internet.

Commissioner Lucas discussed the three capital projects. The Radcliff Veterans Home has been bid once and was over budget, but the agency worked closely with architects, engineers, and contractors, and the project has been rebid. The bids are expected in on June 24, and it is believed the process will then be able to move forward. The other two capital projects are the Eastern Kentucky Veterans Center, which needs its heating and air conditioning system revamped, and the Thompson

Hood Veterans Center, which needs renovation of two nursing units.

Gilda Hill discussed Medicaid and Medicare preparation for implementation. Implementation was delayed after a live safety review found needed repairs and additional clinical issues to be addressed. The agency will request certification in July and hope all of the work beforehand will lead to certification, at which point billing will begin.

In response to a question from Representative Riner, Gilda Hill stated that there are no more than five veterans in the veterans' homes who have served in Afghanistan or Iran.

### **Secure Continuous Remote Alcohol Monitoring (SCRAM)**

Lewis Nicholls, with Premier Integrity Solutions, and Matthew Mitchell, Director of Industry Relations, Alcohol Monitoring Systems, Ltd., gave a PowerPoint presentation on secure continuous remote alcohol monitoring (SCRAM) and how to improve public safety with transdermal technology. Mr. Mitchell stated that SCRAM advocates the reduction of alcohol related crime with a focus on impaired driving. SCRAM is the most widely used transdermal monitor in the world. Forty-eight states use SCRAM, which has monitored more than 270,000 justice involved alcohol offenders across the country. It has been used in Kentucky since 2007. There are 1,186 offenders monitored on SCRAM with 79.3 percent fully compliant; 99.2 percent of total SCRAM days are sober days. The program is at no cost to the taxpayer. Mr. Nicholls stated that, as a retired judge, he is familiar with the court process. A repeat alcohol offender does not get better simply by being incarcerated. A study from the National Center for the State Courts in 2009 revealed that recidivism rates dropped by 14 percent for all crimes and 45 percent for offenders driving while influenced when using the continuous alcohol monitoring (CAM) system, which monitors offender's alcohol consumption every 30 minutes, 24 hours a day. The PowerPoint and information regarding the SCRAM program are on file with the minutes in the LRC Library.

In response to a question from Representative Floyd, Mr. Mitchell stated that the technology to transmit the information from the anklet is a radio frequency signal.

### **Kentucky Commission on Military Affairs**

Col. (Ret.) David Thompson testified on the KCMA. Col. Thompson spoke on Kentucky's military footprint, protecting and growing Kentucky installations and BRAC, the reductions in Brigade Combat Teams in the Army, and strengthening the defense-related economy. KCMA's

mission is guided by Kentucky statute. It takes action to protect and grow military installations, enhance the growth of business, and address all matters of military significance.

Col. Thompson discussed the strategic plans and goals of the KCMA, which are to protect and grow Kentucky DOD installations, strengthen the defense-related economy, communicate strategically, and conduct inter-agency program support for a strong military in Kentucky. The major Kentucky installations are the U.S. Army Corps of Engineers, Louisville District, Fort Knox, Blue Grass Army Depot, Western Kentucky Regional Training Center, and Fort Campbell.

Col. Thompson discussed the impact of the military in Kentucky. Based on 2011 survey, the military had a payroll of \$5.5 billion, which is the largest source of earnings in Kentucky. The new budget level for the Department of Defense will rise from FY 2013 to FY 2017. Col. Thompson discussed Base Realignment and Closure (BRAC), including BRAC's broad reach, the threat and opportunity, and non-BRAC installation actions. Col. Thompson discussed the joint visions for Fort Knox to build on the nexus of Army human resources, recruiting and cadet commands to create further efficiency and saving, reduce duplication, and improve HR and recruiting DOD-wide. Fort Campbell is an ideal site for additional special forces units and USAF units. The Blue Grass Army Depot is an under-recognized jewel in depot capabilities and performance. A PowerPoint presentation and materials given are filed with the minutes in the LRC Library.

In response to a question from Rep. Greer about the Pre-BRAC rating of Fort Knox and Fort Campbell, Col. Thompson stated that the rankings depend on the attributes that are being measured and he sees Fort Knox being ranked highly because of the capability put there in the last BRAC to position Fort Knox for the future.

In response to a question from Sen. Harris, Col. Thompson stated that the Army is drawing down in personnel. If unable to execute a BRAC, or to get its proposed budget, there may need to be additional savings in personnel.

### **Appriss, Inc.: eWarrants and Victim Information and Notification Everyday**

Alecia Webb-Edgington testified about the e-Warrants System. Kentucky is the only state that has a full electronic warrant system from car to execution and to authorization by the judges. The reason for the program was due to a huge public safety gap. A study showed that Kentucky had between 265,000 and 385,000 unserved warrants. On average it was



taking 674 days to serve 75 out of 100 warrants. The e-Warrants system generates 1,011 warrants each day. The average time to authorize the warrants is 1.55 days, and the average time to serve warrants is 36.6 days, and for temporary protective orders and domestic violence, summons were served in 3.5 days.

About 20 percent of records are served within one week. Four of ten are served within 24 hours. As of May 28, 2013, there have been 1,107,259 authorized records with 515,913 served and 255,646 rescinded. The estimated base court cost per record is \$135.00, which creates millions of dollars of revenue. Ms. Webb-Edgington stated that the eWarrants program allows deputies to serve large number of warrants by giving them efficient tools to organize the workload.

Ron Hatfield discussed how Appriss is using HB 1 and making it more effective and easier for the medical community to comply with prescription monitoring requirements. Appriss has developed a smart hub called the PMP Interconnect, which allows states to securely share information between prescription monitoring programs. It also allows authorized medical practitioners in Kentucky to do KASPER reports every time they write controlled substance prescriptions, and it allows them to have complete access to patients' histories. Mr. Hatfield stated that there should be 20 to 25 states sharing data by the end of this year.

Tom Seigle testified about the Victim Information and Notification (VINE) program. VINE started in Kentucky in 1994 and has spread to 47 states and Puerto Rico. VINE provides immediate access to offender information and the ability to be notified when the offender's status changes. It includes a public access web portal [www.vinelink.com](http://www.vinelink.com), where victims have 24/7 web access to review the custody status of offenders. Victims can register for notification of the offenders. VINE allows multiple phone and email numbers to be registered, and includes national victim resources, victim phone portal, and a free VINEmobile public access phone application. Services provided through Appriss are VINELink in Spanish, offender photos, SMS (texting), probation and parole notifications, CHOICE a Department of Corrections application. Additional services contracted in Kentucky are the registration link, VINE courts, and VINE protective orders. A PowerPoint presentation is filed with the minutes in the LRC Library.

There being no further business, the meeting adjourned.

## **CAPITAL PLANNING ADVISORY BOARD**

**Minutes of the 2nd Meeting  
of the 2013 Calendar**  
June 26, 2013

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

The 2nd meeting of the Capital Planning Advisory Board was held on Wednesday, June 26, 2013, at 9:30 AM, in Room 171 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Terry Mills, Co-Chair; Senator Whitney Westerfield, Representative Tom Riner, Charles Byers, Carole Henderson, John Hicks, Sherron Jackson, Mary Lassiter, James Link, Carol Palmore, and Katie Shepherd.

LRC Staff: Shawn Bowen, Josh Nacey, and Jennifer Luttrell.

Guests testifying before the Board: Charles Harman, Director, Division of Budget and Financial Management, Department of Education; Stuart Johnston, Director, Division of Technology Services, Brian Easton, Assistant Director, Division of Administrative Services, Barbara Teague, Kentucky State Archivist, and Linda Hume, KET Director of Finance and Administration, Education and Workforce Development Cabinet; Robert L. King, President, Allen Lind, Vice President of Information and Technology, and Shaun McKiernan, Senior Associate of Budget, Policy, and Planning, Council on Postsecondary Education; Eric Shaffer, System Director of Facilities Management, and Ken Marks, Director of Capital Construction and Sustainability Initiatives, Kentucky Community and Technical College System; Dr. Mary Evans Sias, President, Hinfred McDuffie, Executive Vice President for Administration, and Joseph Gronefeld, Senior Project Manager, Kentucky State University; Beth Patrick, Chief Financial Officer and VP for Administration, Morehead State University; Ken Ramey, Vice President for Administration and Finance, and Larry Blake, Assistant Vice President for Facilities Management, Northern Kentucky University; Dr. Gary Ransdell, President, John Osborne, Vice President of Campus Services and Facilities, and Bryan Russell, Director of Planning, Design, and Construction, Western Kentucky University; Bob Jackson, Associate Vice President of Development and Governmental Relations, Kim Oatman, Chief Facilities Officer, and Carl Prestfeldt, Director of Fiscal Planning and Analysis, Murray State University; Larry Owsley, Vice President for Business Affairs, University of Louisville; James Street, Executive Vice President for

Administration, Eastern Kentucky University; and Bob Wiseman, Vice President for Facilities Management, University of Kentucky.

### **Approval of Minutes**

A motion to approve the minutes of the May 22, 2013 meeting was made by Mr. Hicks, seconded by Representative Mills, and approved by voice vote.

### **Information Items**

Two information items were included in members' binders. The items included follow-up correspondence from the Transportation Cabinet regarding the square footage cost for the new District 10 office building in Breathitt County, and a chart outlining university capital projects authorized in House Bill (HB) 7, 2013 Session of the Kentucky General Assembly. No action was required.

### **Review of Agency Capital Plans**

The Capital Planning Advisory Board received testimony regarding 13 state agency capital plans. The testimony included discussion of capital construction, information technology, and equipment needs for the period 2014-2020. The following state agencies and postsecondary institutions testified: Department of Education, Education and Workforce Development Cabinet, Council on Postsecondary Education, Kentucky Community and Technical College System, Kentucky State University, Morehead State University, Northern Kentucky University, Western Kentucky University (via video conference), Murray State University (via video conference), University of Louisville, Eastern Kentucky University, University of Kentucky, and University of Kentucky Hospital.

Relative to a question from Senator Westerfield, Mr. Harmon said facilities at the Kentucky School for the Deaf and the Kentucky School for the Blind are in poor condition. For the last ten years, two facilities have been deemed surplus property. The facilities are unoccupied due to ongoing problems with water leaks and mold.

In response to another question from Senator Westerfield regarding the Department of Education Instructional Device Replacement project, Mr. Harmon said the useful life of instructional devices (tablets) is less than the useful life of desktop computers. The Department of Education provides the funds to districts to replace the devices, but school districts are not obligated to buy tablets, they may also purchase desktops. He added that most districts purchase iPads.

Mr. Hicks asked Mr. Harmon to provide for the members at the next meeting an analysis of what it would cost to lease the instructional devices rather than purchase them. [The

Replace Instructional Device project is estimated to cost \$100 million over a four-year period, \$50 million in the 2014-16 and the 2016-18 biennium.] Mr. Harmon responded that he would provide that information to members.

In response to a question from Representative Mills, Mr. Harmon said desktop computers cost approximately \$1,100 and laptops cost about \$1,500.

Relative to a question from Senator Westerfield about the Next Generation Support in Education Excellence in Kentucky (SEEK) project, Mr. Harmon said there are numerous deficiencies with the current system of calculating and distributing the annual SEEK allocation. He said the system is slow to generate the required reports and inflexible when computing revised data.

Representative Mills asked how many students are enrolled at the Kentucky School for the Deaf (KSD) and the Kentucky School for the Blind (KSB). Mr. Harmon responded that there are approximately 120 students enrolled at each school. The enrollment has declined because more parents are choosing to keep their children at home, but through various outreach programs, the schools serve about 2,500 students.

In response to a question from Senator Humphries, Mr. Harmon said KSB and KSD underwent an analysis of its deferred maintenance needs in 2011. The repair cost at the KSB campus is \$39 million, and the replacement cost is \$60 million. The repair cost for KSD is \$36 million, and the replacement cost is \$57 million. Mr. Harmon said the department was pleased with the analysis; however, the dollar figures were based on the assumption of 700 students, instead of current enrollment figures.

Relative to the Expand the Libraries and Archives Building project for the Education and Workforce Development Cabinet, Mr. Hicks asked why the department has submitted a request for expanded library space when leased space has been secured. [The department recently leased property for \$545,764 annually. The single-story, 100,000-square-foot building will have steel shelves able to hold 15 rows of boxes. Moving into the building will likely take about two and a half years and cost roughly \$1.6 million.] Ms. Teague explained that the goal, over a 20-year period, is to have permanent records stored in a state-owned facility. There will always be a need for permanent paper records and those types of records should not be stored in leased space.

Mr. Jackson asked how many projects are designated for funding from the Education and Workforce Development Cabinet Miscellaneous Maintenance Pool project (\$6,381,000, 2014-16 biennium). Mr. Easton



responded that 43 projects within the cabinet are designated for maintenance pool funding. Those projects are within the Office of Education Technology, Office of Vocational Rehabilitation, and the Office for the Blind.

In response to additional questions from Mr. Jackson, Ms. Hume said the Kentucky Educational Television (KET) facility maintenance pool will be used to fund various ongoing maintenance projects. There is no specific list of projects designated for funding, and the largest project, at a cost of \$25,000, would likely involve painting transmitter towers. The Federal Communications Commission and the Federal Aviation Administration require that the paint on all broadcast towers be maintained so that it is not flaking and has not visibly faded. The maintenance pool will also fund projects related to the repair of KET's Cooper Drive location. The building has experienced severe settling problems over the last ten years, resulting in the need to pump concrete into the foundation in an effort to prevent additional structural damage. The actual cause of the problem is still unknown, and an engineering study recommended the soil be studied to help determine the cause of the problem.

In reference to the Council on Postsecondary Education Adult Learner Degree Attainment Initiative project (\$1,000,000 general funds, 2014-16 biennium), Ms. Palmore asked how much the project will cost, and if a needs assessment had been done. Mr. King said the Postsecondary Education Improvement Act of 1997, commonly referred to as House Bill 1, established educational goals for the state to achieve by 2020. One of those goals is to increase the educational attainment level of Kentucky residents to the national average of attainment. The Adult Learner Degree Attainment Initiative will be modeled after the Kentucky Community and Technical College System (KCTCS) online degree program. The offerings will be based on the needs of the four-year institutions. To qualify for the program, a student must have completed at least 60 postsecondary credit hours. The students would come in as juniors and would move into a limited number of degree programs to be identified based upon community need. The market or need is potentially 1 million students. As to the cost of the program, Mr. King said the cost of the program should be in line with public university tuition.

Relative to a question from Ms. Lassiter regarding the Council on Postsecondary Education Expand Kentucky Regional Optical Network Infrastructure (KyRON) project, Mr. Lind said the expansion of this network will not directly assist individuals that do not have broadband Internet

access. KyRON will assist individuals indirectly by sharing national Internet2 100 Gbps backbone with public entities. The end customers are community libraries, schools, museums, university campuses, etc.

In response to a question from Mr. Jackson, Mr. Shaffer said KCTCS included a request for 2014-16 and 2016-18 for a \$38 million Capital Renewal and Deferred Maintenance Pool. If authorized, this pool would fund some of the projects in the first biennium identified as asset preservation. Since 1997, KCTCS has included such a request in its capital plan, however, that funding has never been authorized in an executive budget. Historically, KCTCS has managed its deferred maintenance needs internally with \$5 million each biennium. In addition, KCTCS has utilized service contracts for mechanical equipment upgrades and preventive maintenance for almost all KCTCS buildings statewide.

In response to a question from Representative Mills, Mr. Shaffer said KCTCS has been in contact with Ford Motor Company in Jefferson County about training students at its facility. KCTCS would also like to build a manufacturing technology facility to meet the needs of three counties - Jefferson, Bullitt, and Carroll. A 30-acre parcel of land has been acquired in Carroll County with the assistance of the county judge executive, local contributions, and a property trade with the Department of Parks for approximately 30 acres of unused land at General Butler State Park. The site would be for a facility to replace existing leased space and expand programs. In Bullitt County, a parcel of land is being offered by the local government to locate a new facility and replace existing leased space and expand the program offerings.

Mr. Shaffer added that there is a very active training program for service technicians for all manufacturers temporarily located at Toyota Motor Manufacturing in Georgetown. This program is difficult to get into because of its location on Toyota property, and security at the plant. KCTCS has acquired 20 acres at Lanes Run Business Park near Toyota to build a facility to move the manufacturing program into, as well as provide other educational options to the region. The Scott County Fiscal Court assisted in this acquisition.

Relative to the Kentucky State University Expand and Renovate Betty White Nursing Building project (\$9,028,000 general funds, 2014-16), Ms. Palmore asked how many students are in the nursing program. Dr. Sias responded that the program has an enrollment of approximately 290 students.

Relative to another question

from Ms. Palmore, Dr. Sias said KSU developed the old Paul Sawyier Library building for the Aquaculture Program of Distinction. The building will house a Kentucky Ecological River Exhibit, which will provide the opportunity for school-age children to see and learn about Kentucky aquatic life and river ecological systems. The building has classrooms and public learning space. Additionally, it will be the location of the Center of Excellence for the Study of Kentucky African Americans and display historical artifacts of Kentucky African American heritage. A floating science lab boat, known as the Kentucky River Thorobred, will serve as a classroom, and is planned on the Kentucky River for public learning in aquaculture. The project is developed in conjunction with the Frankfort Riverfront Development Plan.

Relative to the KSU Build Central Boiler System project, Senator Humphries commented that in addition to using horse muck as a heating source, he hoped the university would review clean coal alternatives for the new heating plant. Mr. McDuffie said this project is a high priority for the university, and they are reviewing clean coal alternatives. He added that KSU has been able to find coal that meets the EPA's compliance guidelines, but it is more expensive. The current boiler plant was built in 1947 and contains two coal-fired boilers installed 36 years ago.

Mr. Hicks asked how Morehead State University (MoSU) evaluates its capacity for debt. Ms. Patrick said the university is drafting a debt policy that will be approved by the university's board this year. MoSU established a ten-year housing master plan which calls for renovation and razing of residence halls. As a result of implementing this master plan, the university has incurred significant debt. MoSU is in the sixth year of completing its housing plan, and has renovated five residence halls by increasing residence hall rates to cover the debt service for the renovations.

Mr. Jackson asked if the MoSU Replace Electrical Switchgear project (\$2,660,000 general funds, 2014-16 biennium) could be completed under an Energy Savings Performance Contract (ESCO) or through third-party financing. Ms. Patrick said they could potentially look at completing the project in another manner if it is efficient.

In response to a question from Mr. Jackson as to whether any of MoSU's agency bond projects were related to projects approved in House Bill 7 (2013 Kentucky General Assembly), Ms. Patrick said the only connection is that the agency bond projects are part of the ten-year housing master plan that was completed in 2006. The phase

that was approved in House Bill 7, the renovation of Mignon Hall, was just started. The next phase in that plan is to construct a 400-bed residence hall, which is the second priority for the university. MoSU is in the process of exploring a private partnership to reduce the potential debt of this project.

In response to a question from Mr. Hicks, Mr. Ramey replied that Northern Kentucky University (NKU) has developed a debt policy, and in the fall, it will be presented to the university's board for approval. NKU pays close attention to Moody's recommended debt level ratios and tries to stay within those ratios. All agency bonds that have been issued, or will be issued, must have a designated revenue stream to support the debt service. NKU does not utilize any general receipt funds to pay for agency bonds.

Relative to the NKU Renovate Old Science/Construct Health Innovations Center project (\$97 million general funds), Mr. Jackson asked NKU representatives to further describe the condition of this facility and to explain what would happen if the project remains unfunded. Mr. Blake said the university has spent a significant amount of money to upkeep the facility. The shell of the building is in good condition; however, the interior has reached its useful life. The air-handlers quit working and had to be replaced on an emergency basis over the summer. New air-handling units are needed, and there are problems related to vibration of those units, including cracked structural slabs. The HVAC is highly inefficient and needs to be upgraded. There are 275 classes held in the building per semester, and 20-25 percent of all classes would not go forward if the building systems were shut down. The electrical system is inefficient and not working properly, and \$60,000 had to be spent on duct work to seal the interior.

In response to a question from Senator Humphries, Mr. Ramey stated that the university has not launched any aggressive discussions with community partners relative to sharing in the cost of renovating the Old Science Building. To date, a \$6 million naming gift has been received, and \$2 million in private donations have been received for technology needs for the building.

In response to a question from Mr. Hicks, Dr. Ransdell said Western Kentucky University's (WKU) total institutional debt is under five percent (4.75) of the university budget. The bond ratings, which exceed the state's bond ratings, are good and in-line with what is recommended by Moody's and Standard and Poor's. WKU utilizes federal, state, and private funds, and agency bonds. The

debt for WKU's student housing and the E. A. Diddle Arena Renovation project is not considered university debt. [WKU established the Student Life Foundation to fund and renovate student housing. The WKU Student Life Foundation Inc. was incorporated as a nonprofit, non-affiliated, tax-exempt Kentucky corporation. The foundation purchased, for the independently appraised value of \$21.5 million, 17 of the 18 residence halls at WKU through the sale of \$65 million in tax-exempt bonds. The Diddle Arena project was funded through a bond issue by the city of Bowling Green.] WKU was the first to use this model in the state capital planning process.

Dr. Ransdell stated that in August, WKU is moving its entire School of Nursing into a new leased building, the WKU Health Science Complex, which the medical center in Bowling Green will fund and build in a classic public/private partnership. The School of Nursing will double in size. Most of the lease payments will be covered by Tax Increment Financing (TIF) revenue, which allows an academic program to serve the region's needs, and is an economic stimulant for the downtown TIF district in Bowling Green.

In response to a question from Ms. Lassiter, Dr. Ransdell said that all projects are approved by the university's board of regents.

In response to a question from Senator Westerfield about the land in Hopkinsville being available to build the new Breathitt Veterinary Center (\$32,468,000 general funds, 2014-16), Mr. Oatman replied that consultants have recommended that the center be built in a rural area, rather than across the street of the existing facility to remain out of conflict with adjoining developments. Mr. Jackson added that the existing facility may be transferred to KCTCS once the new Breathitt Veterinary Center is built.

In response to a question from Mr. Hicks, Mr. Oatman stated that the MuSU Board of Regents has not adopted a formal debt policy. However, the issue was discussed during the university's recently completed housing study, and should be formalized in the future.

In response to a question from Senator Humphries, Mr. Bob Jackson said the Breathitt Veterinary Center is a 50-year old animal diagnostic laboratory. The university has had a number of discussions with federal agencies and the congressional delegation in regards to funding to replace the center; however, the needed funding has not been obtained. MuSU has contracts with the Center for Disease Control and the military due to the proximity of Fort Campbell. If there was a widespread case of disease

in the Commonwealth's livestock population, the case would come to the Breathitt Center for diagnosis.

In response to a question from Senator Humphries regarding the development of the University of Louisville (UofL) Shelby Campus, Mr. Owsley stated that the university absorbed this 230-acre campus in 1969 when Kentucky Southern College went bankrupt. The Shelby Campus is located in eastern Jefferson County, and houses the National Crime Prevention Institute and the Division of Distance and Continuing Education. This campus also houses the Center for Predictive Medicine, which includes one of the 13 level-three biosafety labs in the nation. UofL has developed a master plan that would maintain 30 acres for traditional academic purposes and research. The remaining acreage would be used for a business and research park. UofL has entered into a master lease with the UofL Foundation, and the foundation has leased one parcel of land to NTS Corporation for development. The UofL Foundation intends to use the income from the leases to pay for a number of real estate and economic development initiatives.

In response to a question from Senator Humphries, Mr. Owsley stated that UofL is at a 38 percent deficit in classroom space and that this deficit is expected to grow to 80 percent by 2020. There is not an alternative plan in place to expand classroom space if this plan is not funded.

In response to a question from Mr. Jackson, Mr. Owsley said that because of the lack of classroom space and faculty, the freshmen registration date was cut off earlier this year, even though there was a twelve percent increase in applications this year.

In response to a question from Mr. Hicks regarding the UofL Construct Instructional Building at the Health Sciences Center project, Mr. Owsley explained that this \$71,730,000 project has two funding sources, \$35,865,000 general funds and \$35,865,000 agency bonds. Therefore, the project appears in more than one priority listing for the university.

In response to a question from Senator Humphries, Mr. Street said that the bids for phase one of the Eastern Kentucky University Construct Science Building project were excellent, and that the infrastructure for the project was built into the current request for phase two. The Construct Science Building Phase 2 project is the university's top priority, and the cost of this phase has been minimized as much as possible.

In response to a question from Mr. Hicks regarding the University of Kentucky Construct Library Depository Facility (\$15,000,000 general funds), Mr. Wiseman said

the project calls for the relocation of the on-campus storage facility to an off-campus site. A high-density, off-site, self-managed storage facility will provide the university libraries with a safe and economical place to store and provide access to its lesser-used documents and collections. The facility will provide about 25,000 sq. ft. of net assignable space. Most of the space would be used to house stored collections, but some space would be allocated for office and materials processing areas. The books that are housed in the central library facility could be brought to campus as needed. The on-campus space will then be renovated to serve as a modern teaching facility for students.

Ms. Lassiter commented that if each number one general fund priority from each agency was funded, it would total \$462 million. Of these number one priorities, 54 percent were science buildings. She recommended that the board not lose sight of the outcome, which is better educated citizens, and to focus on what happens in those buildings and not just the buildings themselves.

The next meeting is scheduled for Wednesday, July 17, 2013, in Room 169 Annex starting at 1:00 PM. With there being no further business, Senator Humphries asked for a motion to adjourn the meeting. The motion was made by Representative Mills and seconded by Mr. Hicks, and the meeting adjourned at 3:04 PM.

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

### **Minutes**

June 18, 2013

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

The Capital Projects and Bond Oversight Committee met on Tuesday, June 18, 2013, at 1 p.m., in Room 169 of the Capitol Annex. Representative Kevin Sinnette, Chair, called the meeting to order and the secretary called the roll.

Present were:

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

Guests Testifying Before the Committee: Bob Wiseman, Vice President for Facilities Management, University of Kentucky; Scott Aubrey, Director, Division of Real Properties; John Hicks, Deputy State Budget Director; Colonel Steve King, Construction and Facilities Management Officer, Kentucky Army National Guard; John Covington, Executive Director, Kentucky Infrastructure Authority; Brian Bingham, Regulatory Services Director, Louisville Metropolitan Sewer District; Sandy Gruzesky,

Director, Division of Water; Ryan Barrow, Executive Director, Office of Financial Management; and David Talley, Deputy Executive Director, Budget and Fiscal Management, Kentucky Transportation Cabinet.

LRC Staff: Kristi Culpepper, Josh Nacey, and Angela Offerman.

### **Approval of Minutes**

Representative Rudy made a motion to approve the minutes of the May 21, 2013, meeting. The motion was seconded by Senator Carroll and approved by voice vote.

### **Correspondence Items**

Kristi Culpepper, Committee Staff Administrator, said that there were three correspondence items for members to review. The first item was a letter from the committee to the Kentucky Infrastructure Authority (KIA) with questions regarding the Oldham County Environmental Authority Orchard Grass Regional Wastewater Treatment Plant project. The second correspondence item was KIA's response to the committee.

The third correspondence item was a letter from Kentucky Housing Corporation providing background information on the developer for the California Square II and Portland Plaza multifamily housing projects that the committee approved at the May 21, 2013, meeting.

### **Information Items**

Ms. Culpepper said that there were two information items for review. The first information item was Moody's Investors Service's annual state debt medians report. The report ranks the states' debt burdens according to several debt indicators and is often cited by the rating agency in justifying why it gives a specific rating to an issuer. According to Moody's, Kentucky ranks 11<sup>th</sup> in the nation in debt per capita at \$1,998; 8<sup>th</sup> in the nation in debt as a percent of personal income at 5.9 percent; and 7<sup>th</sup> in the nation in debt as a percent of gross state domestic product at 5.31 percent.

The second information item included notices of advertisements for leased space for the Cabinet for Health and Family Services (CHFS) in Kenton and Knox Counties.

### **Project Reports from the University of Kentucky (UK)**

Mr. Bob Wiseman, Vice President for Facilities Management, UK, presented two items. The first item was a request to increase the scope of the Construct UK/Nicholasville Road Flood Mitigation project from \$8,015,463 to \$11,880,030. The increase included \$2,898,426 from federal funds and \$966,141 from an increase in the in-kind value of the university land designated for the project. The actual appraised value of the land was greater than originally anticipated when authorized by the



committee in 2012.

Representative Rudy made a motion to approve the scope increase. The motion was seconded by Senator McDaniel and approved by roll call vote.

The second item was a report of a land purchase that was authorized by the UK Board of Trustees. UK acquired the Lexington Theological Seminary located at 631 South Limestone, Lexington, Kentucky. The acquisition included approximately 7.1 acres and 131,589 gross square feet (sq ft) of building space for four institutional buildings, forty-four apartments, sixteen townhomes, a maintenance building, a shell building, and approximately 250 parking spaces. The property acquisition will allow for growth and will provide temporary surge space for classrooms and offices as UK undertakes campus-wide construction projects. No action was required.

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

Mr. Scott Aubrey, Director, Division of Real Properties, presented two items. The first item was for a lease modification and amortization of leasehold improvements for CHFS in Boyd County. The lease modification was to correct the amount of leased space. The amortization of leasehold improvements was to replace two existing sliding glass receptionist windows with voice ports and pass-through cutouts and to install carpet to convert a room for office space. Two estimates were obtained for the window replacements and carpet installation and the agency recommended accepting the lowest bids of \$1,245 from Paul's Door and Window and \$239 from Ben Williamson Industrial Supply, respectively. The cost will be amortized through the term of the lease, which will expire June 30, 2017. No action was required.

The second item was a lease renewal for CHFS in Morgan County. The lease was renewed under the same terms and conditions for an annual rental cost of \$138,530 through June 30, 2014.

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

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

Mr. John Hicks, Deputy State Budget Director, presented a \$33,000 scope increase to improve security and energy conservation for the Department of Military Affairs Construct CERF-P Facility-Boone National Guard Center capital project. The project is federally funded.

In response to a question from Representative Wayne, Colonel Steve King, Construction and Facilities

Management Officer, Kentucky Army National Guard, said that the project was funded through the Kentucky Air National Guard and the scope of the project was based on a number of planning considerations, such as the types of vehicles and equipment provided and the number of personnel to be housed.

In response to a question from Senator McDaniel, Colonel King said that information will be provided to the committee regarding the breakdown of the amounts of the \$78,000 increase for security and energy and the estimated savings realized from the energy conservation measures.

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

The second project report presented was for two pool projects in excess of \$600,000. The first pool project was for the Department of Fish and Wildlife Resources Pool Elm Fork project, a new capital project, located in the Kleber Wildlife Management Area in Owen County. The project will be funded with \$1,768,000 from the 2008-2010 and 2012-2014 Fees-In-Lieu Stream Mitigation Project pools. The project will address bank erosion, poor aquatic habitat, and improvements to an adjacent forest. No action was required.

The second pool project report was for the Finance and Administration Cabinet's Department for Facilities and Support Services Lexington World Trade Center Garage Project for \$2,369,936. The project will make concrete repairs and will be funded with \$757,334 from the Economic Development Cabinet's 2010-2012 Parking Garage Maintenance Pool, \$1,500,000 from the Finance and Administration Cabinet's 2010-2014 Parking Garage Maintenance Pool, and \$112,602 from the Department for Facilities and Support Services 2012-2014 Maintenance Pool. The garage was originally constructed as a part of an Economic Development bond project and an arrangement was made with the Finance and Administration Cabinet to take over the responsibility for maintaining the parking garage.

In response to a question from Representative Rudy, Mr. Hicks said the state owns the garage, but has an operating agreement with a firm. In the agreement, the proceeds are divided with the firm for operating expenses and maintenance. The state receives the remainder of the proceeds. No action was required.

The third project report was for a new unbudgeted capital project for the Kentucky Department of Veterans' Affairs Eastern Kentucky Veterans Center – HVAC Humidity project for \$664,700. The project will be funded with \$428,789 (65 percent federal

funds) from a U.S. Department of Veterans' Affairs grant, \$207,261 from the 2012-2014 Maintenance Pool, and \$28,650 from agency receipts (35 percent state funds). The project involves the removal of the existing outside air fans, ductwork, and the installation of a new air conditioning unit.

Senator Carroll made a motion to approve the new unbudgeted capital project. The motion was seconded by Representative Rudy and approved by roll call vote.

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

Mr. John Covington, Executive Director, KIA, presented a \$6,500,000 Fund A Loan for the Oldham County Environmental Authority (OCEA) Orchard Grass Regional Wastewater Treatment Plant project to fund the construction of a wastewater treatment plant to address environmental issues with the Orchard Grass and Willow Creek Wastewater Treatment Plants. Mr. Covington said the loan will have a 20-year term and an interest rate of two percent, with an estimated annual debt service payment of \$408,923.

In response to a question from Representative Wayne, Mr. Covington explained the process in which projects are evaluated and funded. The Orchard Grass Regional Wastewater Treatment Plan project was included in the 2012 funding cycle priority list. The project was originally presented to the KIA Board in May 2012, where the Division of Water (DOW) expressed concerns about the project. The board made the decision to table the project to give OCEA opportunity to review options available, including a connection to Louisville MSD's Hite Creek Wastewater Treatment Plant.

Mr. Covington said Louisville MSD (MSD) provided OCEA a cost to treat the flow from the Oldham County system. OCEA determined that it could construct a new treatment plant and treat the flow for less than what MSD would charge. MSD reviewed the OCEA assumptions and informed the KIA Board it was in agreement.

In response to additional questions from Representative Wayne regarding project debt, Mr. Covington explained that upon project completion, the total debt will be approximately \$28,000,000 (nearly \$5,000 per customer). KIA estimates that, in 2013, OCEA will realize a positive cash flow after debt service for the first time. Based on KIA's projections, Oldham County will not need to raise rates to cover the cost of the project.

Mr. Brian Bingham, Regulatory Services Director, MSD, said MSD and OCEA had multiple meetings, but used differing economic assumptions in evaluating the cost of each

alternative. MSD never formally approved OCEA's assumptions. Mr. Bingham said that MSD is a strong advocate for regional growth, but it supports the ability of OCEA to make its own decision based on the best interest of its rate payers.

Mr. Covington clarified that he did not say that MSD supported the project, rather, they agreed that the assumptions, while different, were legitimate. Mr. Bingham said that OCEA was within the ranges used for financial evaluation. While higher, MSD believes that its assumptions were the best good faith effort and price that it could offer. As part of MSD's consent decree, it projected up to a 5.5 percent operating rate increase each year through 2024.

In response to a question from Representative Wayne, Mr. Covington said MSD is projecting operating rate increases for the cost of operations and complying with the consent decree and to construct the project. OCEA will not require a rate increase because OCEA previously implemented a rate increase to fund the construction. However, if the cost of operations increased, then future rate increases may be implemented. The increase in debt was addressed by the previous rate increases, which increased cash flow. Mr. Covington said that the total debt is \$6,500,000 for this project. He noted that KIA has made other loans with OCEA.

In response to a question from Representative Wayne, Mr. Covington said one public hearing was held in August 2012 when the project was half of the current scope, and a second public hearing will occur as part of the facility plan process. The loan agreement with KIA will not be made until the hearing is held. Representative Wayne said that the public should have an opportunity to provide input on projects as early as possible. Mr. Covington responded that because there is a significant expenditure of funds necessary to create a facility plan, the commitment of funding is done early in the process to justify the expense. Representative Wayne encouraged OCEA to have a public hearing as soon as possible so that residents are informed and their opinion is considered.

Representative Wayne asked if DOW supports the project and Mr. Covington said DOW had opportunity at two KIA board meetings to speak against the project. Ms. Sandy Gruzesky, Director, DOW, said that the OCEA facility plan is progressing and anticipates that it will be completed in one week. Until that time, DOW cannot say that it supports the project. When the facility plan is approved by DOW, there will be a public notice period for 30 days where public comments can be received.



Ms. Gruzesky explained that the costs associated with each alternative must be evaluated as part of the facility plan and will be made available to the public for review. The facility plan will include two alternatives for the project: 1) OCEA to build a new plant; and 2) OCEA to partner with MSD. After the public notice period, OCEA can conduct the public hearing. Representative Wayne said that public involvement must be in place as early as possible, even if the facility plan and financing is not complete, and the purpose of the hearing is to get input from the public prior to the decisions.

Senator McDaniel said that the letter sent by KIA to the committee differs from Mr. Covington's testimony regarding a rate increase. Mr. Covington said that this will not be the only project OCEA will have to do in the future and, at this time, KIA cannot forecast future projects. Based on KIA's analysis, should OCEA assume additional debt, it will need to raise rates by \$1.20 per \$1 million of new debt, as described in KIA's letter.

In response to additional questions from Senator McDaniel, Mr. Covington said the two percent rate was the median for that funding cycle. The project qualified as a regional project under KIA regulations because OCEA was consolidating two or more facilities. Mr. Covington said financial risk was not a consideration in setting interest rates on KIA loans. Projects receiving the discounted rate must meet established criteria, such as: 1) addressing environmental health issues; 2) serving low-income communities; 3) promoting regionalization; and 4) rectifying an enforcement action. In the event of default, the assistance agreements state that KIA may take action from forcing the utility to raise rates up to forcing the utility into receivership.

In response to a question from Representative Wayne, Mr. Covington said that OCEA had a negative debt service coverage ratio from 2010 to 2012. A positive ratio is projected for 2013. OCEA previously implemented a rate increase, which was necessary to fund this project based upon current operations. Representative Wayne said that OCEA rates were already increased to cover the project, which hasn't had a public hearing in its current scope. Mr. Covington said that was true, but the impact of this or another project would be similar. If the decision were made to hook up with MSD, the cost would be comparable, but still significant.

Representative Wayne said he has two primary concerns about the project due to the amount of money involved, which involves a heavy debt burden being placed on the residents of Oldham County. The first concern was the financial history of OCEA,

and the second was that the public has not been kept abreast through a series of public hearings.

Senator McDaniel made a motion to approve the Fund A Loan. The motion was seconded by Senator Leeper and approved by roll call vote with one "no" vote.

Mr. Covington reported two Infrastructure for Economic Development Fund (Coal) Grants for the City of Greenup in Greenup County. The first was for a sanitary or storm sewer rehabilitation for \$13,000. The second was for a water intake structure on Little Sandy River for \$40,000, which has a total project cost of \$1,100,000.

In response to a question from Representative Rudy, Mr. Covington said that he would provide additional information to the committee about the remainder of financing for the second grant-funded project. No action was required.

#### **New Bond Issues Submitted from the Office of Financial Management (OFM)**

Mr. Ryan Barrow, Executive Director, OFM, presented a new bond issue for Kentucky Asset/Liability Commission Project Notes, 2013 Federal Highway Trust Fund First Series (GARVEEs) in an amount not to exceed \$240 million. The purpose of the bonds is to provide permanent financing for approximately \$210 million of the \$236 million of authorized but unissued bonds authorized by the General Assembly in 2008 House Bill 410 and 2010 Extraordinary Session House Bill 3.

Mr. Barrow said the Louisville and Southern Indiana Ohio River Bridges Project has four funding sources: cash from the Road Fund, Grant Anticipation Revenue Vehicle (GARVEE) bonds, toll revenue bonds, and the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan. According to the federal Department of Transportation, the TIFIA loan has been delayed until later in 2013. In response to questions from Representative Wayne, Mr. Barrow said that the TIFIA process was not well defined due to new legislation. TIFIA regulations, including the application, have not been developed. The funding delay is due to the new changes. TIFIA had concerns about the GARVEE bonds being funded in the latter part of the transaction. The financing plan was revised to accelerate the issuance of the GARVEE bonds.

The estimated interest cost for the bonds is 2.83 percent with a final maturity date of September 1, 2025. It will be a negotiated transaction with Citi. Kutak Rock LLP will serve as bond counsel; Peck, Shaffer & Williams LLP as underwriters counsel; Bank of New York Mellon as trustee; and OFM as financial advisor.

Mr. David Talley, Deputy Executive Director, Budget and Fiscal Management, Kentucky Transportation Cabinet, said that by having GARVEE funds available, construction can continue during the environmental justice evaluation process.

In response to questions from Representative Wayne, Mr. Talley explained that the environmental justice issues raised involve a disparate impact of tolls on low-income and certain minority populations. The action required the Kentucky Transportation Cabinet and Indiana to review the impact of tolling to those residents and determine what mitigation efforts could be made. Input from impacted residents was included in the draft study. The environmental justice study will be made public in late summer or early fall 2013.

Senator Carroll made a motion to approve the new bond issue. The motion was seconded by Senator McDaniel and approved by roll call vote.

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

Mr. Barrow presented a follow-up report on the previously approved \$17,210,000 State Property and Buildings Commission Agency Fund Revenue Bonds, Project No. 105 bond issue, which will provide permanent financing for the Dam 8 and Locks 1 and 2 projects, fund a debt service reserve and rate stabilization fund, and pay the costs of issuance. The transaction was priced on May 2, 2013, and closed on May 15, 2013. The all-in true interest cost was 3.247 percent and sold as a competitive transaction. The purchaser was PNC Capital Markets. No action was required.

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

Mr. Barrow reported 27 school bond issues with SFCC debt service participation with a total par amount of \$141,850,000. The state portion of the annual debt service payment was \$3,002,512 and the local contribution was \$7,609,266. None of the bond issues involved tax increases.

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

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

Ms. Culpepper said five local school bonds have been reported. Two were refundings and three financed improvements to existing school facilities. None of the bond issues required tax increases.

With there being no further business, the meeting adjourned at 2:21 p.m.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Minutes of the June Meeting  
June 11, 2013

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

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

Present were:

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

Guests: Nathan Goldman, Board of Nursing; Ron Brooks, Margaret Everson, Kentucky Department of Fish and Wildlife Resources; Michael Davis, Gary Feck, David Moore, William Swope, Ambrose Wilson, Department of Housing, Buildings and Construction; Elizabeth Caywood and Stuart Owen, Cabinet for Health and Family Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, June 11, 2013, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Nursing: Board 201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. Nathan Goldman, general counsel, represented the board.

In response to a question by Representative Damron, Mr. Goldman stated that the board did not receive any public comments on these administrative regulations during the public comment period.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:070. Licensure by examination.

In response to a question by Co-Chair Harris, Mr. Goldman stated that nursing students expecting to graduate were encouraged to apply for the required FBI report six (6) months prior to the expected graduation date.

A motion was made and seconded to approve the following amendments:



to amend Sections 1, 4, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:085. Licensure periods and miscellaneous requirements.

In response to a question by Co-Chair Harris, Mr. Goldman stated that the expiration period for nursing licenses or credentials was being changed in order to give the license or credential holders more time to renew.

201 KAR 20:110. Licensure by endorsement.

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

301 KAR 1:015. Boat and motor restrictions. Ron Brooks, fisheries director, and Margaret Everson, assistant attorney general, represented the department.

In response to questions by Senator Bowen, Mr. Brooks stated that approximately six (6) landowners who lived adjacent to these waters had been unaware of requirements and had purchased twenty-four (24) foot pontoon boats. In order to assist those landowners, this administrative regulation was amended to allow for those boats already purchased by adjacent landowners. Certain Kentucky lakes had specific standards for the size of boats and the permitted horsepower. Many of those requirements were the result of requests of adjacent landowners. Enforcement was the decision of the local wildlife officer, who determined if a boat was being used safely and according to department administrative regulations.

301 KAR 1:122. Importation, possession, and prohibited aquatic species.

In response to questions by Co-Chair Harris, Mr. Brooks stated that the department was not aware of anyone intentionally raising Asian Carp. This was a cleanup amendment because previous language was ambiguous. Kentucky was experiencing tremendous problems related to Asian Carp, especially regarding the Ohio River and its tributaries. The department was working on an Asian Carp management plan.

In response to a question by Co-Chair Bell, Mr. Brooks stated that the department encouraged destroying Asian Carp, as long as each fish was properly disposed of. There were no other limits.

In response to a question by Senator Bowen, Mr. Brooks stated that Asian Carp canaries would help manage the Asian Carp problems. Asian Carp were delicious and nutritious, especially because they are low in contaminants. The department

was doing public relations work to improve the public perception of Asian Carp as a food source. This was not only a Great Lakes problem. Harvesting and processing over time, if properly managed in conjunction with the department, should control, but never eliminate, the Asian Carp population.

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

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

815 KAR 7:120. Kentucky Building Code. Michael Davis, general counsel; Gary Feck, director of building code enforcement; and Ambrose Wilson, commissioner, represented the division.

Co-Chairs Harris and Bell thanked the division for working to develop an agreement on this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make technical corrections; (2) to amend Sections 1, 2, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 5 to make a technical correction; and (4) to amend Sections 2 and 5 to update the Kentucky Building Code, to amend sprinkler requirements in single and two (2) story, multi-family dwellings over two (2) units, to revert requirements to those in the 2006 version of the Kentucky Building Code. Without objection, and with agreement of the agency, the amendments were approved.

Division of Plumbing: Plumbing  
815 KAR 20:020. Parts or materials list. Michael Davis, general counsel; David Moore, director, Division of Plumbing; and Ambrose Wilson, commissioner, represented the division.

In response to a question by Senator Bowen, Mr. Moore stated that both of these administrative regulations helped plumbers.

815 KAR 20:120. Water supply and distribution.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Provider Operations: Payment and Services

907KAR3:015&E. Supplemental payments for certain primary care and vaccines. Stuart Owen, regulation

coordinator, represented the division.

In response to questions by Co-Chair Harris, Mr. Owen stated that the \$65 million cost was 100 percent federally funded for 2013 and 2014. The mandate ended December 31, 2014. States then had the option to continue the program or not, but it was difficult to remove a program once in place. If Kentucky continued the program after 2014, the cost would be funded seventy (70) percent from the federal government and thirty (30) percent from state funds; therefore, after 2014 the program would have a negative fiscal impact. The program provided incentives to ensure enough Medicaid providers, especially because many citizens were expected to be newly eligible. The federal government had yet to establish funding plans for after 2020.

Co-Chair Harris expressed concerns about what may happen to the program after 2020.

In response to a question by Co-Chair Bell, Mr. Owen stated that, in order to have full funding after 2014, the federal government would have to take direct legislative action.

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

Department for Community Based Services: Division of Family Support: Food Stamp Program

921 KAR 3:090 & E. Simplified assistance for the elderly program or "SAFE". Elizabeth Caywood, internal policy analyst, represented the department.

In response to questions by Senator Bowen, Ms. Caywood stated that the Commissioner's Office administered the SNAP program. There were numerous provisions in place for citizens and retailers to report suspected abuse, including anonymous reporting. Most complaints thus far pertained to improper reporting of income. The department would follow up with information regarding other fraud and abuse data.

In response to questions by Co-Chair Bell, Ms. Caywood stated that federal regulations governed some aspects of fraud and abuse prevention. For example, federal requirements prohibited requiring photo identification to use the benefit card. The benefit card was distributed in the name of the head of household, but could be used by other family members; therefore, requiring photo identification may inhibit necessary benefit card use. The department was primarily responsible for determining who was eligible for the benefit card.

Co-Chair Harris stated that it

was clear from the discussion that the federal government was not serious about preventing abuse of the benefit cards.

Representative Damron stated that photo identification had not been required during the eight (8) to ten (10) years that the program had been in place. The benefit card reduced some of the fraud and abuse that occurred under the previous food stamp-style program. Some benefit card abuse was from retailers that processed charges on the cards after store hours. In response to Representative Damron's statements, Ms. Caywood stated that the federal government regulated retailers, not the department.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 6 to make minor clarifications; and (2) to amend Section 8 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the July 9, 2013, meeting of the Subcommittee:

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

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

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

401 KAR 10:030. Antidegradation policy implementation methodology.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Quotas

804 KAR 9:040. Retail liquor package license quota.

804 KAR 9:050. Retail liquor drink license quota.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Child Welfare

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

922 KAR 1:400 & E. Supportive services.

Division of Child Care: Day Care  
922 KAR 2:020. Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

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

922 KAR 2:180. Requirements for registered child care providers in the Child Care Assistance Program.

The Subcommittee adjourned at 1:45 p.m. until July 9, 2013 at 10 a.m.

## EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

### Minutes of the Meeting

June 18, 2013

#### Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, June 18, 2013, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Rita Smart Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators David P. Givens, Gerald A. Neal, and Mike Wilson; Representatives Tim Couch, Joni L. Jenkins, Mary Lou Marzian, and Rita Smart.

Legislative Guests: Representatives Derrick Graham and Dennis Horlander.

Guests: Rick Clevert, William Deines, Jefferson County Public Schools (Retired), Sherry Sims, Teacher, North Washington School, Erin Klarer, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation, Clyde Caudill, Jefferson County Public Schools and Kentucky Association of School Administrators, Jim Thompson Education and Workforce Development Cabinet, and Wilson Sears, Kentucky Association of School Superintendents.

LRC Staff: Janet Stevens, Ben Boggs, Ken Warlick, and Daniel Clark.

#### Election of Co-Chairs

Representative Marzian moved to elect Representative Rita Smart as Co-Chair of the Education Assessment Accountability Review Subcommittee (EAARS) and Representative Jenkins seconded the motion. The motion carried by voice vote, and Representative Smart was elected Co-Chair. Senator Givens moved to elect Senator Mike Wilson as Co-Chair of the Education Assessment Accountability Review Subcommittee and Senator Wilson seconded the motion. The motion carried, and Senator Wilson was elected Co-Chair by voice vote.

#### Adopt Minutes of December 12, 2012 Meeting

Representative Marzian moved to accept the minutes, and Representative Jenkins seconded the motion. The motion carried by voice vote.

#### Overview and Annual Report of the Office of Education Accountability

Marcia Ford Seiler, Director, Office of Education Accountability (OEA), explained OEA and the Annual Summary from 2012. OEA is part of the Legislative Research Commission

(LRC) and was formed in 1990 through the Kentucky Education Reform Act (KERA). Since 1990, OEA has had three directors with Ms. Seiler being the director since 2002. The Education Assessment Accountability Review Subcommittee (EAARS) is a statutory committee, which means the committee's responsibilities and duties are in statute. In 2000, the Kentucky General Assembly placed OEA under the direction of EAARS. Prior to that time, OEA was not under a committee. In 2006, language changes were made to KRS 7:410 added more structure to OEA's research duties.

Ms. Seiler said that OEA is divided into two offices, with one being the Division of Research managed by Emily Spurlock and the other the Division of Investigations managed by Karen Timmel. OEA is a small enough office to overlap duties between research and investigations. Pursuant to statute, research is conducted by OEA as directed by a study plan approved by EAARS. Each September, OEA contacts the EAARS Co-Chairs and committee members to determine topics to be researched the next year. OEA identifies issues that have surfaced during research and investigations for possible inclusion in the annual agenda. The annual agenda must be approved by December 1. OEA conducts research through the summer and presents research reports in the fall.

Every two or three years, OEA publishes a compendium of education data. OEA is inundated with reports from different foundations or universities that rank states in different education categories. OEA collects most cited data reports and puts them in one research book. OEA pulls rankings from all of the different foundation and university reports and ranks them by categories. OEA previously compared these rankings to all 50 states, but recently decided it would be more useful to compare Kentucky to surrounding states. In addition to research investigations, OEA works closely with other education agencies since their work overlaps. Ms. Seiler stated that OEA makes sure that its work is not repetitive and in conflict with other education agencies.

Karen Timmel, Director of OEA's Division of Investigations, said OEA has investigative authority and is directed to investigate allegations of wrongdoing by persons or agencies that violate KERA provisions. OEA submits an investigative activity summary to the EAARS committee each time the committee meets. The contents of the summary show the number of cases that have been opened and closed during the period of time between the previous EAARS meeting, the nature of the allegations, and the status of the cases that are

open. EAARS also has investigative authority over School-Based Decision Making Councils (SBDM) when OEA receives written complaints about SBDM council violations. Another important aspect of OEA's investigative work is obtaining as much information as possible before reaching a conclusion in an investigation.

Ms. Timmel said OEA only initiates cases upon a written complaint and never opens a case based on a telephone call. OEA gets written complaints via email, regular mail, and online. A vast majority of complaints come through the online process. Most complaints are about school board members, superintendents, and principals. Once a case is opened, it is assigned to a team of two investigators who have responsibility for going to the school district to conduct interviews and collect documentation. After the on-site investigation is complete, the two investigators review their interviews and documentations to conclude if the allegations are true. After OEA completes an investigation, a report is submitted to the individual who is the subject of the investigation, and that person is given an opportunity to provide responsive information that OEA takes into consideration before the report is finalized.

If OEA finds a violation, it attempts to resolve it so that the violation does not continue. OEA suggests training for the individual to address the violation and requests the individual to provide follow-up documentation to demonstrate that the problem has been corrected. In some instances, a policy revision at the board or council level is required to bring the current policy into compliance with statutory requirements.

In response to Representative Rita Smart's question regarding how a report is distributed, Ms. Timmel said reports sent through regular mail directly to the individual who is the subject of the investigation.

In response to Senator Givens' questions regarding total number of complaints and reports adopted since 2005, Ms. Timmel stated that there were 555 complaints on the online format. Ms. Seiler said there was an interesting report from 2007 dealing with tax provisions interacting with the SEEK formula. She said that would be a good reference for legislators to review and to help them understand SEEK.

In response to Representative Graham's questions regarding the average time it investigations and the total number of investigators at OEA, Ms. Timmel said OEA tries to complete investigations within six months. Ms. Seiler said there are four full-time investigators. OEA always

sends at least two investigators to an interview.

Representative Tim Couch moved to accept OEA's annual report, and Representative Mary Lou Marzian seconded the motion. The motion carried and the annual report was accepted.

#### Senate Bill 1 (2009), Common Core Standards, and End-of-Course Testing Challenges

Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE), commented positively about KDE's relationship with OEA and stated that KDE has followed up on numerous OEA recommendations and reports. Dr. Holliday commended the leadership of the Kentucky General Assembly for the passage of KERA and Senate Bill 1(2009). Many states look to Kentucky for the model of implementation leading to education improvement. Kentucky has led the nation through the implementation of SB 1 with the adoption of rigorous standards focused on college-and-career readiness, the implementation of those standards, assessment systems to measure those standards, and an accountability system that holds students, teachers, and administrators accountable for increasing college-and career-ready results.

Dr. Holliday stated that Kentucky is no longer in the bottom tier of states when it comes to education. These recognitions include being one of the states that has seen the most improvement in the National Assessment of Educational Progress since 1990. Education Week, in the Quality Counts report, shows that in the last few years, Kentucky has moved from a ranking of 34<sup>th</sup> among the states to a top ten ranking this past year. The Diplomas Count report issued this month showed that Kentucky has the third highest improvement in graduation rates since 2000. Education Sector recently reported that Kentucky is making more significant progress in education than most states.

Dr. Holliday said when the Kentucky General Assembly passed SB 1 in 2009, the measurable outcome was the percentage of students who graduate from high school that are ready for college and career. When KDE first measured that outcome in 2010, only 34 percent of graduates met this expectation. The estimate for the Class of 2013 is that in excess of 50 percent of Kentucky's graduates will meet college and career-ready expectation. He said that this is tremendous progress in just two years of implementation of the new standards, a new assessment, and a new accountability system.

Felicia Smith, KDE, Associate Commissioner, Office of Next Generation Schools and Districts,



said SB 1 has brought Kentucky new academic standards, new assessments, and new accountability models that help create program reviews in assessment areas where it is difficult using pencil and paper. SB 1 also improves professional development for teachers, new accountability systems, and a unified plan for college and career readiness. The new standards were developed by Kentucky educators and experts in the areas of English, language arts, and mathematics. There were over 340 teachers involved in discussions and negotiations to revise Kentucky's academic standards.

Sherry Sims, teacher, North Washington School, said she has recently completed 27 years in the classroom teaching junior high kids. Ms. Smith stated that common core standards are one of the best changes she has seen in education, and all of the pieces of SB 1 are working for the better. During the first year of regional meetings, it was very difficult deconstructing the standards, but the pieces are mostly there now. One of the frustrating things in dealing with the standards is the resources needed. Teachers have a lot of standards to follow but some do not always have the resources to teach those standards. Ms. Sims stated that Kentucky is in the third year of SB 1 and believes teachers still need more time for everything to work. Teaching the standards are going to get easier and Kentucky will see positive results.

Ms. Smith talked about SB 1 goals and said KDE has put into place college and career readiness strategies in partnership with the Council on Postsecondary Education (CPE). Those particular strategies are part of the college and career readiness plan. Kentucky students have met the college and career readiness goals the past two years since the goals have been implemented. KDE is waiting on the results from the state assessment data this past school year but expect to meet the trajectory again.

Ms. Smith explained the Next Generation Science Standards and mentioned the integration of engineering practices and emphasis on the practices of science, not just content.

Jennifer Stafford, KDE, Office of Assessment and Accountability, explained end-of-course online testing. SB 1 called for a new assessment system and that opened the door for end-of-course testing at the high school level. Kentucky was the first state to adopt the Quality Core End-of-Course testing system as a state and in 2012, the first year of implementation of the new assessment system, almost 60,000 students tested successfully with the ACT online system. Ms. Stafford said in April, schools began

experiencing some problems with the online system. From April 29 to May 3, 2013 ACT ran into significant capacity issues while trying to handle online testing from high schools in Alabama, Ohio, and Kentucky. ACT informed KDE on May 3 that the online system was closing down so they can make repairs. KDE then decided to require all schools to move to a paper version of the ACT.

Ms. Stafford said once KDE made the decision to convert to the paper version of the test, ACT began to print and ship the paper tests to high schools. There were approximately 2,000 students in 30 schools who are known to have had interrupted online test sessions. Those students were still able to complete the tests.

Ms. Stafford stated that KDE, Education Measurement, HumRRO and ACT psychometricians will evaluate the impact of the testing problems on scores for individual students and schools and the psychometricians will make recommendations on how those test scores can or cannot be used in accountability. KDE said that it will make it fair for the schools affected and will contact them for their input.

Ms. Stafford stated that the constructive response will not be part of the state-administered assessment. Students will take multiple choice sections for state accountability, and schools will receive a Scale Score. Ms. Stafford noted that the constructive response will be administered at the local level and will be included in the student's final exam grade and have instructional value.

Representative Marzian commended Dr. Holliday and Ms. Smith for the hard work they do and said Ms. Simms' students are lucky to have her as a teacher.

In response to Senator Givens' question regarding how many states have signed on with the Next Generation Science Standards and whether Kentucky will be able to compare its progress to other states, Dr. Holliday said only three states have officially adopted the Next Generation Science Standards. Many states are looking at Kentucky's model in lieu of using the Assessment Consortia. Also, several states have begun to purchase and collaborate on Kentucky's assessment items.

Representative Horlander stated that it was a great presentation and that it was very useful.

In response to Senator Givens' question regarding the process for standards to change, so the assessment and curriculum also change, Dr. Holliday said the process would be very similar to what it always has been. KDE uses national associations that determine national standards.

Representative Graham stated

that he disagreed with presenters at last week's Interim Joint Committee on Education who said that Common Core Standards were not Kentucky directed. He commended Dr. Holliday and staff for the work they do and their enthusiasm in dealing with Common Core Standards.

With no further business before the committee, the meeting adjourned at 2:45 p.m.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

June 11, 2013

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, June 11, 2013, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and Christian McDaniel; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Doug Lefevers, Shawnee Bennett, Todd Mobley, David McFaddin, Gary Barksdale, Stuart Ray, Margaret Everson, Travis Powell, Linda Linville, Mike Hill, Jeff Jasper, David Steele, Janine Keirnan, Doris Patrick, Leslie Brown, Danny Rhodes, Kathy Burke, Kevin Mudd, Sharon Proctor, Arch Gleason, Margaret Gibbs, Mike Denney, Mary Harville, Steve Byars, Lisa Lee, Earl Gresham, Russ Salsman, Tammy Nesler, Amy Barnes, Tom Stratton, Toyah Robey, Peggy Stratton, and Phil Logsdon.

LRC Staff: Kim Eisner, Charles Booker, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the May 2013 meeting of the committee. Senator McDaniel seconded the motion, which passed without objection.

**MAY 2013 DEFERRED ITEMS**

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES**

Jackson & Coker Locumtenens, LLC, 1300001510. Kathy Burke and Kevin Mudd discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

**NORTHERN KENTUCKY UNIVERSITY**

Parker Executive Search, 2014-632. A motion was made by

Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

**EASTERN KENTUCKY UNIVERSITY:**

Rauch Incorporated 14-041. A motion was made by Representative Yonts to defer the contract to the July 2013 of the committee. Senator Gregory seconded the motion, which passed without objection.

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

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

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

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

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:**

Crowe Horwath, LLP, 1300002404; Blue & Co., LLC, 1300002858; Tichenor & Associates, 1300002888; Ray, Foley, Hensley & Company, PLLC, 1300002889; Tichenor & Associates, 1300002906.

**COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:**

CDM Services Incorporated, 1300002171.

**CORRECTIONS, DEPARTMENT OF:**

Chrysalis House Incorporated, 1300002519.

**CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:**

Trinka Darlyn Porrata, 1300002459; Mark Wynn, 1300002499; William Oscar Rousseau, 1300002515; Rodney Dean

Reder, 1300002517.  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
Larry J. Sowder, 1300002335.  
DEPARTMENT FOR PUBLIC HEALTH:  
University of Louisville Hospital, 1300001557; Volunteers of America of Kentucky Incorporated, 1300001847; AIDS Volunteers Incorporated, 1300001864; Volunteers of America of Kentucky Incorporated, 1300002001.  
EASTERN KENTUCKY UNIVERSITY:  
BioMedical Research Services, 14-039.  
EDUCATION, DEPARTMENT OF:  
Technical Training Aids, 1300002336; Chasteen Enterprises Incorporated, 1300002527.  
FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:  
EOP Architects, PSC, 1300001967; Stantec Consulting Services Incorporated, 1300002153; Amec Environment & Infrastructure Incorporated, 1300002184; Vaughn and Melton, 1300002456.  
INFRASTRUCTURE AUTHORITY:  
American Municipal Tax-exempt Compliance Corporation, 1300002660; Blue & Co., LLC, 1300002833.  
KENTUCKY HOUSING CORPORATION:  
Crowe Horwarth, LLP, 2014-16; The Inspection Group Incorporated, 2014-18.  
KENTUCKY LOTTERY CORPORATION:  
Hudson Valley Software Incorporated, 14-04-073; GTECH Corporation, 14-10-001; Software Information Systems, LLC, 14-10-053; Valenti, Hanley & Robinson, PLLC, 14-11-037-1; TEK Systems, 14-11-040; Delehanty Consulting, LLC, 14-12-031; Cincinnati Bell Technology Solutions Incorporated, 14-13-026.  
NORTHERN KENTUCKY UNIVERSITY:  
GBBN Architects, 2014-634.  
POST SECONDARY EDUCATION, COUNCIL ON:  
Legacy Consulting Group, LLC, 1300002641; Norbert F. Elbert, 1300002642.  
TRANSPORTATION CABINET:  
Occupational Health Centers of the Southwest, 1300001774; Keaton Real Estate Services, LLC, 1300002313; Appco Appraisal Service Incorporated, 1300002315; Thurston Freeman, 1300002317; Computer Aid Incorporated, 1300002385; HMB Professional Engineers Incorporated, 1300002496; Burgess & Niple Incorporated, 1300002497; EA Partners, PLC, 1300002498; Neel-Schaffer Incorporated, 1300002500;

QK4, 1300002634; URS Corporation, 1300002636; EA Partners, PLC, 1300002652; Gresham Smith & Partners, 1300002683; W M B Incorporated, 1300002818; Bacon Farmer Workman Engineering & Testing Incorporated, 1300002822; Stantec Consulting Services, Inc., 1300002846.  
UNIVERSITY OF KENTUCKY:  
THP Limited Incorporated, A131110; GBBN Architects, A131160; Ross Tarrant Architects Incorporated, A131170; Sherman Carter Barnhart, A131180; Paladin Incorporated, A131190.  
WESTERN KENTUCKY UNIVERSITY:  
HDI, 121440.  
Workers Claims, Department of:  
Fair Health, 1300002134.  
WORKFORCE INVESTMENT, OFFICE OF:  
Maher & Maher, 1300002326.  
THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:  
AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:  
Kem Duguid & Associates, PSC, 1300000681.  
CORRECTIONS, DEPARTMENT OF:  
Greater Louisville Counseling, 1200003768.  
DENTISTRY, BOARD OF:  
Marquetta Poynter, D.M.D., 1200003151.  
DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:  
Theracare Alliance, 1200001102; Staff Easy, LLC, 1200001130; Kentucky Partnership for Families and Children Incorporated, 1200001139; Guardian Healthcare Providers, 1200001687; The Chyron Group, LLC, 1200002442; Dinsmore & Shohl, LLP, 1200003100; AMS Temporaries Incorporated, 1300001454; Guardian Healthcare Providers, 1300001457; Supplemental Health Care, 1300001459.  
DEPARTMENT FOR COMMUNITY BASED SERVICES:  
Child Care Council of Kentucky, 1200002082.  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
Stantec Consulting Services Incorporated, 1000001351; Stantec Consulting Services, Inc., 1100002226; Kenvirons Incorporated, 1100002227; Tetra Tech Incorporated, 1100002229.  
DEPARTMENT FOR MEDICAID SERVICES:  
Pricewaterhousecoopers, 1200001095.  
DEPARTMENT FOR NATURAL RESOURCES:

Pinnacle Actuarial Resources Incorporated, 1200003797.  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:  
Sandy Joslyn, 1200003349.  
FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:  
Paladin Incorporated, 0600003090; Ross Tarrant Architects, 0700003254; Arrasmith Judd Rapp Chovan Incorporated, 0700003482; Voelker Blackburn Niehoff Architects, 0700006447; Florence & Hutcheson, 1100001321; Omni Architects, 1100001498; Paladin Incorporated, 1100002046; Myers Jolly Architects, 1200000117; L'Acquis Consulting Enterprises, LLC, 1200000394; ATC Associates Incorporated, 1200002604; Biagi Chance Cummins London Titzer Incorporated, 1300001446; American Engineers Incorporated, 1300001796.  
LEGISLATIVE RESEARCH COMMISSION:  
Robert Linn, 12/13-05; Ron Hambleton, 12/13-06; Pat Roschewski, 12/13-07; Daniel Koretz, 12/13-08; Doris Redfield, 12/13-09.  
MEDICAL LICENSURE, BOARD OF:  
Multi, 1200002107.  
NORTHERN KENTUCKY UNIVERSITY:  
Michael Schuster Associates, 2013-601.  
TRANSPORTATION CABINET:  
Burgess and Niple Incorporated, 0700003885; GRW Engineers Incorporated, 0700006362; QK4, 1000000838; QK4, 1000000927; H. C. Nutting Company, 1000003823; Strand Associates Incorporated, 1200000019; Public Financial Management Incorporated, 1200002508; J M Crawford & Associates Incorporated, 1300001569; GRW Engineers Incorporated, C-00349417-4; GRW Engineers Incorporated, C-01345104-1; Florence & Hutcheson, C-02374489-1; Lochner H W Incorporated Consulting, C-99005187-4; W M B Incorporated, C-99005798-3; Parsons Brinckerhoff Incorporated, C-99110767-4.  
UNIVERSITY OF KENTUCKY:  
Kirby Stephens Design, 8800000731; Ross Tarrant Architects, A0131090.  
UNIVERSITY OF LOUISVILLE:  
Aon Consulting, 13-016.  
VETERANS AFFAIRS, DEPARTMENT OF:  
Multi, 1200003001.  
WESTERN KENTUCKY UNIVERSITY:  
Kerrick, Stivers & Coyle Law Firm, 121415.  
THE FOLLOWING MEMORANDA OF AGREEMENTS WERE

REVIEWED WITHOUT OBJECTION:  
ADMINISTRATIVE OFFICE OF THE COURTS:  
Morehead State University, 1300002591.  
CORRECTIONS, DEPARTMENT OF:  
Oldham County Public Library, 1300002441; Danville Public Library Incorporated, 1300002442.  
CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:  
Eastern Kentucky University, 1300002418; University of Louisville, 1300002419; Eastern Kentucky University, 1300002422.  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
U.S. Department of Interior Geological Survey, 1300002269.  
DEPARTMENT FOR MEDICAID SERVICES:  
Department of Education, 1300001704; Communicare Incorporated Adult, 1300001761; Cumberland River Comprehensive Care Center, 1300001763; Four Rivers Behavioral Health, 1300001764; Lifeskills Incorporated, 1300001766; River Valley Behavioral Health, 1300001771.  
EDUCATION, DEPARTMENT OF:  
Monroe County Board of Education, 1300002188; Barren County Board of Education, 1300002268; Pulaski County Board of Education, 1300002275; University of Kentucky Research Foundation, 1300002578; University of Louisville Research Foundation, 1300002584; Murray State University, 1300002611; VSA Arts of Kentucky, 1300002619; Eastern Kentucky University, 1300002643.  
INFRASTRUCTURE AUTHORITY:  
Johnson County Fiscal Court, 1300002897.  
KY HORSE RACING AUTHORITY:  
University of Kentucky Research Foundation, 1300002124; University of Kentucky Research Foundation, 1300002125.  
MILITARY AFFAIRS, DEPARTMENT OF:  
Multi, 1300000008; Fort Knox Schools Food Service, 1300001877.  
OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:  
Lexington-Fayette Urban County Government, 1300001077; Trigg County Fiscal Court, 1300002379; Hopkins County Fiscal Court, 1300002436; Carlisle County Fiscal Court, 1300002437; Knox County Fiscal Court, 1300002439; Pike County Fiscal Court, 1300002501; City of Seabee, 1300002502; Jackson County Fiscal County, 1300002523; Perry County Fiscal Court, 1300002537;



City of Midway, 1300002598; City of Fulton, 1300002601; City of Benton, 1300002605; Kenton County Fiscal Court, 1300002646; Kenton County Fiscal Court, 1300002647; Boone County Fiscal Court, 1300002648; Harlan County Fiscal Court, 1300002680; City of Jackson, 1300002817; Green County Fiscal Court, 1300002825; Perry County Fiscal Court, 1300002851; Lee County Fiscal Court, 1300002856; Martin County Fiscal Court, 1300002863; City of Clay, 1300002887; Jackson County Fiscal Court, 1300002895.

PARKS, DEPARTMENT OF:  
Division of Forestry, 1300002252.  
STATE POLICE, DEPARTMENT OF:

Department of Corrections, 1300001925.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS:

Pennyroyal Mental Health, 1200002890.

AGRICULTURE, DEPARTMENT OF:

Multi, 1300001593; Multi, 1300001595.

CORRECTIONS, DEPARTMENT OF:

Eastern Kentucky University, 1200002447.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Arc of Kentucky Incorporated, 1200001134.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Community Action Kentucky Incorporated, 1200001485; Kentuckianaworks, 1200002807; Kentucky Housing Corporation, 1300001283.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Madison County Fiscal Court, 1200002137; Eastern Kentucky University, 1200002499.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Multi, 1200001753; Multi, 1200001754; Multi, 1200001756; Multi, 1200001757; Multi, 1200001758; Multi, 1200001759; Multi, 1200001760; Multi, 1200001761; Multi, 1200001762; Multi, 1200001763.

DEPARTMENT FOR PUBLIC HEALTH:

University of Kentucky Research Foundation, 1200001871; University of Louisville Research Foundation, 1200001989; University of Kentucky Research Foundation, 1200002124;

Kentucky Department of Education, 1200002170.

EDUCATION, DEPARTMENT OF:

Eastern Kentucky University, 1200002467; Department of Corrections, 1300001110.

FISH & WILDLIFE, DEPARTMENT OF:

University of Kentucky Research Foundation, 1200003129.

KENTUCKY RIVER AUTHORITY:

Bluegrass Water Supply Commission, 1200001535.

KY STATE NATURE PRESERVES COMMISSION:

Nature Conservancy, 1200003649.

OCCUPATIONAL THERAPY, BOARD OF:

Kentucky Board of Physical Therapy, 1300000973.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Owsley County Fiscal Court, 0600002537; Owsley County Fiscal Court, 0600002541; Owsley County Fiscal Court, 0700005398; Carter County Fiscal Court, 0800010760; Elliott County Fiscal Court, 0800011154; Rockcastle County Fiscal Court, 0800011160; City of Booneville, 1000000981; Webster County Fiscal Court, 1000001500; Carter County Fiscal Court, 1000001763; Carroll County Fiscal Court, 1000002206; Owsley County Fiscal Court, 1000003195; Owsley County Fiscal Court, 1000003196; Owsley County Fiscal Court, 1000003198; City of Wickliffe, 1000003937; Owsley County Fiscal Court, 1100001339; Henderson County Fiscal Court, 1100001744; City of Scottsville, 1100001898; City of Elkton, 1100001933; Christian County Fiscal Court, 1100002082; Elliott County Fiscal Court, 1100002291; Knott County Fiscal Court, 1100002299; Red River Gorge Climber Coalition, 1100002748; Taylor County Fiscal Court, 1100002766; City of North Middletown, 1100002898; City of West Liberty, 1100003132; City of Brooksville, 1100003164; City of Providence, 1200000206; Pike County Fiscal Court, 1200000257; City of Hazel, 1200000301; City of Crab Orchard, 1200000302; City of Calvert City, 1200000451; Ballard County, 1200000629; Elliott County Fiscal Court, 1200000771; Robertson County Fiscal Court, 1200000897; City of West Liberty, 1200000949; Owsley County Fiscal Court, 1200001200; Lee County Fiscal Court, 1200001252; Lee County Fiscal Court, 1200001256; Lee County Fiscal Court, 1200001258; City of Middlesboro, 1200001260; City of Middlesboro, 1200001264; City of

Bardwell, 1200001470; Greenup County Fiscal Court, 1200001582; Lee County Fiscal Court, 1200001607; Menifee County Board of Education, 1200002907; Perry County Fiscal Court, 1200003871; Knox County Fiscal Court, 1300001167; Clinton County Fiscal Court, 1300001292; City of Pineville, 1300001560; Knox County Fiscal Court, 1300001795.

SPEECH - LANGUAGE PATHOLOGY & AUDIOLOGY, BOARD OF:

Kentucky Board of Physical Therapy, 1300000408.

TRANSPORTATION CABINET:  
Louisville/Jefferson County Metro Government-Department of Public Health/Wellness, 1200003377.

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

DEPARTMENT FOR INCOME SUPPORT

Amanda Lange, 1300002187; Susan Connors, 1300002420; Nick Watters, PsyD, PLC, 1300002421. Doug Lefevers, Shawnee Bennett, and Todd Mobley 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 without objection.

EASTERN KENTUCKY UNIVERSITY

McBayer, McGinnis, Leslie, & Kirkland (MML&K), 14-040. David McFaddin and Gary Barksdale discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

FISH & WILDLIFE, DEPARTMENT OF

Jonathan W. Gassett, 1300002393. Stuart Ray and Margaret Everson discussed the contract with the committee. A motion was made by Senator Gregory to defer the contract to the July 2013 meeting of the committee, which passed with Representative Yonts voting NO.

POST SECONDARY EDUCATION, COUNCIL ON

Schooling Solutions, LLC, 1300002632. Travis Powell and Linda Linville discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

TRANSPORTATION CABINET  
EA Partners, PLC, 1300002466, American Engineers Incorporated, 1300002467; HMB Professional Engineers Incorporated, 1300002470; URS Corporation, 1300002471. Mike Hill, Jeff Jasper, and David

Steele discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator McDaniel seconded the motion, which passed without objection.

WESTERN KENTUCKY UNIVERSITY

Multi, 131401. Janine Keirnan and Doris Patrick discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

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

ADMINISTRATIVE OFFICE OF THE COURTS

Sherman Carter Barnhart, 1200002990. Leslie Brown and Danny Rhodes 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 Senators Gregory, Hornback, and McDaniel voting NO, and Representative Montell electing to abstain (PASS).

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

National Toxicology Specialist Incorporated, 1200003938. Kathy Burke, Kevin Mudd, and Sharon Proctor discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Jackson & Coker Locumtenens, LLC, 1300001510. Kathy Burke and Kevin Mudd discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

DEPARTMENT FOR INCOME SUPPORT

Edward A. Ross Jr., 1200001229; Diosdado Irlandez, 1200001230; Dan K. Vandivier, 1200001231; Jane F. Brake, Ph.D., 1200001239; Parandhamulu Saranga, MD, 1200001240; Mary Thompson, Ph.D, 1200001242; Donna Fay Sadler, 1200001964; John M Reed, M.D., 1200001965. Doug Lefevers, Shawnee Bennett, and Todd Mobley



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 without objection.

**KENTUCKY LOTTERY CORPORATION**

GTECH Corporation, 14-10-001. Arch Gleason, Margaret Gibbs, Mike Denney, and Mary Harville 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 Senators Gregory and McDaniel, and Representative Montell voting NO.

**TRANSPORTATION CABINET**  
Stantec Consulting Services Incorporated, 1000000578; Michael Baker Jr. Incorporated, 1200001733. Mike Hill, Jeff Jasper, and David Steele discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator McDaniel seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR \$10,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

**MOREHEAD STATE UNIVERSITY**

McBrayer, McGinnis, Leslie & Kirkland, PLLC, 14-002. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

**UNIVERSITY OF KENTUCKY**  
Steve Kay, Roberts & Kay Incorporated, 880000595. Steve Byars discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

**WESTERN KENTUCKY UNIVERSITY**

Multi, 121443. Jeanine Karen and Doris Patrick 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 Senators Hornback and McDaniel voting NO, and Representative Montell electing to abstain (PASS).

**THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:**

**DEPARTMENT FOR MEDICAID SERVICES**  
University of Louisville

Research Foundation, 1300001972. Lisa Lee and Earl Gresham discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

**EASTERN KENTUCKY UNIVERSITY**

Madison County Health Department, 14-003. David McFaddin and Gary Barksdale discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT**

City of Richmond, 1300002834. Russ Salsman, Tammy Nesler, and Amy Barnes discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

**POST SECONDARY EDUCATION, COUNCIL ON**

Southern Regional Education Board, 1300001970. Travis Powell and Linda Linville 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 without objection.

**THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**EDUCATION, DEPARTMENT OF**

Larue County Board of Education, 1200001887. Tom Stratton and Toyah Robey discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed with Representative Montell voting NO.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT**

Menifee County Board of Education, 0900011495; Owsley County Fiscal Court, 1000000546; City of Richmond, 1000000716; City of Middlesboro, 1200001262; Menifee County Board of Education, 1200003795. Russ Salsman, Tammy Nesler, and Amy Barnes discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed

without objection.

**THE FOLLOWING MEMORANDA OF AGREEMENTS FOR \$50,000 & UNDER WERE SELECTED FOR FURTHER REVIEW:**

**TRANSPORTATION CABINET**  
Archaeological Legacy Institute, 1300002308. Peggy Stratton and Phil Logsdon discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

**EXEMPTION REQUEST DEPARTMENT OF JUVENILE JUSTICE**

The Department of Juvenile Justice requested a renewal of the exemption from the committee's routine review process for youth and specialized medical services and will provide quarterly reports. A motion was made by Representative Yonts to grant the exemption through June 30, 2014. Senator Gregory seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 12:22 PM.

**PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

**Minutes**

June 13, 2013

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Thursday, June 13, 2013, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Christian McDaniel, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Tom Buford, Perry B. Clark, Ernie Harris, Jimmy Higdon, Dorsey Ridley, and Dan "Malano" Seum; Representatives Dwight D. Butler, Leslie Combs, Jim DeCesare, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

**Legislative Guest:** Representative Susan Westrom.

**Guests:** Eric Friedlander, Deputy Secretary, Cabinet for Health and Family Services. Lawrence Kissner, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services. Dr. Stephanie Mayfield, Commissioner, Dr. Connie White, Deputy Commissioner, Clinical Affairs, Department for Public Health, Cabinet for Health and Family Services. President Robert L. King, Council on Postsecondary Education.

**LRC Staff:** Greg Hager, Committee Staff Administrator; Chris Hall; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; William Spears; Joel Thomas; Stephanie Love, Jessica Sapp, Graduate Fellows; Ashlee McDonald, Committee Assistant.

**Approve minutes for December 13, 2012, and February 25, 2013.**

Upon motion made by Representative Simpson and a second by Representative DeCesare, the minutes of the December 13, 2012, and February 25, 2013 meetings were approved by voice vote, without objection.

**Status of implementation of Medicaid Managed Care**

Mr. Friedlander introduced Mr. Kissner, who made the presentation. For fiscal year 2013, the \$5.79 billion Medicaid enacted budget is divided approximately equally between managed care and fee-for-services funding. However, 85 percent of Medicaid members are with managed care organizations (MCOs). Mr. Kissner described the categories of expenditure, how members are assigned to MCOs, and the division of Kentucky into eight managed care regions. The numbers of members and rates paid to MCOs vary by region and over time. If an MCO's members are healthier, the rate is decreased; if its members are sicker, the rate is increased. These changes are reallocations of funding, not new funding. Management of the MCOs encompasses monthly reporting, oversight by the managed care branch, and continual audits, including those done by the Island Peer Review Organization. Two MCOs, Kentucky Spirit and Coventry, were rated as deficient based on the results of audits done by Rector and Associates. Audit results included measures of risk-based capital and whether proper procedures were followed for appeals and grievances.

In response to questions from Senator McDaniel, Mr. Kissner said that risk-based capital considers more than liquid assets as a percentage of claims, but that this is the basic idea. It is a statutory requirement. When a member of an MCO is denied a service, the member has the right to appeal through a process established in the contracts between the state and the MCO. Samples of appeals and grievances are audited to determine whether the procedures are being followed. As part of the corrective action plan, letters of concern were sent to Kentucky Spirit and Coventry.

Representative DeCesare asked what was happening with the patient as the process was proceeding and whether a member could switch to another MCO during this process. Mr. Kissner said switching MCOs



under such a circumstance was not permitted. Some of the cases were resolved in favor of the member, but there could still be a deficiency if all procedures were not followed correctly or required documentation was missing.

In response to a question from Representative DeCesare, Mr. Kissner said that the member could suffer harm due to the length of the appeal the process, but there is an expedited appeal process for medical emergencies.

Senator Buford noted that the presentation shows that WellCare has many more appeals (3,018) than the other MCOs, even after taking into account that it has more members. [Kentucky Spirit had 924 appeals, Coventry had 1,744, and Passport had 380.] He would like to know how many of WellCare's appeals were overturned.

Representative Steele said that this information should be provided to all members of the committee.

Mr. Kissner continued the presentation with an overview of processing of prompt pay issues by the Department for Medicaid Services (DMS). Of the 5,031 claims resolved by DMS, 4.5 percent contained prompt pay violations. The Department of Insurance began handling prompt pay issues on April 15, 2013.

In response to a request from Representative DeCesare, Mr. Kissner said that he would provide information on how many of the prompt pay claims were pharmaceutical and how many were medical.

Mr. Kissner described statewide improvements in vaccinations and performance measurement and specific improvements made by each MCO.

In response to a question from Representative Palumbo, Mr. Kissner said that the two different indicators of improvement in diabetes testing by Kentucky Spirit were accurate, but measured different things.

Continuing the presentation, Mr. Kissner said that such improvements are important because Kentucky ranks poorly among the states in many health-related measures. The measures mentioned by Mr. Kissner included smoking (Kentucky ranks 50<sup>th</sup>), obesity (40<sup>th</sup>), sedentary lifestyles (43<sup>rd</sup>), and diabetes (41<sup>st</sup>).

Senator Seum questioned the validity of these rankings. In response to questions from Senator Seum, Mr. Kissner said that the rankings are compiled by United Health Foundation, a nonprofit foundation created by UnitedHealth Group.

Senator Seum said that several years ago, a presentation referred to how Kentucky ranked badly on education measures, but that no one could explain where the numbers

came from.

Mr. Kissner said that footnotes in the rankings reports describe the sources of data and how the rankings are calculated.

Senator McDaniel asked how many awards are expected under the recent request for proposals (RFP) for the health benefit exchange.

Mr. Kissner said that he could not discuss responses to an active RFP. In response to other questions from Senator McDaniel, he said that school health services and other existing services will be included. Coverage for substance abuse services will be added. It is hoped that more MCOs will respond to the RFP.

Representative Combs stressed the importance of getting participation by more MCOs.

Mr. Kissner said that the federal contribution to the state will be more than \$10 billion over the period FY 2014 to FY 2021. The state contribution will be \$300 million. Detailed information on the estimated economic impact is available online.

Senator Buford noted that Kentucky ranks high in use of Medicaid services but ranks poorly for many health measures. The focus should be on how to get better outcomes for the spending. "Skinny" plans that do not provide much coverage may meet the requirements of the Affordable Care Act. Some employers are reducing hours of employees so that they do not have to provide coverage. Many employees will be unable to afford the fines for not having mandated coverage. Better outcomes are needed if coverage is expanded for 308,000 uninsured in Kentucky. He asked for per capita comparisons for top and bottom ranked Medicaid states.

Mr. Kissner said that such information can be provided but it will be somewhat dated. Improvements in Kentucky's rankings are expected as more recent data are analyzed.

Senator Buford said that he is concerned about Kentucky picking up 10 percent of the cost of Medicaid expansion in 3 years.

Senator Higdon asked whether jail inmates will be covered under Medicaid expansion. Mr. Kissner said that inmates who qualify for Medicaid now are covered if they are released from jail to receive medical care. Single males are not covered under Medicaid now but they will be under expansion.

In response to questions from Senator Higdon, Mr. Friedlander said that inmates in local jails have the same coverage as state inmates, now and under expansion, but that it is hard for the state to separate medical costs for county jails.

Referring to the list of health-related measures on which Kentucky ranks poorly, Representative Westrom

asked which ones were related to smoking. Mr. Kissner said that many of the measures are related to smoking. Smoking is often a complicating factor in a condition, for example, diabetes.

Representative Westrom said that if Kentucky reduced its smoking rates and exposure to second hand smoke, we would improve on many of these rankings.

In response to a question from Representative Westrom, Mr. Kissner said that Medicaid pays for smoking cessation and will continue to do so.

In response to a question from Senator Seum, Representative Steele said that the committee would be following up with more testimony on Medicaid.

In response to questions from Senator Seum, Mr. Kissner said that he would provide a copy of the sources of the state rankings referenced in the presentation. A third party is using the same logic to analyze all states.

In response to a question from Representative Palumbo, Mr. Kissner said that 7,000 to 8,000 Medicaid recipients access smoking cessation. He will provide the specific figure.

Resuming the presentation, Mr. Kissner said that 332,000 uninsured Kentuckians can gain coverage through the Health Benefit Exchange, of whom 276,000 will qualify for subsidized coverage. The other 308,000 Kentuckians can gain coverage through expansion of Medicaid. Kentucky does relatively well in insurance coverage for children, so the vast majority of those who will be gaining coverage are adults. He presented a chart showing the projected impacts of the Affordable Care Act and Medicaid expansion. The number of jobs created begins at 7,600 in FY 2014 and increases to 16,700 by FY 2021. Projected annual general fund revenue and savings peak at \$270 million in FY 2019. Required annual state funds increase to \$219 million in FY 2021, approximately equal to projected general fund revenue and savings of \$223 million that year.

In response to a question from Representative Rand, Mr. Kissner said that state spending in the chart is for Medicaid expansion. Mr. Friedlander added that this is general fund expenditure.

Representative Steele asked whether MCOs have improved their payment rates.

Mr. Kissner said that the Department of Insurance now has responsibility for issues related to prompt payment issues. After the governor's discussion of House Bill 5, the three MCOs have had meetings with hospital systems to discuss payments. There is a monthly report of the analysis. The June report will be done this week.

Representative Steele directed that the report be provided to Program Review staff. He said that it takes a long time for legislators to get answers. The situation has improved with the hiring of Colleen [Colleen Hagan, Legislative Liaison, Cabinet for Health and Family Services). He asked whether copies of MCOs' contracts with independent pharmacists have been provided to Program Review as previously requested.

Mr. Kissner said that he would have to check into the legal issues, but that he doubted that this would be possible because these are not public documents. These are two other parties' contracts, and confidentiality agreements are involved.

In response to questions from Representative Westrom, Mr. Kissner said that 24 states are expanding Medicaid and that there is no time frame for expansion. The 100 percent federal reimbursement is time sensitive though.

Representative Westrom stated that employers look to the educational and health levels of states.

Senator Buford said that Kentucky does not have enough doctors and other providers to handle the expansion. It is unlikely that the Department of Insurance will have the teeth to enforce prompt payment. Consideration should be given to expanding what nurse practitioners and physician assistants can do.

In response to a request from Representative Palumbo, Mr. Kissner said that he would provide information on the number of people who get prescriptions filled for smoking cessation products.

Representative Steele said that Senator McDaniel would now preside over the meeting.

In the interest of time, Senator McDaniel said that the next two presentations should be limited to 10 minutes each. He asked that committee members hold their questions until the end of each presentation.

#### **Tobacco use and Medicaid**

Dr. Mayfield introduced herself and Dr. White and began the presentation. Her presentation covered trends in smoking (28 percent of Kentucky adults smoked in 2012, no change from 2011), smoking by gender (more males smoke), smoking by race (a higher percentage of blacks smoke than white, Non-Hispanics), smoking by age group (the highest percentages are for the 25-44 group), smoking by region (the highest percentages are in eastern Kentucky), smoking by education level (the highest rate is for those with less than high school education), and smoking by income (the higher the income category, the lower the prevalence of smoking). Nearly half of those without health care coverage smoke.

Less than 25 percent of those with health care coverage do. Based on an average price per pack of \$4.78, the typical adult smoker in Kentucky spends \$2,237 per year for cigarettes. Among the estimated smoking-related economic costs are \$1.5 billion in health costs and \$140 million in state Medicaid costs (65 percent of Medicaid recipients smoke). In Kentucky, there are 6,100 new youth smokers and 7,800 adult smoking deaths per year. State health departments and Medicaid are encouraged to provide free or low-cost access to smoking cessation counseling and medications. Dr. Mayfield provided an overview of counseling and medications—for which no co-pay is required—available through Medicaid. Medicaid smoking cessation counseling spending increased from less than \$37,000 in 2011 to more than \$112,000 in 2012. From 2011 to 2012, smoking cessation drug expenditures more than doubled to \$527,289.

In response to a question from Senator McDaniel, Dr. Mayfield clarified that the 65 percent figure for Kentucky Medicaid recipients who smoke is for those 18 and older. Kentucky has a relatively high percentage of youth smokers though.

Senator McDaniel asked what percentage of smokers are on Medicaid. Dr. Mayfield said that she would get this information.

In response to a question from Senator Clark, Representative Rand stated that the tax revenues from cigarette sales are \$250 million. Senator Clark noted that this should be compared to the costs attributable to smoking.

In response to a question from Representative Rand, Dr. Mayfield said that the national smoking rate was 21 percent in 2011.

Representative Rand asked why smoking rates have not gone down given that Medicaid spending for smoking cessation has been increasing. Dr. Mayfield said that expenditures for smoking attributable morbidities for Medicaid recipients decreased in 2012.

In response to a question from Representative Westrom, Dr. Mayfield said that smoking-related costs presented do include those due to secondhand smoke.

#### **Funding and cost drivers of higher education**

Dr. King provided an overview of FY 2011 current funds revenue by source: net tuition (17 percent of total); state appropriations (19 percent); gifts, endowment income, and investment returns (5 percent); federal appropriations, government grants, and contracts (25 percent); hospital sales and services (20 percent), and auxiliary enterprises and independent operations (14 percent). Percentages

vary by type of institution. Adjusted for inflation, revenue for each source has increased since FY 2005 except for state appropriations, which declined 51 percent. Adjusted for inflation, total current funds revenue increased from \$4.114 billion to \$5.155 billion over this period. In FY 2011, 26 percent of expenditures were for instruction, 10 percent for research, 14 percent for public service, 7 percent for academic support, 5 percent for student services, 8 percent for institutional support, 6 percent for scholarships and fellowships, 7 percent for auxiliary enterprises, and 16 percent for hospital services. Percentages vary by type of institution. Of the major sources of cost increases, the principal one is enrollment growth. The number of full-time-equivalent students in Kentucky increased 13 percent from 2004 to 2010. The number of executive, administrative employees per 100 full-time-equivalent students is 1.0 for the research institutions, 1.1 for the comprehensive institutions, and .04 for the 2-year institutions. Average full-time faculty salaries at 2-year and 4-year institutions are lower in Kentucky than in the region and in the US.

In response to a question from Representative Rand, Dr. King said that Kentucky tuition and fees are higher than the regional average at the community and technical schools, approximately the same at the comprehensive schools, and lower at the research schools. He said that he was less familiar with the national averages.

Representative Rand noted that state appropriations have decreased, but that total revenue for higher education has increased. Dr. King said that part of the revenue increase is because there are more students. The reduction in state support has not been offset by the increased tuition.

Upon motion made by Senator McDaniel and a second made by Representative Steele, committee staff were directed to study the cost drivers for higher education and how students pay for higher education.

Representative Palumbo noted that the percentage change in appropriations has been approximately the same for all universities. Funding for the University of Kentucky should be prioritized. It is the state's flagship university and has a state goal of becoming a top 20 university.

The meeting adjourned at 12:14 PM.

### **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

Minutes

June 5, 2013

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

The meeting of the Tobacco

Settlement Agreement Fund Oversight Committee was held on Wednesday, June 5, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Paul Hornback, Co-Chair; Senators Carroll Gibson, Jimmy Higdon, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Tom McKee, Ryan Quarles, and Jonathan Shell.

**Guests:** Joel Neaveill, Bill McCloskey, Angela Blank, Brian Murphy, and Biff Baker, Governor's Office of Agricultural Policy; Angela Criswell, Department for Public Health.

**LRC Staff:** Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The May 1, 2013, minutes were approved, without objection, by voice vote, upon a motion by Representative Shell and a second by Senator Gibson.

#### **Governor's Office of Agricultural Policy**

Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its May meeting.

Mr. Neaveill summarized funding allocations for the previous month under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, the On-Farm Energy, and Shared-Use Equipment programs.

Responding to Co-chair Hornback, Mr. Neaveill said county councils in recent years are using county funds more fully and not rolling the funds to the next fiscal year as much as they have in previous years. County councils award CAIP funding on a one-year basis.

GOAP officials summarized the projects approved for funding at the previous board meeting, including: Green River Cattlemen's Association, \$20,000 in Green County tobacco settlement funds to implement a youth heifer program; Buffalo Trace Area Development District, \$20,000 in Bracken County funds to implement a hillside reclamation project; Daviess County Lions Club, \$28,976 in Daviess County funds for improvements to the new county agricultural multipurpose facility; Daviess County High School, \$4,500 in Daviess County funds to renovate the school greenhouse; Green River Area Beef Improvement Group, \$20,000 in Daviess County funds to provide a youth agricultural production cost-share program. They summarized one project that was denied funding, Green River Conservation District, which had sought \$271,000 in Green

River county tobacco settlement funding.

Responding to Representative McKee, Mr. Neaveill said county councils set the age ranges of young people who can participate in youth agricultural programs.

Mr. Neaveill responded to a series of questions from Senator Gibson about processes and procedures of county councils, the working relationship with county extension agents who staff the councils, and the statutorily required makeup of county councils.

Representative McKee observed that the power of county councils to deny funding to applicants was an issue discussed by legislators as they considered HB 611, the tobacco settlement legislation, in the 2000 legislative session.

#### **Tobacco Prevention and Cessation Program**

Ms. Angela Criswell, Tobacco Program Manager, testified about the annual Tobacco Prevention and Cessation Program report. She discussed a range of state anti-smoking information and tobacco cessation efforts that included the Tobacco Retailer Underage Sales Training (TRUST), the 100 percent Tobacco-Free Schools undertaking, the Quit Now Kentucky smoking cessation campaign, behavioral risk outreach, and the passage of local smoke-free ordinances.

Ms. Criswell said that the TRUST training, sponsored by several agencies, is aimed at preventing underage smokers from buying cigarettes from retailers. Some convenience market companies are interested in using the training, and another state has inquired about the program.

Ms. Criswell said that 28 school districts in the state are smoke-free and do not allow smoking on their campuses. Other school districts have policies that ban smoking generally but allow smoking in some campus settings.

The number of cessation service participants in Quit Now Kentucky had risen in recent months but then declined, reflecting the impact of a Centers for Disease Control and Prevention-sponsored media campaign that ended recently. Ms. Criswell also covered a number of other aspects of the Quit Now program.

Ms. Criswell said that the CDC is sponsoring some Spanish-speaking anti-smoking material for Kentucky. Senator Hornback pointed out the United States has an English proficiency requirement for new citizens, such as those who speak Spanish.

Ms. Criswell said that about 34 percent of Kentuckians are affected by local smoke-free ordinances that



ban smoking in places of employment and in public buildings. Twenty-three cities have smoke-free ordinances. Williamsburg passed the most recent ordinance.

The program received \$2.12 million in tobacco settlement funds in FY 2013 and is budgeted to receive \$2.09 million in FY 2014. It expects to receive \$1.14 million in CDC funds extending from April 2013 to March 2014.

Senator Webb asked about electronic cigarettes (e-cigarettes). Ms. Criswell said that the Food and Drug Administration, which regulates cigarettes and other tobacco products, is developing guidance measures related to the marketing of the products. E-cigarettes cannot be used as tobacco cessation devices unless they meet FDA requirements.

As for possibly taxing e-cigarettes, she told Senator Webb that some states have considered doing so.

Responding to Representative Quarles, she said the CDC-sponsored program was statewide in scope, but also placed additional emphasis on some regions of the state.

Responding to Senator Parrett, Ms. Criswell said that the program will be looking at any correlations between areas that have passed smoke-free ordinances and declines in smoking rates.

In a response to Representative Shell, Irene Centers, Health Programs Branch Manager, said the state's smoking rate dropped from 33 percent to 25 percent between 2000 and 2010. Ms. Criswell indicated that Kentucky's current quit success rate is 26 percent, above the national average.

Representative Shell also asked about county Agricultural Development Fund appropriations during the same period. Mr. Neaveill responded that county funding has declined from about \$20 million per fiscal year when the state first started receiving tobacco settlement funds to the current figure of just over \$14 million.

During a discussion of the funding to the cessation program, Representative McKee said that some argued, as the tobacco settlement legislation was being debated, that not enough was being appropriated for smoking cessation efforts. Ms. Criswell told Representative McKee that she felt the program has done a lot with the funds received.

Senator Hornback said the program should be commended for the recognition it is getting because of how well the cessation programs are doing.

Documents distributed during the meeting are available with meeting materials in the LRC Library. The meeting ended at approximately 11:30 a.m.

# LRC Publications

## Informational Bulletins

**241** General Assembly Action 2013 Regular Session

**240** Final Reports of the Interim Joint, Special, and Statutory Committees 2012

**239** Issues Confronting the 2013 Kentucky General Assembly

**238** General Assembly Action 2012 Regular Session

**237** Final Reports of the Interim, Joint, Special, and Statutory Committees 2011

**236** Issues Confronting the 2012 Kentucky General Assembly

**235** General Assembly Action 2011 Regular Session

**234** Final Reports of the Interim, Joint, Special, and Statutory Committees 2010

**233** Issues Confronting the 2011 Kentucky General Assembly

**232** General Assembly Action 2010 Regular Session

**231** Final Committee Reports of the Interim, Joint, Special, and Statutory Committees

**230** Issues Confronting the 2010 Kentucky General Assembly

**229** General Assembly Action 2009 Regular Session

**228** Final Reports of the Interim Joint, Special, and Statutory Committees 2008

**227** Issues Confronting the 2009 General Assembly: An update of Informational Bulletin No. 224 (2008)

**225** Final Reports of the Interim Joint, Special and Statutory Committees (2007)

## Food, from page 3

"I think we all should be concerned about what's going to happen there and the potential cuts that we're going to be looking at just to maintain the status quo..." Webb said.

The issue of nutrition was raised by Rep. Mike Denham, D-Maysville, who said educators in his area tell him that poor nutrition and hunger impacts a child's ability to learn. About 65 percent of children in Denham's district qualify for the free and reduced lunch program, he estimated.

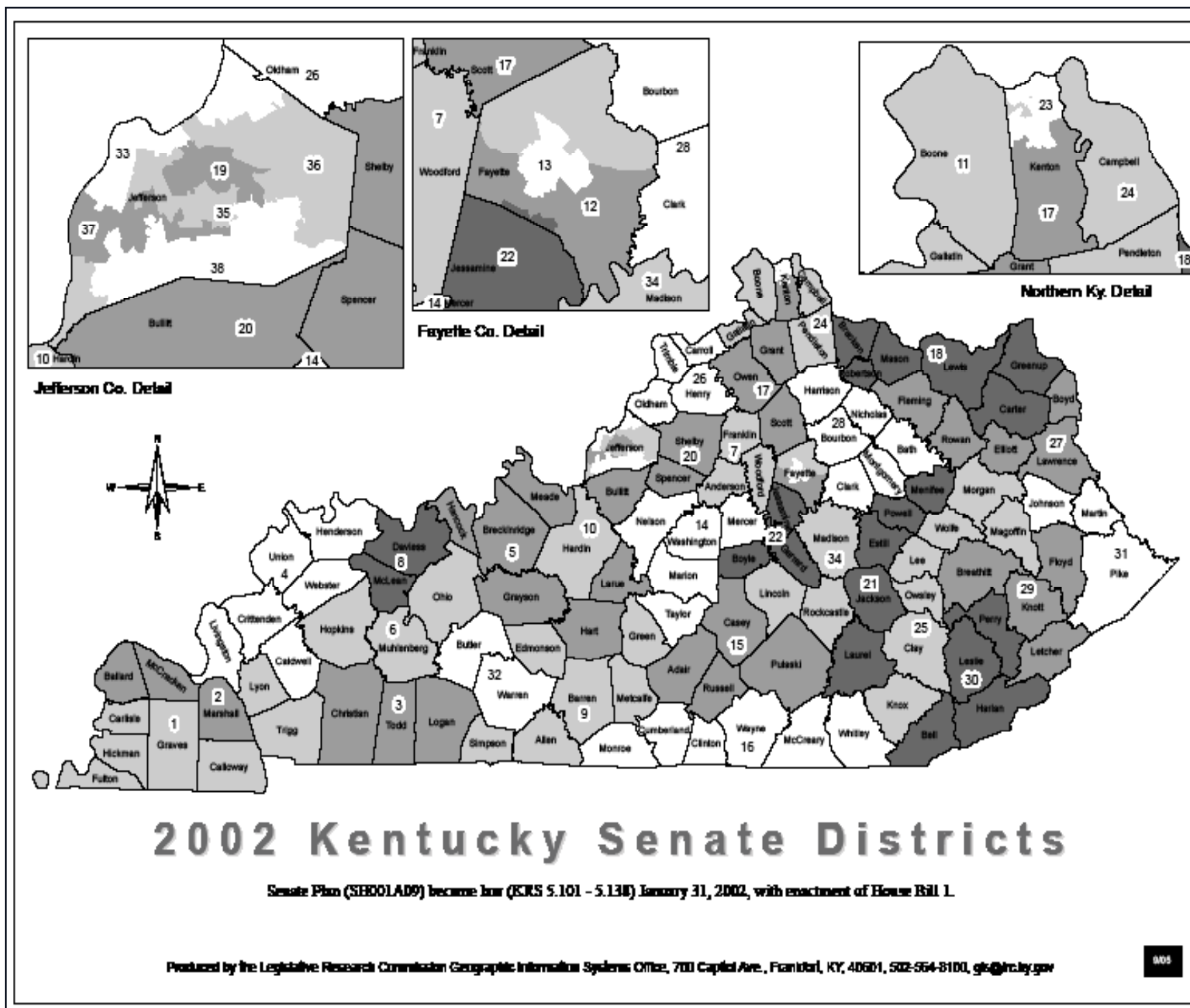
Besides SNAP, programs like WIC—which basically gives pregnant women and young children what Jurek called a "food prescription" for better nutrition—along with summer feeding programs and school backpack food programs are helping to feed children, said Jurek. She said the state is also considering possibly allowing families to apply for SNAP benefits online—something that would be particularly helpful to low-income families that might not have transportation to apply for benefits in person, Jurek explained.

"We're not there yet," with

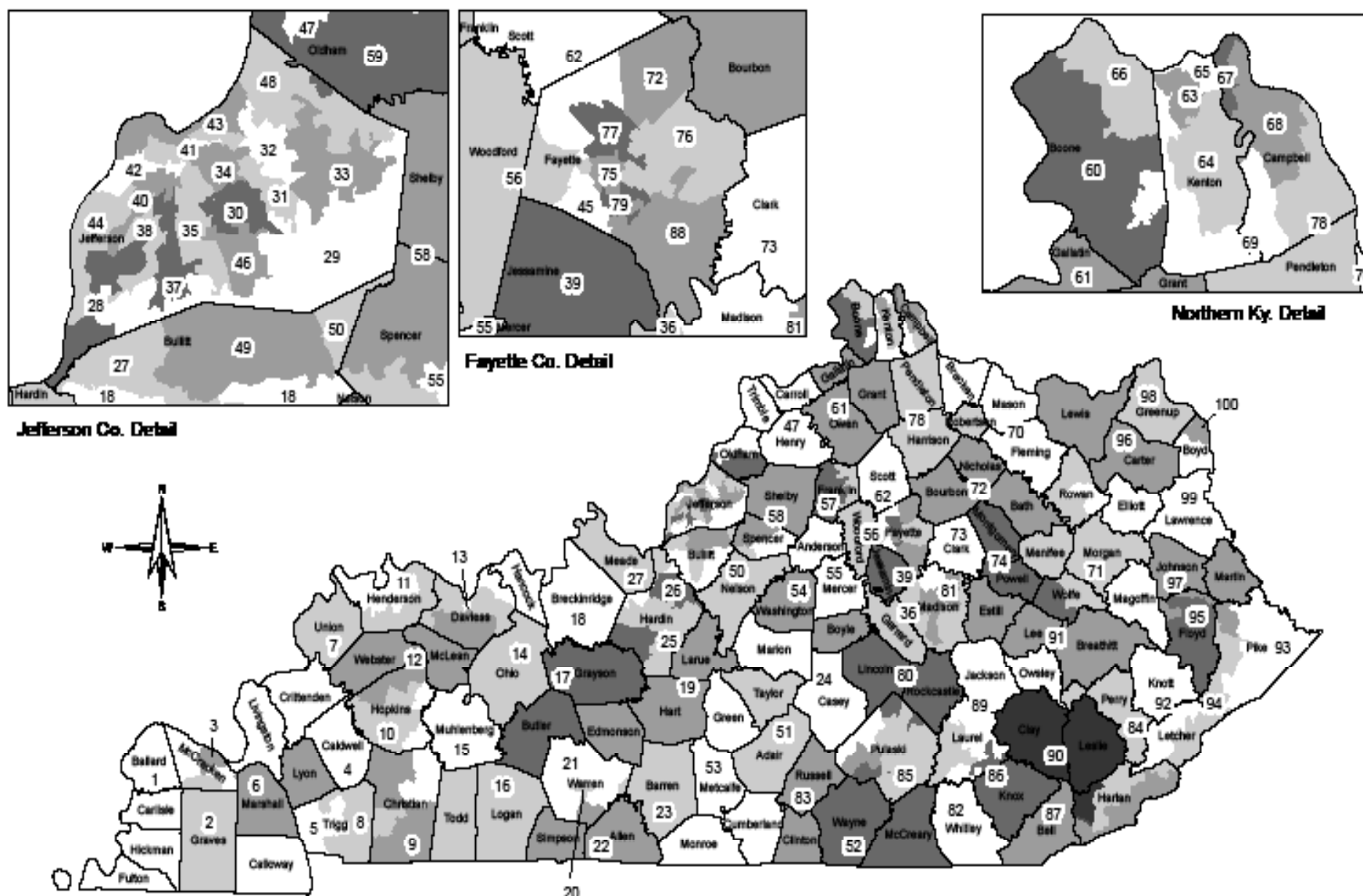
online application for SNAP benefits, she told the committee.

The committee also received the annual report on the state's Early Childhood Development Initiative from representatives of the Governor's Office of Early Childhood and the Early Childhood Advisory Council. Twenty-five percent of the state's tobacco settlement dollars—which are overseen by the committee—go to early childhood programs in Kentucky.

Other testimony came from the Governor's Office of Agricultural Policy.







# 2002 Kentucky House Districts

House Plan (HH001A11) became law (KRS 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](mailto:gis@lrc.ky.gov)

905



The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

Robert Stivers SENATE PRESIDENT	Greg Stumbo HOUSE SPEAKER
Katie Kratz Stine PRESIDENT PRO TEM	Larry Clark SPEAKER PRO TEM
Damon Thayer MAJORITY FLOOR LEADER	Rocky Adkins MAJORITY FLOOR LEADER
R.J. Palmer MINORITY FLOOR LEADER	Jeff Hoover MINORITY FLOOR LEADER
Dan Seum MAJORITY CAUCUS CHAIRMAN	Sannie Overly MAJORITY CAUCUS CHAIRMAN
Johnny Ray Turner MINORITY CAUCUS CHAIRMAN	Bob DeWeese MINORITY CAUCUS CHAIRMAN
Brandon Smith MAJORITY WHIP	Tommy Thompson MAJORITY WHIP
Jerry Rhoads MINORITY WHIP	John Carney MINORITY WHIP

2013 Interim

## LEGISLATIVE RECORD

Published monthly by the Legislative Research Commission, the Interim RECORD is designed to inform the citizens of Kentucky of the between-sessions work of the General Assembly.

Paper subscriptions are free upon request. Contact LRC's Public Information Office, Capitol Annex, Frankfort, KY 40601, 502-564-8100, ext. 307 to subscribe.

The Interim RECORD can also be read on-line at [www.lrc.ky.gov/legislation.htm](http://www.lrc.ky.gov/legislation.htm). If you have a paper subscription and would like to end your subscription and read the Interim RECORD on-line only, please call 502-564-8100, ext. 307 or send a request by e-mail to [bruce.phillips@lrc.ky.gov](mailto:bruce.phillips@lrc.ky.gov).

Stories may be reprinted without permission, although credit is appreciated.

Printed with state funds

Bobby Sherman, Director  
Legislative  
Research Commission

Robert Jenkins  
Deputy Director for Committee  
and Staff Coordination

Rob Weber  
Public Information Officer

Joe Cox  
Publications and Printing Officer

Rebecca Mullins Hanchett  
Editor, Typography and Design

Mike Sunseri  
Chief Photographer

Karen Bourne

Jeff Fossett

Steve Gatewood

Bruce Phillips

Bud Kraft

Keith Krey

Jeanie Mitchell

Scott Payton

Amy Rose Karr  
Public Information Staff

2013 Interim

# LEGISLATIVE RECORD

KENTUCKY GENERAL ASSEMBLY  
700 Capitol Avenue  
Frankfort, Kentucky 40601

Change Service Requested

Pre Sorted Standard  
U.S. Postage  
PAID  
Frankfort, Kentucky  
Permit Number 308