

Budget, roads, incentives mark session's end

by Scott Payton
LRC Public Information

As Senate leaders had warned, the Beshear-proposed and House-passed racetrack slots bill was DOA in the upper chamber during the recently-concluded special session, failing to even get out of committee, but the other three items on the governor's call were agreed on and passed in good order as the special legislative session wrapped up work in just eight days.

Passed: An economic incentive-package probably best known for seeking to lure a major NASCAR event to Northern Kentucky, coupled with the so-called 'Bridges Bill' to create a finance-and-control authority for massive transportation megaprojects like the \$4.1 billion Ohio River twin-bridges project in Louisville, and a rebalanced state budget to fix what Gov. Steve Beshear and some predictors called a near-\$1 billion shortfall in the coming fiscal year.

The economic-incentive measures lawmakers agreed to include \$75 million to boost existing in-



Senate President
David Williams



House Speaker
Greg Stumbo

centives that encourage the expansion of businesses already operating in Kentucky. Plus, in addition to tax credits to help Kentucky Speedway in Gallatin County land a NASCAR Sprint Cup race, it also includes tax incentives to attract the Breeders' Cup horse racing championships to Louisville, and creates a tax credit for small businesses and for film and TV productions shooting in the Commonwealth.

It also exempts active-duty military from state income taxes.

The initial reason Beshear called the special session for June 15 was to revise the state budget. His proposal called for using \$741 million in federal stimulus funds to fill most of the projected shortfall. He also proposed across-the-board spend-

ing cuts for most state agencies -- but sparing education -- of 2.6 percent. Those steps lawmakers approved.

But in the agreement reached between House and Senate negotiators on June 23, the governor's proposal to suspend three paid holidays for state workers making less than \$50,000 a year and five holidays for those making \$50,000 or more was deleted from the final bill.

Overall, observers hailed the session as highly productive, given quick and relatively painless agreement on three major issues. But the biggest newsmaker in the room -- video lottery terminals, or video slots -- came up short when it landed in the Senate.

The governor had added VLTs to the session call to help save the state's troubled Thoroughbred industry, by drawing more patrons to tracks and injecting new money into race purses. The hope was to keep racetracks open, and horses and horsemen in the state.

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Budget reduction plan now law

by Chuck Truesdell
LRC Public Information

A final plan to bring the state's budget in line with expected revenues was passed on June 24 by both the House and the Senate and signed into law by the governor on June 26.

The governor called a special session, which began June 15, after state economists projected next year's revenues to come in more than 5 percent under the previously approved budget's expectations.

House Bill 4, written by a conference committee of lawmakers from both chambers, reconciled differences between the House and Senate's budget plans and added language on certain economic development projects.

The budget agreement largely follows the original proposal put forth by Gov. Beshear, but changed some sections. While most executive branch agencies would be cut by 2.6 percent, K-12 SEEK funding, colleges and universities, and local jail funding will be kept constant. The state's Medicaid program will also be fully funded, while the governor's proposal to require state employees



Photo by Bud Kraft / LRC Public Information
House Appropriations and Revenue Chairman Rep. Rick Rand, D-Bedford, confers on the budget bill.

to forgo some holiday pay was removed. The judicial branch will send \$22.6 million back to the treasury as its part in the budget reduction plan, while the legislative branch will send back more than \$2.6 million.

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Incentives, bridges bill signed by governor

by Rebecca Mullins
LRC Public Information

Legislation that will help Kentucky finance billions of dollars in construction of mega highway projects along with millions of dollars of incentives to expand business, tourism and give tax breaks to Kentucky's military and car buyers is now law.

House Bill 3, sponsored by Rep. Tommy Thompson, D-Owensboro, was signed into law by the governor on June 26. The bill, which includes changes agreed upon by a committee of House and Senate conferees, won final passage in the House by an 86-10 vote and passed the Senate by a 35-0 vote on June 24.

Transportation provisions in HB 3 will allow a newly-created state transportation infrastructure authority to approve in-state and bi-state projects

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Incentives, from page 1

included in the state's current biennial highway construction plan that cost at least \$500 million, such as the \$4.1 billion Louisville bridges project, although the Kentucky General Assembly will control creation of the authorities, approval of state authority projects and changes to a project's scope.

Bi-state projects will relate only to those road or bridge projects co-funded by Kentucky and Indiana, with tolls authorized to pay for bonds issued for bi-state or in-state projects.

"This ... affirms the power and responsibility of the Legislature to control state appropriations for these large projects, and to monitor plans and activities of the authorities that may be created," said Rep. Don Pasley, D-Winchester, who filed the mega-project legislation. "We can do this without micromanaging."

New economic incentives, tax breaks and tourism provisions added by the House and Senate to HB 3 include a motor vehicle use tax incentive that would only tax car buyers on the difference between a new car purchase and the owner's trade-in, loan support for certain economic incentive projects, an extension of tourism development incentives and an income tax exemption for Kentucky's active-duty military, beginning Jan. 1.

"With the extension of the deployments that we're seeing... this will be a real benefit to our military families," Senate President David Williams, R-Burkesville, said before the Senate vote on HB 3.

Other provisions in the bill include incentives for reinvestment in existing manufacturing facilities, streamlining business incentives while creating new jobs, incentives to draw film and Broadway play productions to the Commonwealth, incentives to attract a NASCAR Sprint Cup race to Kentucky Speedway and the Breeders' Cup to Churchill Downs, small business tax credits and income tax incentives for railroad improvement and transport.

"The main emphasis will allow for our existing industry to retool and retrain," said Thompson.

Also added to the bill by the House and Senate is a tax credit of up to \$5,000 for new home buyers, capped at \$25 million.

Session, from page 1

The VLT idea has been bubbling under the legislative surface for a decade or more, but no full chamber has ever actually voted on it -- until the House voted 52-45 last month to approve the measure.

But House leaders added a sweetener this year: a sudden proposal to tie most slots revenues to debt service on bonds for more than \$1 billion in school-building construction, both at state colleges and in school districts statewide where crumbling elementary and secondary buildings need replacement.

However, Senate leaders felt relying on slot-machine revenue was bad public policy, and had their own proposal to help the horse industry without expanded gambling: Taxing state lottery sales and adding a surcharge for simulcasting signals from Kentucky horse racing tracks.

In the end, neither chamber could agree to the other's proposal.

Budget, from page 1

The plan also increases funding to county attorneys, Commonwealth's

HB 4 modifies the state budget and adds economic development projects.

Attorneys, and public defenders, whose expenses are largely personnel-driven. County PVAs, another office whose spending goes mostly to salaries, are forbidden from being cut, while state parks received a boost of \$4.9 million.

HB 4 now also includes language authorizing Jefferson Community and Technical College to purchase nearby land, the University of Kentucky to borrow \$100 million to finish its medical center expansion, and UK to work with a private company to update other facilities, including its athletics campus.

Finally, the bill approves a 1,550 acre site in Hardin County to be used for a proposed advanced battery plant. The bill passed 35-0 in the Senate and 97-0 in the House.



Photo by Bud Kraft / LRC Public Information

State Reps. Tommy Turner, R-Somerset, left, James Comer, R-Tompkinsville, center, and Johnny Bell, D-Glasgow, discuss session issues on the House floor.

Lawmakers updated on stimulus road money

by Chuck Truesdell
LRC Public Information

More than half of Kentucky federal stimulus money for road projects has already been awarded for work ready to begin, a panel of lawmakers learned on June 2.

The American Recovery and Reinvestment Act, commonly known as the federal stimulus plan, designates \$421.1 million for highway infrastructure improvements in Kentucky, State Highway Engineer Mike Hancock told the Interim Joint Committee on Transportation. Of that total, \$40.6 million goes to the state's four metropolitan areas and \$367.8 million is distributed statewide. The General Assembly decided which projects across Kentucky would be funded through House Bill 330 earlier this year.

Ten projects have already been let, Hancock said, with many more ready to be let in the coming months. More than 50 percent of the road stimulus had to be obligated by June 30, he added, and the state is well past that threshold. Hancock told committee members that of the more than \$800 million in road projects eligible for stimulus money in the current six-year road plan, Transportation Cabinet officials put an emphasis on projects that were ready to proceed immediately, so that the June 30 deadline could be met.

All money must be obligated by March, 2010, and the projects must be completed by September 30, 2015, to receive stimulus money.

A similar situation exists for the state's \$51.5 million in stimulus money designated for buses and other mass transit, Hancock noted.

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Early childhood tobacco funds helping families

by Rebecca Mullins
LRC Public Information

More than 90 percent of Kentucky tobacco settlement dollars spent on a home visitation program for first-time, at-risk parents are used for front-line services, not administration, a panel of state lawmakers heard June 3.

State officials who coordinate the state's early childhood initiative called, KIDS NOW (Kentucky Invests in Developing Success NOW,) told the Tobacco Settlement Agreement Fund Oversight Committee that at least 90 percent of the \$9.2 million budgeted over the past year for the HANDS home visitation program benefit families directly. The overall KIDS NOW budget for the year totals around \$30 million.

"This money is meant to deliver services to people... That is our focus," said Dr. Ruth Shepherd, M.D., director of the state's Division of Maternal and Child Health, in response to a question from Sen. David Givens about how much of the HANDS budget goes directly for services to families.

"So those dollars are touching people, they're not paying staffers who are supporting back services," said Givens, R-Greensburg.

HANDS is one of several components of KIDS NOW, which is funded by 25 percent of Kentucky's share of a \$206 billion settlement reached in 1998 between 46 states and the nation's large tobacco companies. Shepherd said HANDS is a national model for helping first-time overburdened parents and serves around 11,000 families a year.

The program is voluntary for any parent who meets certain risk criteria, regardless of income, Shepherd said.

Other components of the early childhood initiative include a folic acid program designed to prevent the birth defect spina bifida--or open spine--in newborns; a substance abuse prevention and treatment program for pregnant women; newborn hearing and metabolic screenings; eye exams; oral health services; immunizations; child advocacy and early

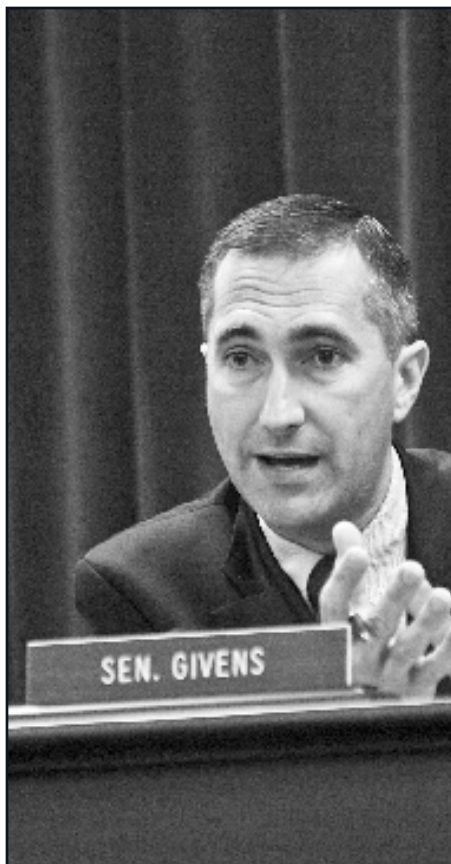


Photo by Mike Sunseri / LRC Public Information

Sen. David Givens, R-Greensburg, asks a question in committee.

child care and education assistance programs.

Kentucky Child Care Assistance Program official Robin Herring said approximately 43,000 Kentucky children receive subsidized child care each month through the KIDS NOW initiative. Approximately 29 percent of those children, Herring said, are cared for in a center that is quality-rated by the state through KIDS NOW.

When asked by Committee Co-Chair Rep. Dottie Sims, D-Horse Cave, if KIDS NOW's current budget includes any federal funding, Shepherd said it didn't, although she added that budgeted dollars are used to draw federal Medicaid matching funds for the HANDS program.

"We do a really good job of spending our dollars, and many of our programs actually pull down large amounts near the end of the year," Kentucky Division of Early Childhood Development Director Annette Bridges told lawmakers.

LRC Publications Informational Bulletins

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

Research Reports

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

2009

KENTUCKY

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

House of Representatives

Royce W. Adams 580 Bannister Rd. Dry Ridge 41035 Work 859-824-3387 Home 859-428-1039	Myron Dossett 491 E. Nashville St. Pembroke 42266 Home 270-475-9503	Adam Koenig 3346 Canterbury Ct. Erlanger 41018 Home 859-578-9258	Arnold Simpson 112 W. 11th Street Covington 41011 Work 859-261-6577 Home 859-581-6521
Rocky Adkins PO Box 688 Sandy Hook 41171 Work 606-928-3433 Home 606-738-4242 FAX 606-929-5213	Ted Edmonds 1257 Beattyville Road Jackson 41339 Home 606-666-4823	Jimmie Lee 901 Dogwood Drive Elizabethtown 42701 Work 270-765-6222 Home 270-737-8889	Dottie Sims 459 Violet Ave. Horse Cave 42749 Home 270-786-3948
John A. Arnold, Jr. 1301 N. Lee Sturgis 42459 Work 270-333-4641	C.B. Embry, Jr. PO 1215 Morgantown 42261 Work 270-526-6237 Home 270-791-1879	Stan Lee PO Box 2090 Lexington 40588 Home 859-252-2202 FAX 859-259-2927	Kevin Sinnette PO Box 1358 Ashland 41105 Home 606-324-5711 Home FAX 606-329-1430
Eddie Ballard PO Box 1736 Madisonville 42431 Work 270-821-4767 Home 270-821-6255	Bill Farmer 3361 Squire Oak Dr. Lexington 40515 Work 859-272-1425 Home 859-272-8675 FAX 859-272-1579	Mary Lou Marzian 2007 Tyler Ln. Louisville 40205 Home 502-451-5032	Ancel Smith 1812 Wiley Fork Road Leburn 41831 Work 502-564-8100, ext. 668 Home 606-785-3844
Linda Howlett Belcher 4804 Hickory Hollow Lane Shepherdsville 40165 Work 502-564-8100 Home 502-957-2793	Tim Firkins 212 E. Esplanade Louisville 40214 Home/FAX 502-367-2981	Tom McKee 1053 Cook Road Cynthiana 41031 Home 859-234-5879 FAX 859-234-3332	John Will Stacy PO Box 135 West Liberty 41472 Home/FAX 606-743-1516
Johnny Bell 108 North Green St. Glasgow 42141 Work 270-651-7005 Home 270-590-0110	Joseph M. Fischer 126 Dixie Place Fort Thomas 41075 Work 513-794-6442 Home 859-781-6965	Reginald Meeks PO Box 757 Louisville 40201 Work 502-772-1095	Fitz Steele 176 Woodland Ave. Hazard 41701 Home/FAX 606-439-0556
Kevin D. Bratcher 10215 Landwood Drive Louisville 40291 Home 502-231-3311	Kelly Flood 121 Arcadia Park Lexington 40503 Work 502-564-8100 Home 859-221-3107	Charles Miller 3608 Gateview Circle Louisville 40272 Home 502-937-7788	Kent Stevens PO Box 481 Lawrenceburg 40342 Home 502-839-5462
Scott W. Brinkman 6001 Two Springs Lane Louisville 40207 Home 502-893-8769 FAX 502-894-0210	David Floyd 102 Maywood Ave. Bardstown 40004 Home 502-350-0986	Harry Moberly, Jr. PO Box 721 Richmond 40475 Work 859-622-4997 Home 859-624-2781	Jim Stewart III 545 KY 223 Flat Lick 40935 Home 606-542-5210
Thomas J. Burch 4012 Lambert Ave. Louisville 40218 Home 502-454-4002	Danny Ford PO Box 1245 Mt. Vernon 40456 Work 606-678-0051 Home 606-256-4446	Brad Montell 543 Main Street Shelbyville 40065 Work 502-633-7017 Home 502-633-7533	Wilson Stone 1481 Jefferson School Road Scottsville 42164 Home 270-622-5054
Dwight D. Butler PO Box 9 Harned 40144 Work 270-756-5931 Home 270-756-0100	Jim Glenn PO Box 21562 Owensboro 42304 Home 270-686-8760	Tim Moore 417 Bates Rd. Elizabethtown 42701 Home 270-769-5878	Greg Stumbo Box 1473 108 Kassidy Drive Prestonsburg 41653 Home 606-686-9953
John “Bam” Carney 341 Pembroke Way Campbellsville 42718 Work 502-564-8100 Home 270-465-5400	Jim Gooch, Jr. 714 North Broadway B2 Providence 42450 Work 270-635-1139 Home 270-667-7327 FAX 270-667-5111	Lonnie Napier 302 Danville St., Lancaster 40444 Work 859-792-2535 Home 859-792-4860	Tommy Thompson PO Box 458 Owensboro 42302 Home 270-926-1740 FAX 270-685-3242
Mike Cherry 803 S. Jefferson Princeton 42445 Home 270-365-7801	Derrick W. Graham Room 329F Capitol Annex Frankfort 40601 Home 502-223-1769	Rick G. Nelson Rt. 3, Box 686 Middlesboro 40965 Home/FAX 606-248-8828	John Tilley PO Box 1065 Hopkinsville 42241 Home 270-881-4717 Work 270-886-6800 FAX 270-885-7127
Larry Clark 5913 Whispering Hills Blvd. Louisville 40219 Home 502-968-3546	Jeff Greer PO Box 1007 Brandenburg 40108 Home 270-422-5100 Home FAX 270-422-5100	Fred Nesler PO Box 308 Mayfield 42066 Work 270-623-6184 Home 270-247-8557 FAX 270-623-6431	Tommy Turner 175 Clifty Grove Church Road Somerset 42501 Home 606-274-5175
Hubert Collins 72 Collins Dr. Wittensville 41274 Home 606-297-3152	Keith Hall PO Box 466 Phelps 41553 Work 606-456-3432 Ext. 25 Home 606-456-8666	David Osborne PO Box 8 Prospect 40059 Work 502-645-2186 Home 502-228-3201	Ken Upchurch PO Box 969 Monticello 42633 Work 606-340-8490
Leslie Combs 245 E. Cedar Drive Pikeville 41501 Work 606-433-4317 Home 606-477-6672	Mike Harmon 633 N. 3rd St. Danville 40422 Home 859-238-7792	Sannie Overly 340 Main Street Paris 40361 Home 859-987-9879	David Watkins 5600 Timberlane Dr. Henderson 42420 Home 270-826-0952 FAX 270-826-3338
James R. Comer, Jr. PO Box 338 Tompkinsville 42167 Home 270-487-5585	Richard Henderson 60 Myers Cemetery Rd. Jeffersonville 40337 Home 859-497-9265	Darryl T. Owens 1018 S. 4th St. Louisville 40203 Home 502-584-6341	Jim Wayne 1280 Royal Ave. Louisville 40204 Work 502-451-8262
Tim Couch PO Box 710 Hyden 41749 Home/FAX 606-672-8998	Melvin B. Henley 1305 S. 16th Street Murray 42071 Home 270-753-3855	Ruth Ann Palumbo 10 Deepwood Dr. Lexington 40505 Home 859-299-2597	Robin L. Webb 404 West Main Street Grayson 41143 Home 606-474-5380
Will Coursey PO Box 467 Benton 42025-0467 Home 270-527-4610 Work 270-527-4610	Jimmy Higdon 507 West Main Lebanon 40033 Work 270-692-3881 Home 270-692-6945 FAX 270-692-1111	Don Pasley 5805 Ecton Road Winchester 40391 Home 859-842-3337	Alecia Webb-Edgington 1650 Chestnut Ct. Fort Wright 41011 Home 859-426-7322
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Ron Crimm PO Box 43244 Louisville 40253 Work 502-400-3838 Home 502-245-8905	Jeffrey Hoover PO Box 985 Jamestown 42629 Work 270-343-5588 Home 270-343-2264	Marie Rader PO Box 323 McKee 40447 Work 606-287-3300 Home 606-287-7303 FAX 606-287-3300	Susan Westrom PO Box 22778 Lexington 40522-2778 Work 859-266-7581
Robert R. Damron 231 Fairway West Nicholasville 40356 Home 859-887-1744	Dennis Horlander 1806 Farnsley Rd. Shively 40216 Work 502-447-2498 Home 502-447-4715	Rick Rand PO Box 273 Bedford 40006 Work 502-255-3286 Home 502-255-3392 FAX 502-255-9911	Addia Wuchner PO Box 911 Burlington 41005 Work 859-525-6698
Jim DeCesare PO Box 122 Rockfield 42274 Home 270-792-5779 Home FAX 888-275-1182 Work 270-792-5779	Brent Housman 2307 Jefferson Street Paducah 42001 Home 270-366-6611 Home/FAX 270-442-6394	Jody Richards 817 Culpeper St. Bowling Green 42103 Work 270-781-9946 Home 270-842-6731 FAX 270-781-9963	Brent Yonts 232 Norman Circle Greenville 42345 Work 270-338-0816 Home 270-338-6790 FAX 270-338-1639
Mike Denham 306 Old Hill City Road Maysville 41056 Home 606-759-5167	Joni L. Jenkins 2010 O'Brien Ct. Shively 40216 Home 502-447-4324	Steve Riggs PO Box 24586 Louisville 40224 LRC 502-564-8100 FAX 502-564-6543	
Bob M. DeWeese 6206 Glen Hill Rd. Louisville 40222 Home 502-426-5565	Dennis Keene 1040 Johns Hill Road Wilder 41076 Home 859-441-5894	Tom Riner 1143 E. Broadway Louisville 40204 Home 502-584-3639	
	Thomas Kerr 5415 Old Taylor Mill Rd. Taylor Mill 41015 Work 859-431-2222 Home 859-356-1344 FAX 859-431-3463	Carl Rollins II PO Box 424 Midway 40347 Home 859-846-4407 Work 502-696-7474	
	Martha Jane King 633 Little Cliff Estate Lewisburg 42256 Home 270-657-2707 FAX 270-657-2755	Sal Santoro 596 Walterlot Ct. Florence 41042 Home 859-371-8840 FAX 859-371-4060	
		Steven Rudy 3430 Blueridge Dr. W. Paducah 42086 Home 270-744-8137	
		Charles Siler 3570 Tackett Creek Rd. Williamsburg 40769 Work 606-549-0900	

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LEGISLATIVE RESEARCH COMMISSION

Minutes of the 528th Meeting June 3, 2009

The 528th meeting of the Legislative Research Commission was held on Wednesday, June 3, 2009, 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 David L. Williams, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Carroll Gibson, Dan Kelly, Jerry P. Rhoads, Dan "Malano" Seum, Katie Kratz Stine, Johnny Ray Turner, and Ed Worley; Representatives Rocky Adkins, Larry Clark, Robert R. Damron, Bob M. DeWeese, David Floyd and John Will Stacy.

Guests: Mary Lassiter.

LRC Staff: Bobby Sherman and Christy Glass.

Representative Stumbo called the meeting to order and the secretary called the roll. There being a quorum present, Representative Stumbo called for a motion to approve the minutes of September 24, 2008; accept items A. through L. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through V. under New Business; accept and refer as indicated items 1. through 88. under Communications; and approve Resolutions A. through H. A motion was made by Representative Clark and seconded by Representative Damron. A roll call vote was taken and the motion passed unanimously. The following items were approved, accepted or referred:

STAFF AND COMMITTEE REPORTS

Information requests for September 2, 2008 through June 3, 2009.

Committee Activity Report. Reports of the Administrative Regulation Review Subcommittee meetings of September 9, October 14, November 12, and December 9, 2008 and January 13, February 9, March 9, April 14, and May 12, 2009.

Committee review of administrative regulations by the Interim Joint Committee on Health and Wel-

fare during its meeting of October 15, 2008.

Committee review of administrative regulations by the House Standing Committee on Health and Welfare during its meeting of February 12, 2009.

Committee review of administrative regulations by the Senate Standing Committee on Health and Welfare during its meeting of February 18, 2009.

Committee review of administrative regulations by the House Standing Committee on Health and Welfare during its meeting of March 10, 2009.

Committee review of administrative regulations by the Senate Standing Committee on Health and Welfare during its meeting of March 11, 2009.

Committee review of administrative regulations by the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection during its meeting of December 4, 2008.

Report of the 2008 SJR 80 Subcommittee to Study the Penal Code and Controlled Substances Act of the Interim Joint Committee on Judiciary.

Committee review of administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meeting of December 9, 2008.

Committee review of the FY 2009 Small Cities Community Block Grant Application by the Senate Standing Committee on State and Local Government and the House Standing Committee on Local Government during its joint meeting of March 11, 2009.

NEW BUSINESS

Referral of prefiled bill to the following committee: BR 1 (proposing an amendment to Section 145 of the constitution of Kentucky relating to persons entitled to vote) to State Government.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): 907 KAR 1:585 (Estate recovery); 907 KAR 1:645 (Resource standards for Medicaid); 907 KAR 1:650 (Trust and

transferred resource requirements for Medicaid); 907 KAR 1:655 (Spousal impoverishment and nursing facility requirements for Medicaid); and 907 KAR 3:170 (Telehealth services and reimbursement) to Appropriations and Revenue; 806 KAR 17:480 (Uniform evaluation and reevaluation of providers) to Banking and Insurance; 16 KAR 5:010 (Standards for accreditation of educator preparation units and approval of programs); and 702 KAR 3:090 (Depository bond, penal sum) to Education; 201 KAR 20:225 (Reinstatement of license); 201 KAR 20:270 (Programs of nursing site visits); and 201 KAR 20:290 (Standards for prelicensure registered nurse and practical nurse secondary or distance learning sites) to Health and Welfare; 505 KAR 1:100 & E (Department of Juvenile Justice Policies and Procedures: admissions) to Judiciary; 201 KAR 10:050 (Fees); and 811 KAR 2:120 & E (Kentucky Horse Breeders' Incentive fund) to Licensing and Occupations; 815 KAR 25:060 (Licensing of manufactured and home retailers) to Local Government; 301 KAR 2:111 (Deer and turkey hunting on special areas; 301 KAR 2:172 (Deer hunting seasons, zones, and requirements); 301 KAR 2:178 (Deer hunting on wildlife management areas and state parks); 401 KAR 8:040 (Laboratory certification); 401 KAR 8:050 (Drinking water program fees); 401 KAR 10:026 (Designation of uses of surface waters); 401 KAR 10:029 (General provisions); 401 KAR 10:031 (Surface water standards); 401 KAR 101:001 (Definitions for 401 KAR Chapter 101); 401 KAR 101:010 (Contractor certification); 401 KAR 101:020 (Financial requirements); 401 KAR 101:030 (Tiered response system); and 401 KAR 101:040 (Cleanup and sampling requirements) to Natural Resources and Environment; 200 KAR 5:380 (Protests); and 200 KAR 14:011 & E (Qualified investments) to State Government.

From Senate President David L. Williams and House Speaker Jody Richards: Memorandum authorizing and making appointments to the Land Stewardship and Conversation Task Force.

From Senate President David L.

Williams and House Speaker Gregory D. Stumbo: Memorandum approving the NCSL 2010 Annual Meeting Committee Structure.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum recommending the appointment of Speaker Stumbo to the NCSL Executive Committee.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum confirming that Senator Mike Reynolds will not be serving as a member of the Interim Joint Committee on Licensing and Occupations.

From Bobby Sherman: Memorandum recommending amendment of the interim joint committee structure and regular monthly meeting schedule to include an Interim Joint Committee on Agriculture and an Interim Joint Committee on Natural Resources and Environment.

From Bobby Sherman: Memorandum recommending a name change for the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection to the Interim Joint Committee on Veterans, Military Affairs, and Public Protection.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Will Coursey to the Interim Joint Committee on Transportation.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum recommending alignment of the budget review subcommittees to include a Budget Review Subcommittee on Primary and Secondary Education and a Budget Review Subcommittee on Postsecondary Education.

From Senator Robert Stivers and Representative John Tilley, Co-Chairs, Interim Joint Committee on Judiciary: Memorandum requesting a change in the regular monthly meeting day of the committee and requesting authorization of and approval of membership for the Subcommittee on the Penal Code and Controlled Substances Act.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointment membership for the Subcommittee on Kentucky Waterways of the Interim Joint Committee on Transportation.

From Senator Charlie Borders and Representative Rick Rand, Co-Chairs, Interim Joint Committee on

Appropriations and Revenue: Memorandum requesting approval to meet on June 4, rather than the regular meeting date of June 25. There are no apparent conflicts.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Elizabeth Lloyd Jones to the Land Stewardship and Conservation Task Force (filling a vacancy).

From Senator Julie Denton and Representative Tom Burch, Co-Chairs, Interim Joint Committee on Health and Welfare: Memorandum requesting authorization of and appointments to the Subcommittee on Families and Children and the Subcommittee on Health Issues and Aging.

From Senator Ken Winters and Representative Carl Rollins, II, Co-Chairs, Interim Joint Committee on Education: Memorandum requesting authorization of and appointments to the Subcommittee on Postsecondary Education and the Subcommittee on Elementary and Secondary Education.

From Senator Julie Denton and Representative Tom Burch, Co-Chairs, Interim Joint Committee on Health and Welfare: Memorandum requesting approval to meet on August 12, rather than the regular meeting date of August 19. There are no apparent conflicts.

From Senator Elizabeth Tori and Representative Tanya Pullin, Co-Chairs, Interim Joint Committee on Veterans, Military Affairs, and Public Protection: Memorandum requesting approval to change the committee's regular monthly meeting day from the first Thursday of the month to the afternoon of the second Thursday of the month. There are no apparent conflicts.

From Senator Charlie Borders and Representative Rick Rand, Co-Chairs, Interim Joint Committee on Appropriations and Revenue: Memorandum requesting

authorization of and appointments to the Subcommittee on 2010-2012 Budget Preparation and Submission of the Legislative Research Commission; and requesting authorization for meetings during June and July upon joint call of the subcommittee co-chairs.

From Senator Alice Forgy Kerr and Representative Rick Nelson, Co-Chairs, Interim Joint Committee on Labor Industry: Memorandum requesting approval to meet on September 15, rather than the regular

meeting date of September 17. There is potential conflict with one member.

From Senator Alice Forgy Kerr and Representative Eddie Ballard, Co-Chairs, Interim Joint Committee on Economic Development and Tourism: Memorandum requesting approval to hold a two-day meeting on July 30 and 31, rather than the regular meeting date of July 16. There are no apparent conflicts.

From Representative Reginald Meeks: Memorandum requesting LRC recognition of the Kentucky Black Caucus of State Legislators, consisting of all African American members of the General Assembly.

COMMUNICATIONS

From Senator John Schickel and Representative Reginald Meeks, Co-Chairs, Program Review and Investigations Committee: Memorandum advising of the opportunity to appoint of ex officio members.

From the Office of the Attorney General: Constitutional Challenge Reports for August, September, October, November, and December 2008 and January, February, and March 2009.

From the Auditor of Public Accounts: Report of the Audit of the Boone County Fiscal Court for FY 2006.

From the University of Kentucky: University of Kentucky Capital Construction Report for FY 2008.

From the Auditor of Public Accounts: Briefing Report: An Overview of Charitable Gaming in Kentucky.

From the Cabinet for Economic Development: The Agricultural Warehousing Sites Cleanup Fund Annual Report for FY 2008.

From the Teachers' Retirement System of Kentucky: In-state Investment Report for FY 2008 and Interim Financial Statements for the Quarter ended June 30, 2008.

From the Teachers' Retirement System of Kentucky: FY 2008 Annual Report.

From the Personnel Cabinet: 2008 Annual Report from the Kentucky Group Health Insurance Board.

From the Cabinet for Economic Development, Department of Financial Incentives: Loan data sheets for each loan approved as of the quarters ending September 30 and December 31, 2008 and March 31, 2009.

From the Kentucky Council on Developmental Disabilities: 2008 Annual Update.

From the Kentucky Housing Cor-

poration: Methamphetamine Housing Clean-Up Assistance Program Activity Update – October 1, 2008.

From the Cabinet for Health and Family Services: The Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities Seventh Annual Status Report.

From the Department of Education: 2008 Annual Audit of School Districts.

From the Cabinet for Health and Family Services: Healthcare in Kentucky Report, FY 2008.

From the Kentucky Board of Medical Licensure: Annual Report for FY 2008.

From the University of Kentucky, Kentucky Tobacco Research & Development Center: Quarterly Report for the period of July 1-September 30, 2008.

From the Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority: FY 2008 Actuarial Valuation of the Prepaid Tuition Trust Fund for Kentucky's Affordable Prepaid Tuition.

From the Finance and Administration Cabinet: Monthly Investment Income Reports for the months of September, October, November, and December 2008, and January, February, March, and April 2009.

From the Cabinet for Economic Development: Linked Deposit Loan Investment Program Annual Report for FY 2008.

From the Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority: Financial Statements for FY 2008.

From the Office of the Governor, Kentucky Office of Homeland Security: 2008 Annual Report.

From the Cabinet for Economic Development: FY 2008 Bluegrass State Skills Corporation Annual Report.

From the Kentucky Employers' Mutual Insurance: 2009 Administrative Budget, Financial Status, and Actuarial Condition.

From Eastern Kentucky University: Financial Statements for FY 2007 and 2008, and Independent Auditors' Report

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs for FY 2008, and year-to-date activity through April 30, 2009.

From Kentucky Employers' Mutual Insurance: Quarterly Statement

and Financial Status for the period ending September 30, 2008.

From the Cabinet for Health and Family Services: Breast Cancer Trust Fund Annual Report for FY 2007

From the Transportation Cabinet: Evaluation of Kentucky's General Aviation Aircraft Performance Audit.

From the University of Kentucky: 2008 Financial Statements.

From the Public Protection Cabinet, Department of Alcoholic Beverage Control: 2008 Annual Report.

From the Kentucky Retirement Systems: Financial Statements for FY 2007 and 2008.

From the Cabinet for Health and Family Services, Office of the Secretary: 2008 Charitable Health Provider Report.

From the Kentucky Legislative Ethics Commission: FY 2008 Annual Report.

From the Energy and Environment Cabinet: Intelligent Choices for Kentucky's Energy Future.

From the Office of the State Budget Director: Report detailing revised revenue estimates for the General Fund, Road Fund, and Phase I, Master Settlement Agreement for FY 09.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarters Ending September 30, 2008, and March 31, 2009.

From the Cabinet for Health and Family Services, Department for Public Health: Statewide Hepatitis C Education, Awareness, and Information Program, December 2008 Status Report.

From the Cabinet for Health and Family Services, Office of the Secretary: Report Regarding the Replacement of Glasgow State Nursing Facility.

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

From the Public Protection Cabinet, Office of the Secretary: Letter from Department of Charitable Gaming addressing the Auditor's recommendations contained in Briefing Report: An Overview of Charitable Gaming in Kentucky.

From the Public Protection Cabinet, Department of Insurance: Report of Kentucky Access, January 2009.

From the Energy and Environment Cabinet, Department for Environmental Protection, Division of Waste Management: E-Scrap in Ken-

tucky, A Report with Recommendations for an Electronic Waste and Recycling System.

From the Transportation Cabinet: Letter from Secretary Joseph W. Prather pertaining to selection of new school building sites.

From the Tourism, Arts, and Heritage Cabinet: A Report to the Kentucky Recreational Trails Authority. All Terrain Vehicle/Off Highway Vehicle Trespass: Reducing the Problem and Property Damage.

From the Public Protection Cabinet, Department of Insurance: 2008 Annual Report of the Kentucky Health Care Improvement Authority.

From Northern Kentucky University: FY 2008 Financial Report.

From the Kentucky Labor Cabinet, Department of Workers' Claims: Commissioner's Report on AMA Guidelines.

From the Cabinet for Health and Family Services, Office of the Secretary: Elder Abuse in Kentucky, 2008 Annual Report.

From the Kentucky Judicial Form Retirement System: Actuarial Valuation Report as of July 1, 2008, for the Kentucky Judicial Retirement Plan and Actuarial Valuation Report as of July 1, 2008, for the Kentucky Legislators Retirement Plan.

From the Kentucky Judicial Form Retirement System: Audit of the Kentucky Judicial Form Retirement System as of June 30, 2008.

From the Department of Education: Report on types of physical activity being provided students in grades K-5.

From the Cabinet for Health and Family Services, Department for Aging and Independent Living: Traumatic Brain Injury Trust Fund Program Annual Report for FY 2008.

From the Energy and Environment Cabinet, Department for Environmental Protection, Division of Water: Kentucky Drought Mitigation and Response Plan.

From the Cabinet for Health and Family Services: 2008 Annual Report on licensed blood establishments in Kentucky.

From the Auditor of Public Accounts: Performance Audit of the Kentucky Department of Education's Oversight of State Assessment Contracts.

From Murray State University: Accountants' Report and Financial Statements for the period FY 2008.

From the Personnel Cabinet: Statewide Turnover Report for the 4th Quarter, 2008.

From the Public Service Commission: Issuance of Net Metering/Interconnection Guidelines.

From the Collaborative Center for Literacy Development: 2008 Annual Report.

From the Department of Agriculture, Division of Food Distribution: Kentucky Senior Farmers' Market Nutrition Program 2008 Annual Report.

From the Auditor of Public Accounts: Hardin County 2007 Sheriff Tax Settlement Audit.

From the Auditor of Public Accounts: Breckinridge County Clerk 2007 Audit.

From the Auditor of Public Accounts: Trigg County Clerk 2007 Audit.

From the Auditor of Public Accounts: Knott County Sheriff 2007 Fee Audit.

From the Auditor of Public Accounts: Trigg County Sheriff 2007 Fee Audit.

From the Auditor of Public Accounts: Breckinridge County Sheriff 2007 Fee Audit.

From the Auditor of Public Accounts: Breckinridge County 2007 Sheriff Tax Settlement Audit.

From the Auditor of Public Accounts: Knott County Sheriff 2007 Tax Settlement and Unmined Coal Taxes Audit.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending December 31, 2008 (FY 2009 2nd Quarter).

From the Cabinet for Health and Family Services, Department for Community Based Services: Report of statewide random case reviews and exit interviews for social workers for the period July 1 through December 31, 2008.

From the University of Kentucky, Kentucky Tobacco Research & Development Center: Annual Report for FY 2008.

From the Office of the State Budget Director, Governor's Office for Economic Analysis: Quarterly Economic and Revenue Report, Second Quarter, FY 2009.

From the Council on Postsecondary Education: Letter regarding information on postsecondary education students participating in the tuition and mandatory fee waiver program for foster or adopted children.

From the Kentucky State Nature Preserves Commission: January 2009 Biennial Report.

From Kentucky Employers' Mutual Insurance: Annual Statement and Letter of Actuarial Opinion for 2008.

From the Cabinet for Health and Family Services, Spinal Cord and Head Injury Research Board: 2008 Annual Report.

From the Cabinet for Economic Development: 2008 Tax Increment Financing Annual Report.

From the Kentucky Pollution Prevention Center: 2007-2008 Annual Report.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the second and third quarters of 2008.

From the Auditor of Public Accounts: Examination of Certain Financial Transactions, Policies, and Procedures of the Lexington Blue Grass Airport.

From the Personnel Cabinet: Statewide Turnover Report for the 1st Quarter Report 2009.

From the Council on Postsecondary Education: 2007-2008 Accountability Report.

From the Personnel Cabinet: Statewide Turnover Report for calendar year 2008.

From the Auditor of Public Accounts: Performance Audit of the Nursing Services Contracts for Kentucky's Mental Health/Mental Retardation Hospitals and Facilities.

From the Kentucky Council on Postsecondary Education: Comprehensive Process for the Revision of K-12 to College Entry-Level Course Content Standards.

Department of Revenue, Office of Property Valuation: 2009 Real Estate Exemption List.

From the Kentucky Employers' Mutual Insurance: Quarterly Statement and Financial Status for the period ending March 31, 2009.

RESOLUTIONS

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Dr. John C. Gunn;

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Woodrow Leonard Stamper;

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Robert Fredrick Holscher;

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Glenn L. Harney;

A RESOLUTION adjourning the

Legislative Research Commission in honor and loving memory of Albert "Bert" Wall;

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Karen Ann Riedinger;

A RESOLUTION adjourning the Legislative Research Commission in honor of Mary Dott Sidwell Gritton; and,

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of R. K. Keith.

OTHER BUSINESS

Update on current and prospective American Recovery and Reinvestment Act (ARRA) fund receipts and expenditures.

Ms. Mary Lassiter, State Budget Director, gave an overview of the background and history of the ARRA. Ms. Lassiter stressed that eighty percent (80%) of the 3 Billion Dollars was in the form of programs and not projects. She broke down the categories of spending as shown on the handout she distributed.

Ms. Lassiter conveyed that, under the state fiscal stabilization category, there is \$651,000,000 available over two years, of which eighty-two percent (82%) will be used for Education and 12% for other expenditures. Under the ARRA, Medical will receive seventy-nine percent (79%) of its funding from federal aid for twenty-seven (27) months, instead of the usual seventy percent (70%) and thirty percent (30%) from the state.

There will be \$400,000,000 put into federal programs already in existence, such as Title I, with poorer districts receiving more money.

Ms. Lassiter discussed monies already spent to date, and indicated that there is significant accounting and reporting. October 10, 2009, is the statutory date to report spending to the U.S. Government. This information will be available on the state website. She said that this money is special, one-time dollars and should be treated as such.

Ms. Lassiter then discussed the Safety Net Programs and advised that food stamps would receive a 13.6% increase. There would also be an increase in Unemployment Insurance and the Workforce Investment Act.

Representative Adkins asked Ms. Lassiter how the Unemployment Insurance fund was doing. Ms. Lassiter replied that it is in the red by \$220,000,000 and that they have

been borrowing from the federal government. She stated that Transportation and Education are areas that are available for additional federal funds.

President Williams directed Ms. Lassiter to page six of her handout and asked if the match for Medicaid was retroactive to October 8, and will we have received all of that money. Ms. Lassiter replied yes, and that when the books are closed on this FY, there will be additional expenditures in the Medicaid fund. President Williams asked what her best guess was for a dollar figure, and she stated that it hasn't been nailed down yet, but an estimate would be around \$40-60 million dollars available to the General Fund. President Williams indicated that that amount is more than we had anticipated, and asked Ms. Lassiter if we will be able to balance the budget, to which she replied, "in this fiscal year, yes."

Senator Seum then asked how close the estimates were on her handout. She said they really won't know until the federal government gives the awards, but that they should be very close. Senator Seum asked if the entities receiving this money had to apply for it or if they automatically received it, and Ms. Lassiter advised that it depends. She said that most require application, but some don't.

Speaker Stumbo asked if the additional money available to the Road Fund was it project specific. Ms. Lassiter said that yes, it is project specific, and that the projects would have to apply to the federal government for this funding. There being no further business, the meeting was adjourned at 2:40 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 1st Meeting of the 2009 Interim June 10, 2009

The 1st meeting of the Interim Joint Committee on Agriculture was held on Wednesday, June 10, 2009, at 1:00 PM, at Butler, Kentucky. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators Bob Leeper, Joey Pendleton, Kathy W. Stein, and Damon Thayer; Representatives Royce W. Adams, Dwight D. Butler, James R. Comer Jr., Mike Denham, C. B. Embry Jr., Jimmy Higdon, Martha Jane King, Brad Montell, Fred Nesler,

Sannie Overly, Don Pasley, Tom Riner, Steven Rudy, Dottie Sims, Kent Stevens, Wilson Stone, Tommy Turner, Ken Upchurch, and Susan Westrom.

Guests: Dave Maples, Kentucky Cattlemen's Association; County Judge Executive Henry Bertram and magistrates Gary Beers and Stacy Wells; Tim Hughes, GOAP; and Representative John Will Stacy.

LRC Staff: Biff Baker, Lowell Atchley, D. Todd Littlefield, Dane Bowles, Graduate Fellow, and Susan Spoonamore, Committee Assistant.

Representative McKee introduced Marty Griffin, COO, Griffin Industries, Inc. Mr. Griffin explained that Griffin Industries was founded in 1943 and is the largest independent, privately-owned animal and bakery by-product recycling company in North America. They employ 1,400 people with 407 employees in Kentucky. He said that from agriculture-based recycling operations to bakery services, Griffin's products include fats, oils, proteins, bakery by-products, alternative fuels, methyl esters, leather goods, and organic fertilizers.

Mr. Griffin stated that their company implements waste management and recycling systems for many industries such as

Meat packing— poultry, pork, and beef

Recycling spent cooking oil

Biodiesel

Leather— beef and pork hides

Bakery products

Nature Safe Organic Fertilizers

He explained that the rendering operation was the core of their business, processing approximately 65 million pounds a week.

The foundation to Griffin's success is producing consistent, high quality products with commitment to biosecurity. Griffin has implemented prevention-based programs as defined by the Hazard Analysis Critical Control Points (HACCP) food safety model, with a world class centralized laboratory.

In an effort to improve customer value, several unique nutrition products have been developed. Griffin's Bi-Pas proteins has dramatically improved dairy milk productions, Flash Dried Poultry Meal has increased protein digestibility, Cookie Meal is a high energy corn replacement, and the successful Fat On The Farm program has enhanced farmer flexibility in formulating rations "on the farm".

Using state-of-the-art technology, Griffin produces an approved

alternative fuel known as biodiesel. Bio-G-3000 is derived from recycled restaurant oils and soybean oil. Griffin also produces VersaGen Specialty Methyl Esters. From Griffin's high quality animal proteins, Nature Safe Natural & Organic Fertilizers are formulated to represent a complete line of turf care products.

A vital part of Griffin Industries is environmental stewardship. Griffin's production locations are certified through Audubon's Cooperative Sanctuary System.

Touching briefly on the new BSE Feed Rule, which would require the brain and spinal cords of cattle to be removed before processing, Mr. Griffin stated that the rendering industry has until October 2009 to be in full compliance, and Griffin Industry will be ready. He noted that Griffin Industry opposes the new mandate as it will eliminate many rendering services due to the excessive collection costs. This in turn will cause improper dead animal disposal, creating health and environmental concerns.

Upon questioning, Mr. Griffin responded that he did not envision the federal rule being withdrawn, though he and others in the industry are continuing to lobby against the rule. He noted that the brains and spinal cords can currently be taken to a landfill.

Mr. Griffin also stated that they would continue to render until at least October. They can currently use the rendered cattle to produce a high-quality turf fertilizer. If they can continue to market that fertilizer, Griffin will be able to afford to continue rendering. If not, they will have to re-evaluate their position.

Upon final questioning, Mr. Griffin noted that other states are experiencing the same compliance problems as Kentucky, and that the Kentucky Department of Agriculture and other agricultural groups were working diligently to address the situation.

There being no further business, the meeting was adjourned and the members toured the laboratory, biodiesel, rendering, and animal feed facilities of Griffin Industries.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection Minutes of the 1st Meeting

**of the 2009 Interim
June 4, 2009**

The 1st meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, June 4, 2009, at 10:00 AM, in Room 169 of the Capitol Annex. Representative John A. Arnold Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative John A. Arnold Jr., Co-Chair; Senators, David E. Boswell; Representatives Tim Firkins, Jim Gooch Jr., Dennis Horlander, Dennis Keene, Ruth Ann Palumbo, Marie Rader, Fitz Steele, Jim Stewart III, and Robin L. Webb.

LRC Staff: Melissa Hagan, Perry Papka and Christina Williams.

Chairman Arnold welcomed everyone to the meeting and introduced Dr. Len Peters, Secretary of the Energy and Environment Cabinet to approach the committee. Secretary Peters introduced John Davies who is from the Department for Energy Development and Independence and has been overseeing the program planning for the stimulus dollars. Secretary Peters also introduced Brandon Nutall from Kentucky Geological Survey to help with any questions that may arise. Secretary Peters then discussed the Hancock County Carbon Sequestrian Project and also the Federal Stimulus Funds for Energy and Environment.

Senator Boswell thanked Secretary Peters for his presentation and asked if the Energy Efficiency and Conservation Block Grant Program, where monies have been designated to go back to cities and counties, were based on population and if it was, if the population used was from the 2000 census.

Mr. Davies responded that the money coming from the U.S. Department of Energy to the top 20 entities in the state is based on population from the 2007 census. He further stated that the money that will flow through the cabinet in collaboration with the Department of Local Government will be on a merit basis on project evaluations. Therefore the \$6 million that will be distributed to the smaller counties and cities will be based on energy saved, renewable energy generated, and jobs created.

Representative Gooch stated

that there is a real opportunity to use some of the onetime stimulus money to invest in projects that are going to save money and in some cases make money in the future for the state. He stated that he is excited to hear some of the ideas being brought forth to the committee by the Cabinet. Representative Gooch indicated that he understood the stimulus money has to be spent in certain areas and certain things do not qualify, however the fact that the state has the unanticipated money means that hopefully the state can have savings and free up money in other areas. He hopes that it is being looked into to see if there are savings in other areas to be had. Representative Gooch also stated he wonders if some of the funds saved could be shifted to helping people obtain mining permits. He stated that each of those permits allows for economic activity for the state increasing employment and taxes. He indicated that he hopes the Commonwealth does not lose sight in trying to find a chance to make sure that they are doing a better job at issuing the permits and that a goal needs to be set in getting money to do that job more efficiently.

Secretary Peters responded that as the funds are being evaluated, there are two things considered. One thing considered is how can the monies augment funds for existing programs. He stated that he does not know what is going to come of the clean coal competitive grant program at this time. He also stated the next thing considered is the programs that the General Assembly has tried to get initiated but there were not adequate funds to do so, for example, broadening the KEEPS program for energy efficiency in schools. Secretary Peters stated that thus far, there have been no funds that have been received by their office through any of the formulas that would enable them to act upon the suggestion made by Representative Gooch on mine permits. He stated the issue of energy efficiency and energy conservation is what is being pushed by the Department of Energy. He indicated the Cabinet is constantly monitoring all programs that may assist them in doing new things but supporting things that are ongoing as well, however funds are limited.

Representative Gooch stated he is glad to see these things occurring, but that it is almost inconceivable to see the federal government give the State of Kentucky \$4.1 million for

underground storage tank clean up when the state has taken hundreds and millions of dollars out of the fund we have to shift it to other things.

Representative Steele asked if it has been taken into consideration that coal is going to be down a significant amount this year and that there is a big budget shortfall and coal severance taxes are going to plummet as well.

Secretary Peters stated that there have been no programs funded by stimulus money that would fit in that particular category at this time.

Representative Steele stated that the state is up this fiscal year on coal monies, however next fiscal year we will be down and he does not want that to catch the Commonwealth by surprise.

Senator Boswell complimented the Kentucky Geological Survey, the Energy Cabinet and all of its partners on a job well done and further stated that he was impressed by what he observed in Hancock County.

Senator Harris stated there is still some debate if carbon sequestration is the right thing to do, however he does not know if the items related to coal are settled yet. He stated that everyone on this committee, the Agricultural committee, and the Natural Resources committee have been looking into this subject for years and all are very educated about it. Senator Harris stated there have been questions in the previous year on the future of coal, which affects the state. Because of these questions, he is worried about the electric rates and how they would fluctuate.

Senator Harris asked if there are any strings attached to the money and whether there are any warning signs that the state needs to be cognizant of that could affect the state negatively.

Secretary Peters stated that much of what is going on in the state energy program and the Energy and Efficiency Block Grant Program are very much efficiency oriented, which is good for the state because if the state can meet the energy efficiency goals that are laid out in the Governor's plan it can in fact really meet a significant part of the energy demand by 2025. He further stated the best thing to do is to push efficiency as far as possible because it is the cheapest and best way to keep energy costs low. The programs the Cabinet sees developing are perfectly aligned with where the General Assembly wants the State to go and where the ad-

ministration wants the State to go in the efficiency area. Furthermore a lot of discussion on biomass and biofuels are now occurring. There is talk of co-firing biofuels and agricultural biomass with coal to begin to obtain carbon offsets, which is positive. Nevertheless, the industry that will be hit the hardest is the electric utilities industry. There are estimates on the increases in rates that are anywhere from 20% to 80%. Secretary Peters added that many studies indicate that Kentucky will probably be one of the five hardest hit states in terms of electric utilities, so the Cabinet is working as hard as possible to help prevent the increases as much as possible.

Secretary Peters stated there are a couple of people missing from the table at the Federal level to discuss energy issues, such as the Secretary of Commerce, the Secretary of Agriculture and the Secretary of Transportation. He stated he believes there is a slow movement at the Federal level towards the realization that five green jobs cannot be created and in the process lose ten traditional jobs. He stated the uncertainty surrounding the Waxman-Markey legislation would ultimately take.

Senator Boswell stated that he would like to know more about the tests that are being done in Hancock County.

Jim Cobb, State Geologist and Director of the Kentucky Geological Survey, addressed the committee on more details having to do with the Hancock County project.

Representative Steele asked Secretary Peters to estimate how much the electric utility rates in Kentucky will increase.

Secretary Peters stated that not only will residents be hit, but that the manufacturing businesses in Kentucky will be hit hard as well with an increase. He further stated that if there is an immediate change overnight in carbon management, the rates could approximately double. He stated that if there were a gradual change, between now and the year of 2020, and there is time to introduce clean coal technologies, there will be an increase of approximately 20-25% in the rates.

Representative Rader asked if any of the stimulus dollars issued could be used for conservation of energy for the schools and if so if there are any grants that may be looked into in order to accomplish that.

Secretary Peters stated the KEEPS

program is directed along those lines. He stated the KEEPS program would put an expert in the school districts to show them how to do that.

Mr. Davies stated there was a pilot program in the last few years to develop energy efficiency program for schools. He stated there are savings of 10 to 15% because of this program.

Chairman Arnold asked if Secretary Peters knew what percentage of the stimulus money coming into the Energy Department is used for administration of the programs that have been mentioned.

Secretary Peters stated that about 3.4% of the money will be used administration.

Chairman Arnold stated the money used for more research to bring coal to the front as one of the energy sources is not money wasted, but well invested.

Chairman Arnold adjourned the meeting at 11:20 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

**Budget Review Subcommittee on
General Government,
Finance, and Public Protection
Minutes of the 1st Meeting
of the 2009 Interim
June 4, 2009**

The first meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, June 4, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Royce W. Adams, Co-Chair; Senators Julian M. Carroll, Joey Pendleton, and Elizabeth Tori; Representatives Dwight D. Butler, Leslie Combs, Mike Denham, Charlie Hoffman, Tom McKee, Brad Montell, Tanya Pullin, Steve Riggs, Charles Siler, and Wilson Stone.

Guests: Tom Bloemer, Administrative Branch Manager, and Richie Farmer, Commissioner, Department of Agriculture; Ken Lucas, Commissioner, Shaun McKiernan, and David Worley, Department of Veterans' Affairs.

LRC Staff: Bart Hardin, Tom Willis, Stewart Willis, Katherine Haloran, and Katie Carney.

Chairman Westwood welcomed guests and asked members if they would be agreeable to change the agenda by allowing the Department of Agriculture to give their presentation first. With the subcommittee in agreement, Chairman Westwood introduced Richie Farmer, Commissioner of the Department of Agriculture, for an overview of three initiatives the department oversees.

Commissioner Farmer provided an overview of a recent visit made to the Commonwealth by the United States Secretary of Agriculture relating to dead animal disposal, and the current status of the amusement and county fair amusement ride inspection program.

Co-chairman Adams inquired about U.S. Secretary Vilsack's response to the state's policy on dead animal disposal. Commissioner Farmer responded that the Secretary was aware of the impact the Food and Drug Administration's regulations were on Kentucky, adding that other states are having similar problems. Co-chairman Adams commented that Secretary Vilsack will have a lot of influence if he is able to help Kentucky out with their dead animal disposal situation. Commissioner Farmer agreed.

Senator Carroll asked if the Department of Agriculture's ride inspection program was self-sufficient. Commissioner Farmer responded that it was not. Senator Carroll asked why the program was not self-sufficient and if the Department had the authority to charge additional fees. Commissioner Farmer responded that mobile amusement parks are charged a fee per ride inspected on a sliding scale, adding that the fee structure was in place by statute.

Co-chairman Adams informed members that the General Assembly recently amended the statutes to reflect the new fee rates imposed on ride inspections. There was a general consensus that the sliding fee scale would not be a hardship on operators.

Senator Carroll suggested charging operators for each individual inspection done on the ride during the year.

Representative McKee informed the subcommittee that when the fee increase was originally discussed there had been some opposition and he believes that it did not pass the General Assembly until it was introduced a second time. The initial concern was that ride operators

would pass along the cost of the fee increases to the county fair which would result in an increase in the price of admission.

Representative McKee asked if ride inspectors had other responsibilities within the department. Commissioner Farmer introduced Tom Bloemer, the Administrative Branch Manager for the department, who responded that ride inspectors are generally cross-trained to have other inspecting responsibilities during the off-season. Commissioner Farmer and Mr. Bloemer both stressed that overall the inspection office within the department was understaffed and some non-ride inspectors are not adequately trained to help inspect the larger rides.

Representative Combs asked if there are any additional inspection fee increases, would the cost eventually be passed down to the consumer by way of an increased admission fee. Commissioner Farmer responded that he did not know because the sliding fee scale that is currently used is fairly new and he has not been informed if the increases have affected the consumer to date.

Representative Combs asked if rides are inspected once at the beginning of the fair season and how long the inspection would be good. Mr. Bloemer responded that mobile amusement rides are re-inspected every time they are moved. He added that the department also has a concern with being able to inspect every inflatable ride that is available at the smaller picnics and locations.

Representative Combs asked for a comparison between the charge of a ride inspection and the cost of performing the inspection. Commissioner Farmer responded that many different factors are involved in determining the actual expense of performing ride inspections; however, he believes that there is a fairly large gap between the two. Mr. Bloemer informed members that the total revenue received from ride inspections in 2008 was \$145,855 which doesn't cover the total salaries of all of the ride inspectors.

Senator Tori asked if the ride inspectors are state employees or contracted employees. Commissioner Farmer responded that all ride inspectors are state government employees. Senator Tori asked where additional funding to cover the expenses associated with inspecting rides comes from. Commissioner Farmer responded that the remaining cost

of ride inspectors, not covered by the inspection fees, comes from the department's General Fund dollars. Senator Tori surmised that increasing the number of ride inspectors would possibly decrease the number of accidents. Chairman Westwood requested the department provide a report on the expenses associated with amusement ride inspections and the revenue generated by the inspection fees.

Representative Riggs asked if it would be possible for companies and operators to self-inspect rides by filling out a form and submitting it to the department. He also asked about companies having adequate accident insurance. Mr. Bloemer responded that self-inspections by companies and operators would not be beneficial, adding that all companies are required by law to have adequate accident insurance. Mr. Bloemer stated that inspectors are spread throughout the state and are supplied with a regional home office and a state vehicle. Commissioner Farmer added that even though the number of inspectors has decreased over the years, the department does try to place inspectors in a location that covers as much of an area as possible.

Representative Riggs asked why permanent amusement parks are only inspected once a year. Commissioner Farmer responded that the minimum statutory requirement for permanent locations is once a year. He added that permanent locations are required to maintain self-inspection and maintenance logs which are periodically checked by the department's ride inspectors.

Representative Riggs noted that accidents are unforeseen events and regardless of how many times inspections are performed that there will always be an unexpected event happen. He added that the General Assembly needs to keep in mind that sometimes over-regulating inspections might not be a good thing. Representative Riggs also expressed his concern about the number of times permanent rides are inspected compared to the number of times temporary rides are inspected.

Co-chairman Adams informed the subcommittee that this topic is continually being brought up in the Agriculture Committee. Co-chairman Adams informed the department of his concern with the number of full-time ride inspectors and also the department's ability to send ride inspectors to national training. In the

future he would like to see at least one or two inspectors attend the training so that they would be able to pass along the training to the remaining ride inspectors. Co-chairman Adams also stated that he agrees with trying to make the ride inspection program more self-sufficient.

Co-chairman Adams requested more information relating to the number of times permanent locations are inspected. Mr. Bloemer responded that permanent locations have their own maintenance staff that keep extremely detailed logs of each ride, adding that permanent locations also are required to have more oversight and are also more frequently inspected by insurance companies. He stated that the department reviews the maintenance logs and performs a general overview of the location. He also mentioned that the department does an extremely thorough inspection lasting one to two weeks by all of the full-time ride inspectors about a month prior to opening.

Representative Hoffman asked if the department would be able to come up with some guidelines and require training for temporary amusement ride operators. He stated that by doing this, consumer confidence in temporary rides might increase. He suggested the department could work with the amusement ride industry to develop guidelines and training opportunities. Commissioner Farmer responded that it would be difficult for the department to mandate training of temporary amusement ride operators without statutory language, adding that there are some statutory guidelines for operators regarding specific rides and the ages of the employees.

Representative Hoffman asked how many county fairs might be happening at one time. The department responded that there will be 33 fairs opening during the month of June.

Senator Pendleton commented that the department needs to have more ride inspectors. He is concerned with towns along the state border and amusement ride companies crossing the state line, setting up on a Friday, and tearing down Sunday night and never being inspected. Senator Pendleton added that Kentucky has an obligation to its citizens and in order to fulfill the obligation, there is a need for more inspectors and adequate funding. He also stated that inspections need to be performed more often, always keeping safety in mind. Commission-

er Farmer stated that the department is trying to do all they can with what resources they have available.

Representative Combs asked if ride inspections performed by insurance company inspectors are the same type of inspections performed by the department's ride inspectors and if it would be possible for the department to use the results of the insurance inspection to cover statutory requirements of the department. The department responded that they are not able to utilize the results of inspections performed by insurance companies.

Chairman Westwood requested an explanation of the decrease in the number of full-time ride inspectors from 24 in 1984 to six in 2009. Commissioner Farmer stated that during his tenure the number has probably decreased by about 10 full-time inspectors. Mr. Bloemer explained that most of the decreases happened as a result of retirement or other job opportunities. Chairman Westwood asked how easily the department was able to find ride inspectors. Commissioner Farmer responded that it is extremely hard to find ride inspectors, adding that the department currently has 55 vacancies and only six of those are non-merit positions. Commissioner Farmer stated that due to budget constraints, they have cut non-statutorily required areas to make sure that all statutory requirements are fulfilled.

Chairman Westwood thanked Commissioner Farmer and the rest of the Department of Agriculture staff for their comments. He requested that the department come before the subcommittee again in the future to address additional areas of the department. Commissioner Farmer agreed.

Chairman Westwood welcomed Ken Lucas, Commissioner of the Department for Veterans' Affairs and asked him to introduce his team. Commissioner Lucas introduced David Worley who specializes in the department's veterans' homes, and Shaun McKiernan, who is the department's budget director. He then gave an overview of the department's current status. Upon completing the presentation, Commissioner Lucas opened the floor for additional discussion.

Representative Montell inquired about the 18 field representatives and their responsibilities within the department. Commissioner Lucas responded that the field representa-

tives are distributed throughout the state and have had their travel cut as a result of budget constraints. He stated that the field representatives are necessary to the department because they assist in working with veterans of their areas to complete necessary paperwork for individual assistance. He added that field representatives have offices in courthouses, American Legion posts, nursing homes, and any additionally known areas where there might be a concentration of veterans.

Representative Pullin thanked Commissioner Lucas' and the department's hard work in providing help for Kentucky's veterans. She asked how the stimulus money would help rural and homeless veterans and if the amount would be adequate. Mr. Worley responded that a center from Huntington, West Virginia is providing rural health care services to Eastern Kentucky and it is primarily federally funded. He added that there are an adequate number of beds for homeless veterans in the major cities and surrounding areas, and the department is continually applying for grants to maintain funding for them. He stated that they would be receiving \$150 million for an existing program sponsored by the department. He reminded the subcommittee that all of the stimulus money they would be receiving has to be spent by September 30, 2010.

Representative Denham expressed his thanks and appreciation for everything the department does for Kentucky's veterans.

Co-chairman Adams expressed his thanks to the department and asked for an update on the expansion of the Western Kentucky veterans' nursing home. Mr. Worley responded that Phase A of the planning stage is complete. The department will soon be submitting Phases A, B, and C to the federal government for approval.

Representative Siler inquired about the new interest in veterans that had previously been denied assistance that may have received radiation exposure in the 1950s and 1960s. Mr. Worley responded that additional data and information had been released relating to radiation exposure, adding that veterans must provide verifiable proof that there was possible exposure.

Representative McKee informed the subcommittee of his opportunity to meet with the 201st Battalion during their homecoming celebration recently. He expressed concern about

issues involving a soldiers' ability to find employment and resettling into a daily lifestyle after returning home from the war. He added that we owe a great amount of gratitude to all of the country's citizen soldiers.

Senator Pendleton expressed his thanks and gratitude to the department for their outstanding service throughout the years, stressing that the department has a lot to be proud of.

Representative Pullin commented that the field representatives are wonderful for the department and thanked Commissioner Lucas and his staff for their help over the years.

Chairman Westwood thanked Commissioner Lucas for appearing before the subcommittee. There being no further business, the meeting was adjourned at 11:35 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Justice and Judiciary Minutes of the 1st Meeting Of the 2009 Interim June 4, 2009

The 1st meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, June 4, 2009, at 10:30 AM, in Room 171 of the Capitol Annex. Representative Robin Webb called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jesse Crenshaw, Co-Chair; Senators Gerald A. Neal, and Dan "Malano" Seum; Representatives Scott W. Brinkman, John Tilley, Robin L. Webb, Alecia Webb-Edgington, and Brent Yonts.

Guests: Tanya Dickinson, Branch Manager, Grants Management Branch; Lieutenant Brad Bates, Kentucky State Police; Secretary of the Justice and Public Safety Cabinet, J. Michael Brown.

LRC Staff: Jennifer Anglin; Mike Mullins; and Ashlee McDonald.

A quorum was present.

Representative Webb introduced the first guest, Tanya Dickinson, Branch Manager, Grants Management Branch. Representative Webb also recognized Secretary of the Justice and Public Safety Cabinet, J. Michael Brown.

Tanya Dickinson stated that the Justice and Public Safety Cabinet is the recipient of four Federal Formula Grants with stimulus funds attached

to them. The committee was given a handout regarding an in-depth overview of the Justice and Public Safety Grants, which are updated on a regular basis and given to the State Budget Director. Ms. Dickinson stated that some of the funds are "general use" criminal justice dollars, while others are very restrictive. The first and largest of the grants is the Justice Assistance Grant (JAG). This is an annual grant that is administered by the United States Department of Justice. The amount has varied from \$1.5 million to \$4.5 million over the last few years. With the stimulus cycle, she expects the state will receive \$15 million. An estimated \$9 million of JAG funds will go directly to local jurisdictions. These funds are considered general use dollars since there are few restrictions concerning the use of these funds. Ms. Dickinson stated that these funds are non-supplanting, meaning that they must be used to pay for new activities and new projects, with the exception of new construction and vehicles. This annual grant is run on a competitive application cycle which was concluded about a month ago. The Justice Cabinet has finished receiving the applications for the American Recovery and Reinvestment Act (ARRA) stimulus funds.

Representative Webb inquired about how the level of funding presently compares with the historical funding within the last two or three years. She wanted to know what the difference in the dollar amounts have been.

Ms. Dickinson said the 2009 annual award has gone to approximately \$3.9 million. JAG funding has been very volatile since its first year in 2005. The first year was the highest level of funding at \$4.5 million and last year, 2008, was the lowest with \$1.5 million.

Representative Webb wanted to clarify with Ms. Dickinson that the Cabinet will be getting a substantial boost over the next four year cycle and wanted to be updated on how the money is being used.

Representative Yonts noted that in the JAG Grant, there is money that goes to court programs, drug prevention education, and drug treatment. He asked how much of that money actually is provided for drug courts.

Ms. Dickinson responded that those are all eligible application areas that the U.S. Department of Justice allows for the expenditure of those funds. She stated that since they run

a competitive application cycle, the use of the funds depends on the type of applications received.

Representative Yonts inquired if the funding would be for new drug courts or for an expansion of existing drug courts.

Ms. Dickinson answered by saying that it could be for new or expanded drug courts, depending on the use specified in the application. In the past, the Administrative Office of the Courts has applied for supplementary funding for existing drug courts and for drug testing programs.

Representative Yonts asked about the counties that do not currently have drug courts available. He wanted to know if the ones that do not have drug courts currently would be a priority for funding.

Ms. Dickinson said that it would depend on what the Administrative Office of the Courts wanted to pursue. With the stimulus funds being one-time funds, there will be some difficulty creating long-term programs with that money. It is primarily up to the AOC and their strategic plan.

Representative Yonts wanted to know how much money is expended annually for the Crime Victims Compensation Fund.

Ms. Dickinson stated that the Justice Cabinet does not deal with the Crime Victims Compensation Fund. Those decisions are made by the Crime Victims Compensation Board. She stated that it is part of the same funding stream at the Federal level as for Victims Assistance and Victims Compensation.

Representative Yonts wanted to know what will happen to the programs and enhancements created during the next 24 months once the stimulus money is expended.

Ms. Dickinson said that the Justice Cabinet is being careful and meticulous in the application process and there is no intention to create programs that would be unfulfilled in the future due to lack of funding. They are expecting the annual JAG funds to increase over the next few years. She stated that many of the applications they are reviewing address one-time needs, and are not ongoing programs.

Representative Yonts inquired if any of the programs will require the creation of new jobs that will result in unemployment in 24 months.

Ms. Dickinson clarified that the JAG Grant is for a 4 year period. She

said that applicants must specify a continuation plan. She said that some programs may create full-time positions or may contract for services.

Representative Webb said that the committee would like to be aware of the jobs, programs, or fields created beyond the 4 year window and would like the numbers in relation to areas. She said the Committee would like to be better prepared for the program continuation past the 4 years.

Senator Seum expressed his concern that they were growing government. He asked Ms. Dickinson her opinion on whether she thought that was the case.

Ms. Dickinson explained that they were growing capacity with one-time and short-term expenses and activities. She also explained that on a lot of the applications, there was the need for technology and equipment.

Senator Seum commented that the \$651 million in stimulus money is short of the \$3 billion that is expected with all the different entities. He is really concerned that two years from now they are going to have to start backing off from funding the programs. Senator Seum also asked what was the difference between Crime Victims' Assistance and Crime Victims' Compensation.

Ms. Dickinson explained that Crime Victims' Compensation is when a person is victimized and suffers an injury. That person can apply with the Crime Victims' Compensation Board for funds. The Crime Victims' Assistance is for programs such as Victims' Advocates and Rape Crisis Centers.

Senator Seum said that the reason he asked this particular question was because in his freshman year as a legislator in 1982, his first piece of legislation was to create the Crime Victims Board. He explained that they managed that with a \$10 court cost, which he believes has now been raised to \$20. He stated that he was very proud of that action.

Representative Webb-Edgington said that Ms. Dickinson had indicated the grant process was competitive for the funding. Representative Webb-Edgington wanted a brief synopsis of the process the Justice Cabinet goes through to review applications.

Ms. Dickinson said that for every grant cycle, a grant solicitation that outlines the rules and parameters, as well as the Federal guidelines is provided. Applicants have about

six weeks to apply for funding. Once the application is completed and submitted, the staff does an initial review to ensure that the application is complete. They also have a panel of subject matter experts that review and score each application. The application must score a minimum of 50 to be called back for additional information. The application must score a minimum of 70 to be funded. Above the 70 score, the staff reviews the program's past performance, adherence to policies and priorities to the Justice Cabinet and Federal guidelines. They then make recommendations to the Secretary of the Cabinet and awards are then handed out. She said that is about a three to four month process.

Representative Webb-Edgington asked about how the subjectivity issue with the staff relates to the application review process.

Ms. Dickinson explained that there is a certain amount of objectivity and subjectivity. They base their decisions on the numbers as well as the staff's previous experience dealing with the funding process. Most of the grant funds have been declining leaving mostly continuation projects rather than new ones. The subject matter experts have previous experience in relation to each grant application process they score. The Justice Cabinet publishes each award and amount on the Justice Cabinet website.

Representative Webb-Edgington made a request for Ms. Dickinson to make the Legislative staff aware of when the new JAG Grants become available so Legislators can get that information out to their constituents as well.

Representative Webb asked if there was any vision of how the funds would or should be distributed in accordance with present justice policy.

Ms. Dickinson explained that priorities are imposed upon the Cabinet by the U.S. Department of Justice. The USDOJ takes JAG Funds and awards 40% directly to local governments and programs. The USDOJ sends 60% to the State Administrator, which the Cabinet turns into an open application cycle. The Justice Cabinet is required to provide a minimum of 38.5% of the funds they receive to the local governments. The Justice Cabinet is allowed discretion over 60% of the funds that come to the State Agency Administrator.

Representative Webb wanted to

know if there is a vision about how to implement the discretionary distribution of the funds.

Ms. Dickinson said that the Justice Cabinet has not set any percentages. She said they have asked the applicants to indicate whether their program is intervention, prevention, or law enforcement. She said that the Justice Cabinet places a priority on funding programs that address substance abuse.

Senator Seum wanted to know if the programs and participants in the funding realize that this is one-time money.

Ms. Dickinson said that the Cabinet does try and stress that to each participant.

Senator Seum also inquired about the Violence Against Women Grant. He wanted to know if there was a Violence Against Men Grant.

Ms. Dickinson explained that when you read into the text of the handout, it indicates that the program is for victims of domestic abuse/sexual violence and it is not limited to women.

Representative Crenshaw said that in Fayette County a few years ago, they received Byrne JAG Grants that were very much appreciated and he appreciates all the hard work the Justice Cabinet is doing.

The next speaker was the Secretary of the Justice and Public Safety Cabinet, J. Michael Brown and Lt. Colonel Brad Bates representing the Kentucky State Police. Secretary Brown started the discussion regarding the vacant building in Perimeter Park owned by the Kentucky Retirement Systems that was acquired by the Kentucky State Police. The Kentucky State Police saw this opportunity as a long-term investment. The vacant building is approximately 45,000 square feet. The Kentucky State Police have been exploring the possibility of buying and renovating this building, rather than purchasing land and building a new structure. The building is also in close proximity to the Kentucky State Police post on Louisville Road. Currently the KSP academy is not a high quality facility. The last KSP class the academy held had 65 people and they will only be graduating 34 of the recruits. They feel like they are not able to compete with the current recruiting process because they are not given the space to adequately train new state troopers. They have had a Capital Plan that allotted \$25 million to \$30 million for a new State Police Academy.

Through buying the buildings from the Kentucky Retirement System, the cost will be a fraction of the amount that would be needed for new construction. The buildings will need to be renovated and equipped. They expect the project to cost somewhere around \$5 million. Secretary Brown feels this is a vital step to allow the Kentucky State Police take a step forward.

Representative Webb commended the Secretary on his effort and for his dedication for making the renovation and opportunity possible.

Lt. Colonel Brad Bates said that because of the Legislature the State Police was allocated \$6.75 million in the 2005-2006 Capital Budget to build a new facility for the IT Records Center. Mr. Bates explained that currently their IT records are held in a building behind the State Police Post on Louisville Road. These are "temporary" buildings with no water, no restrooms, and no heating/air conditioning with employees currently working inside them. They have been bidding on the Perimeter Park real estate and property for over two years. The final proceedings and contracts are in the process now and the Kentucky State Police hopes to close within 30 days. The property they want to acquire includes the 45,000 square foot state building on two acres as well as a vacant church on five acres. The purchase price for this property is \$3.2 million and it will take around \$2.4 million to renovate and remodel the property.

Representative Webb-Edgington complimented the Kentucky State Police Agency on their positive outlook and progress. She commended the agency for addressing the shortfall of the budget by eliminating unnecessary travel and not hiring non-merit employees.

Senator Seum commented that he is very interested in why the Kentucky State Police was losing half of the cadet class.

Secretary Brown stated that most of the loss occurred before the training even got started. He thinks that it has been a timing issue. The background checks and recruiting process is extensive, and often there is an extended waiting period for the applicants to start the class. Secretary Brown said that the Kentucky State Police is trying to have a set start date each year for the training, and that could be shortly after the end of the normal collegiate year. This will ensure that those interested

in becoming a State Trooper can start the training classes shortly after they finish college.

Senator Seum inquired about how the background checks influence the qualifications of the new recruits.

Leslie Gaham, also representing the Kentucky State Police, answered Senator Seum's question. She stated that the KSP has the highest standards set for their new recruits. A lot of disqualification for recruits happens when the background checks show previous drug use or other criminal matters they feel do not comply with the integrity of the state police.

Representative Crenshaw asked what the renovation of the church consisted of and what uses were planned for that particular property.

Lt. Colonel Brad Bates explained that the church needs renovations to clear out the mold and asbestos problems, roof repairs, and the exterior brick and rock areas need repairs. The church will be used for the storage of records and may be used for training classes and a weight room.

Representative Webb stated that legislation was adopted in the last session that authorized the state police to rehire retired troopers. She wanted to know if this effort is being successful.

Lt. Colonel Brad Bates explained that there is no formalized poll was taken of recent retirees to determine the number that may be interested in returning, but he was aware that some troopers have expressed interest in being rehired.

Representative Webb asked if there has been any salary or wage analysis concerning the pay for rehired troopers.

Leslie Gaham answered by saying that there is a contract for rehires. They will start out at a State Trooper probationary trooper's salary, which starts out at approximately \$38,000 a year.

Representative Webb inquired about the anticipated duties of any re-hired retirees.

Leslie Gaham stated that it would not be any specialized positions, any detective work, or supervisory work. They will be there to supplement the troopers working the highways.

Representative Webb asked Ms. Gaham to give the criteria and cost savings/projections for hiring retirees to staff for distribution to the subcommittee members.

The last speakers were Mark

Robinson, Director of Administrative Services, Department of Corrections and Kevin Pangburn, Director of Mental Health and Substance Abuse, Department of Corrections. Kevin Pangburn briefly explained the Recovery Kentucky Program and Corrections' involvement in that program. Since the introduction of the program in January 2005, seven facilities have opened. They consist of five female and two male programs, and 2 additional male facilities are planned to open by the end of this year. The Kentucky Department of Corrections' involvement is to identify persons on parole that need substance abuse treatment and send them to the programs as a condition of their parole. The DOC is responsible for 33 beds in each facility and that will increase to 50 beds.

Representative Webb said that she had several concerns and questions. She wanted to know who decides the locations for the facilities. In her Eastern Kentucky district, she has no facilities there, although that area of Kentucky has a significant drug problem that exceeds the state and national levels. Also, she is concerned that the persons in treatment are being charged a high cost for phone usage for contact with family members and attorneys. She has received several complaints regarding the bills.

Mr. Robinson said that the facilities are intended to be in the more rural areas of the state. The locations are also based on community support and there must be a treatment provider willing to locate in the area.

Representative Webb also wanted to know if the DOC received any type of compensation or revenue from the phone charges.

Mr. Robinson stated that DOC is not involved in the phone services at the facilities, and does not receive any revenue from the phone bills.

Deputy Commissioner Rodney Ballard stated that there are several pay phones at the facilities that usually charge 50 cents per phone call locally. The residents of the facilities are responsible for paying any long distance charges.

Representative Webb was curious to know if the state can set the criteria for the phone charges and would like more information regarding the criteria for the phones. She is mainly seeking comparative data.

Kevin Pangburn said he would look into the information she has requested and find additional informa-

tion for her.

Representative Crenshaw asked what the maximum capacity is for these facilities.

Mark Robinson stated that the facilities are designed to hold 100 people. The DOC is looking into whether it can financially afford to go from 30 beds to 50 beds.

The meeting adjourned at 11:42 a.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 1st Meeting of the 2009 Interim June 4, 2009

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, June 4, 2009, at 10:30 A.M., in Room 131 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Sannie Overly, Co-Chair; Representatives Eddie Ballard, Hubert Collins, James R. Comer Jr., Tim Couch, Danny Ford, Jim Gooch, Jr., Richard Henderson, Don Pasley, Ancel Smith, and Ron Weston.

Guests: Russ Romine, Executive Advisor; Tammy Branham, Executive Director, Office of Budget and Fiscal Management; and, Mike Hancock, State Highway Engineer, Transportation Cabinet.

LRC Staff: Stephanie Craycraft, Stewart Willis, and Marlene Rutherford.

Chairman Leeper welcomed representatives from the Transportation Cabinet, who provided a brief overview of the cabinet's budgetary issues.

Representative Collins inquired about the wholesale price of gasoline, and asked if the survey to set the retail price of gasoline is conducted the first month of the quarter to set the price for the next quarter. Ms. Branham indicated that it was.

Representative Ford asked how much savings was realized by changing the debt service and inquired about the total road bond indebtedness amount. Ms. Branham said that the current estimate for FY 2010 savings is approximately \$60 million. She said that the road bond indebtedness for this fiscal year is \$1.2 bil-

lion to \$1.3 billion and that amount does not include bonds authorized in the last session.

Representative Pasley asked if there had been any recent bond sales and if so, how those bonds have sold in the current economic climate. Ms. Branham said that the most recent sale was in late April when the last of the 2006 authorization sold. She indicated that she would discuss this with appropriate cabinet personnel and get a response back to the committee.

Representative Ballard expressed his concern regarding the shortage of tourists and asked how much is attributed to tourism. Ms. Branham replied that if tourism is down, fewer gallons of motor fuel are sold to travelers, which could largely affect the Road Fund revenue. She again indicated that she would be glad to discuss the matter with appropriate personnel and get back with the committee. Mr. Romine pointed out that the weight and distance tax collections were down, indicating a decrease in commercial travel in the state.

Representative Collins asked what amount of bonding would be authorized from the two cents fuel tax which was passed during the last session of the General Assembly. Ms. Branham stated that freezing the average wholesale price at \$1.786, which salvaged four cents through the fourth quarter in FY 2009, was justification for being able to support debt service on the \$400 million issue, at least half of the four cents. Representative Collins asked what the debt service would be toward that \$400 million. Ms. Branham replied approximately \$34 million per year if the entire amount was sold at one time. She indicated that she would confirm that figure and report back to the committee. Representative Collins also asked for the expected revenue estimate. Ms. Branham indicated that each penny is roughly \$32 million or approximately \$64 million but that other considerations need to be taken into account, such as the motor vehicle tax and motor fuel consumption being down. She pointed out that the cabinet preserved the four cents for the fourth quarter of the current fiscal year; however, there was a loss going into FY 2010, and motor fuel tax receipts are still below the anticipated levels in the original estimate.

Regarding the current bonds that will be refinanced, Representative

Ford inquired about the average rate now as compared to the new rate. Ms. Branham did not have that data, and indicated she would be glad to review that information and get back with the committee. Representative Ford stated that there may be a benefit to selling the bonds earlier than late summer if rates should rise. Ms. Branham said that she would make an inquiry of the Governor's Office Financial Management.

Russ Romine provided the committee an update of the stimulus funds received by the state for the American Recovery and Reinvestment Act (ARRA).

Chairman Leeper asked where the monies come from that go into the Highway Trust Fund. Mr. Romine indicated that about 98% comes from fuels taxes, and there are smaller taxes that go into the fund as well.

Chairman Leeper asked what the driving force was with the ARRA scheduled projects coming in at the Six-Year Highway Plan cost or below. Mr. Romine stated that the industry is ready for work and oil prices are down from last year. Senator Leeper stated that when projects have been done in the past he has always been concerned with the capacity and how it affected the ability to be competitive on those projects. He said the ARRA projects coming in at or below the Six-Year Plan cost estimates proves his point.

Representative Pasley inquired about the locations of the \$19 million statewide rural public transit projects. Vickie Bourne of the cabinet stated that it is statewide and through a rural transit program called 5311. The monies come into the cabinet and are distributed across the state under a grant application process. She indicated all that money has been obligated.

Representative Overly asked what type of projects were being done with the Transportation Enhancement funds. Mr. Romine indicated that there were no special stipulations on this funding other than the expedited project schedule. Representative Overly requested a list of those projects done with the stimulus money.

Representative Overly also asked if they intend to apply for any of the \$1.5 billion in competitive funds for surface transportation projects. Mr. Romine stated that guidance for distribution of that money just became available on May 18 and that all states will compete for a part of

those funds. The projects eligible are highway and transit projects, rail projects, highways, and bridges. The project range to be considered is \$20 to \$300 million. The cabinet is discussing how to prioritize needs to proceed with the September 15 application deadline, with projects being selected to be awarded by February 2010.

Representative Overly asked for an update on the projects identified in the Six-Year Highway Plan to be funded with state bond money and GARVEE bond money. Mike Hancock, State Highway Engineer, indicated there are \$11 to \$12 million in projects authorized, most of which are pre-construction activities. The cabinet has been focused on the delivery of the stimulus package and the development of the commensurate level of activity from the local public agencies. He said that the regular aid program is a high priority for the cabinet, adding that through May \$240 million has been awarded in highway work this year. A letting is scheduled on June 12 with \$90 million to award, and on June 26 with \$40 million to award, for a total of \$370 million awarded by the end of the fiscal year. He also noted that if there is any surplus from old bond sales, it is the cabinet's goal to move that money into the current selected list of projects for bonding if that money is not needed for overruns on projects.

Mr. Hancock said that previous GARVEE bond sales indicated that there may be \$30 million set up for GARVEEs a few years ago, which has not been obligated to date. When established, it was discussed that projects (I-65 south of Bowling Green and I-75 north of Lexington) which had already begun would be finished, and should there be any monies after settling up those projects with old GARVEE bond issues, the intent would be to continue the other improvements begun on the section of I-64 between the Snyder Freeway and Shelbyville. In the 2009 session, the money targeted for the Louisville Southern Indiana Ohio River Bridges project was removed and used for other projects around the state. In its place the opportunity was given to sell \$200 million to \$231 million of GARVEE bonds. What is left for the Louisville bridges project is a GARVEE bond commitment, and is still pending the outcome of an authority bill legislation for the whole project.

Representative Overly stated that the legislature decided to do the state bond issue as a state stimulus to address the economic decline, and expressed the importance of monitoring those projects. She asked that an update on those projects be provided to the subcommittee.

Chairman Leeper asked that the cabinet provide a list of the projects that will be let for June 12 and 26. He also asked how cost overruns are handled when the federal stimulus dollars are spent and bids are coming in under the projected cost. Mr. Hancock indicated that the stimulus program projects are over approximately 20%. He said that a percentage is set aside for unforeseen overrun, and if that is not needed, that amount would be used for additional projects.

There being no further discussion, the meeting adjourned at approximately 11:40 A.M.

INTERIM JOINT COMMITTEE ON EDUCATION

**Minutes of the 1st Meeting
of the 2009 Interim
June 8, 2009**

The first meeting of the Interim Joint Committee on Education was held on Monday, June 8, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ken Winters, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Charlie Borders, David Givens, Dan Kelly, Alice Forgry Kerr, R.J. Palmer II, Tim Shaughnessy and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Leslie Combs, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Tim Firkins, Kelly Flood, Jim Glenn, Derrick Graham, Jeff Greer, Jimmy Higdon, Reginald Meeks, Rick G. Nelson, Marie Rader, Jody Richards, Tom Riner, Charles Siler, Dottie Sims, Kent Stevens, Wilson Stone, and Addia Wuchner.

Guests: Ms. Marcia Seiler, Office of Education Accountability; Mr. John Wilkerson, Kentucky Education Association; Mr. Wayne Young, Kentucky Association of School Administrators; and Mr. John LeFevre, Kentucky Department of Education.

Legislative Guest: Senator Katie Stine

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

Senator Winters introduced and

welcomed the new members of the Interim Joint Committee on Education. He noted that the subcommittee membership lists were located in the members' folders as well as a copy of the tentative schedule of meetings for the 2009 interim.

Senator Winters introduced Ms. Mary Lassiter, State Budget Director, who gave an overview of Kentucky's revenue picture and the potential impact of America Recovery and Adjustment Act (ARRA) Funds. Ms. Lassiter presented a PowerPoint presentation and responded to questions from members. Highlights of the presentation included the proposal to balance fiscal year 2010 by requiring no new taxes; using stimulus funds to avert severe cuts; preserving priorities of education, health care, public safety and economic development; reducing spending from budgeted levels; restructuring outstanding debt; enhancing revenue collections; suspending pay for certain state holidays; and adding required funding in limited areas.

Senator Kelly asked if the Support Educational Excellence in Kentucky (SEEK) per pupil guarantee of \$3,866 was to the base amount in the budgets and not to the school districts. Ms. Lassiter said that was correct.

Representative Collins asked if the additional funding for vocational rehabilitation funding had to be matched with federal dollars. Ms. Lassiter said there is no state match associated with the additional \$9.32 million in vocational rehabilitation state grants, and this should be helpful to mitigate some of the challenges the program has faced. Representative Collins asked what the state budgeted for vocational rehabilitation in the past budget. Ms. Lassiter said she did not have the figure committed to memory, but thought around \$12.8 million. Ms. Lassiter explained these funds were in addition to the money regularly budgeted for vocational rehabilitation.

Representative Rollins asked if the increased education funding in the educational technology state grants could be money used to cover the cost of the KIDS information data system. Ms. Lassiter was not sure. Mr. Larry Stinson, Acting Deputy Commissioner, Learning and Results Services, Kentucky Department of Education (KDE), said he is not clear on how to answer that question either, but 50 percent of the money will be distributed according

to formula, and the other 50 percent can be by grant to school districts. He said this is one item that the KDE is awaiting additional guidance from the federal government on exactly how the money will be processed. Representative Rollins asked Mr. Stinson if they were going to try and find money for KIDS, and he said the KDE is looking for sources of funding for KIDS in every place that is appropriate.

Representative Carney asked if Title I funds could be utilized to help school districts cover the one percent or step raises for faculty and staff. Ms. Lassiter explained that Title I funds have very strict guidelines and cannot be used to cover raises. However, more dollars in targeted programs can possibly help school districts deal with the raise issue indirectly.

Senator Winters asked about increased money budgeted for prosecutors and not for public defenders in fiscal year 2010. Ms. Lassiter said the government's proposal is to honor the enacted appropriation for public defenders and they were scheduled in the budget to receive more funding in 2010 than in 2009. She noted the prosecutors were straight-lined from 2009 to 2010, and that is why there is additional funding proposed for them.

Senator Shaughnessy asked if Kentucky was just getting by with the alcohol and cigarette tax increase dollars and stimulus funds. He asked if Kentucky would find itself in a billion dollar budget deficit again in three years. Ms. Lassiter said a slow growth recovery is predicted, but it will fall far short from meeting current expenditure needs. She said by fiscal year 2012, all the stimulus money being used to balance the budget will be gone and she said there will be a significant challenge to meet. Senator Shaughnessy said Kentucky is basically treading water. Ms. Lassiter said the choices are to raise revenues or significantly cut spending. She noted \$600 million has already been cut from spending levels over the past 18 months and the Governor decided it was appropriate to use the stimulus dollars to avoid severe cuts to education, healthcare, and public safety.

Representative Rollins asked about the suspension of three to five paid holidays for state employees depending upon their salary. He did not understand the reasoning for this because this is offsetting any benefit

the employees would receive from the one percent pay increment. Ms. Lassiter said there have not been significant layoffs for state workers and by freezing these holidays it ensures that state workers will not be laid off. The decision was made to preserve jobs and she noted the one percent raise has a compounding effect over time for salary and retirement purposes and that is why it was kept intact. Representative Rollins noted that there have not been direct layoffs of state workers, but state government has had high attrition levels over the last four or five years. He said he feels there is a better way to handle the budgetary problems and will be working on offering different solutions.

Senator Winters introduced Mr. Stinson and Mr. Larry Taylor, Director, Division of Exceptional Children Services, KDE, to give the status of program budgets and the use of ARRA funds. Mr. Taylor began the PowerPoint presentation by explaining that Title I and the Individuals with Disabilities Education Act (IDEA) were the two federal programs that were selected to be able to flow the stimulus dollars through to the local school districts.

Mr. Taylor said the Title I ARRA funds are one-time, and school districts should not put systems in place that are dependent upon this money. He noted Title I funds must be spent within a federally-mandated, 27-month timeframe. He explained the three parts of the Title I formula in detail and the information is located in the meeting folder located in the Legislative Research Commission (LRC) library.

Mr. Taylor said the large one-time increment in IDEA funding must be used consistently with current IDEA statutory and regulatory requirements. IDEA funds are to be used for the excess costs of educating students with disabilities. IDEA ARRA funds flow through to local school districts and do not increase the amount that the state may set aside for state level activities and must be separately tracked and reported. He said systems currently exist that track and report the regular IDEA funds. The awarding of regular and ARRA IDEA funds went to school districts on May 1, 2009. School districts have 50 percent of IDEA ARRA funds available currently, and the second 50 percent will be made available on October 1, 2009.

Mr. Stinson discussed the State

Fiscal Stabilization Fund (SFSF) and other competitive opportunities available to districts. Kentucky received \$651,341,789 in SFSF dollars and there is \$5 billion available in competitive grants nationally. He said 81.1 percent of the SFSF goes to education and is required to be distributed through the state's primary funding formula to restore support to K-12 and higher education to the greater of 2008 or 2009 levels for 2009, 2010, and 2011. If insufficient to restore both, must be apportioned between both K-12 and higher education based on the relative shortfalls at each level. He noted the other 18.2 percent will be distributed to general governmental services.

Mr. Stinson said the first 67 percent of the funding formula will be provided to the state upon submission of the approved application, which is due July 1, 2009. The remaining 33 percent is expected to be available by September 30, 2009. The state must have an approved plan that meets specific criteria in order to receive the remaining 33 percent of the money.

Mr. Stinson explained the SFSF competitive grants and other possible ARRA funds. A specific list of the grants and the awarding process are located in the meeting folder in the LRC library.

Senator Winters introduced Mr. Robert L. King, President, and Dr. John Hayek, Vice President for Finance, Council on Postsecondary Education (CPE), to give an update of the ARRA and Kentucky Postsecondary Education. President King said college applications are up significantly for the fall of 2009 for a number of public postsecondary institutions. He said net general funds to universities and the Kentucky Community and Technical College System (KCTCS) have been cut \$78 million or 7.2 percent over the past 18 months. He noted that the CPE worked with institutions to moderate growth in tuition with the lowest rate increases in a decade.

President King said the ARRA stimulus bill has impacted Kentucky Postsecondary Education in three ways. They are: 1) Funds distributed by formula in the form of grants to states; 2) Funds distributed via competitive grants, and 3) Funds distributed directly to individuals.

President King said over \$1 billion in federal education-related program funds is available in state grants for mostly K-12 programs. Approxi-

mately \$533 million of Kentucky's share of the SFSF will go to K-12 and higher education. He said the Governor's plan calls for approximately 55 percent of the SFSF, in combination with general funds, to be used to keep public postsecondary education and K-12 at current funding levels for FY10. He also said Kentucky is required to establish a longitudinal data system to track students from K-12, to college, and ultimately, to the workforce, as an assurance for SFSF.

President King said there are billions of dollars to be distributed via competitive grants from various federal agencies. He said the CPE coordinated a process to gather multiple-institution and institution/industry collaborations. Workgroups were formed in seven key areas: Energy and sustainability; Homeland security; E-Health; Technology and networking; College readiness; S.T.E.M.; and NASA/space science. He said 58 concept papers were generated to compete for ARRA grants in the seven key areas.

President King said Pell Grants for low-to-moderate income families will increase significantly, from \$4,731 to \$5,350 in FY10 and \$5,550 in FY11. The American Opportunity Tax Credit, which will replace the Hope Tax Credit, will increase to \$2,500 per year for direct educational expenses. He said federal work study funds to Kentucky will increase by about \$2.6 million. It was noted that approximately \$234 million in Pell Grants were awarded to 87,906 Kentucky students in 2007-2008.

President King discussed cost containment and avoidance strategies implemented by campuses and universities across the Commonwealth. He said they reduced faculty and staff by over 700; made changes to various employee benefits saving over \$32 million; restructured academic and administrative units saving over \$25 million; increased participation in joint purchasing agreements saving over \$7 million; restructured debt service saving over \$15 million; and engaged in new energy contracts and initiatives saving over \$5 million. He said recent general fund cuts have resulted in increased operating efficiencies, internal reallocations, and additional cost containment measures. He gave some specific examples of need and merit-based aid at UK and UofL, comprehensive universities, and KCTCS by student type and family income.

Senator Winters introduced Mr. Jim Ackinson, Executive Vice President, and Ms. Jo Carole Ellis, Vice President, Government Relations and Student Services, Kentucky Higher Education Assistance Authority (KHEAA). Ms. Ellis gave a PowerPoint presentation on the impact of federal changes on Kentucky Student Aid Programs.

Ms. Ellis said the stimulus funds add \$500 to the Pell Grant in academic years 2009-2010 and 2010-2011. She said the stimulus funds also add approximately \$2.6 million in Federal Work-Study funds for Kentucky students. She explained the eligibility requirements for students to receive Pell Grants in Kentucky and projected 84,047 Kentucky students would receive a Pell Grant in 2009-2010.

Ms. Ellis explained the coverage of tuition and fees by the Commonwealth Access Program (CAP) program and maximum and average Pell Grants at Kentucky Postsecondary schools. She also discussed the CAP and the Kentucky Tuition Grant (KTG) disbursements and unfunded awards. There is a detailed and comprehensive graph located in the meeting folder in the LRC library.

Mr. Ackinson discussed the fiscal year 2010 budget proposal to eliminate the Federal Family Education Loan Program (FFELP). He said all student loans beginning in 2010-2011 would be made through a direct loan program. Reconciliation instructions for student loans direct the committee to share \$1 billion from programs under their jurisdiction for fiscal years 2009-2014. He said the committees must report recommendations by October 15, 2009. Federal lawmakers are likely to seek those savings through major changes in FFELP, perhaps eliminating it altogether.

Mr. Ackinson said many federal lawmakers remain wary of efforts to end FFELP. He said KHEAA and the Kentucky Higher Education Student Loan Corporation (KHESLC) are doing everything they can to ensure Kentucky agencies maintain an important role in the federal student loan programs and continue to provide valuable programs and services to Kentuckians.

Mr. Ackinson said the best alternative for Kentucky would be a modified FFELP program, rather than the elimination of the program, that would best serve Kentucky students. He said KHEAA and KHESLC could

continue to earn revenue to reinvest in Kentuckians by providing borrower benefits, additional student aid awards, administrative costs of state student aid programs, and college access and outreach programs. In the absence of a modified FFELP program, state-based services would achieve the objectives of the President's proposal. If FFELP is eliminated, KHEAA and KHESLC have proposed that all federal student loans made in a state be originated, processed, and serviced by the state's public nonprofit agency.

Mr. Ackinson said Kentucky faces several obstacles. He said the servicing of student loans would be contracted to private entities; however, the United States Department of Education (USDE) has limited loan servicing contracts to the six largest loan servicers, five of which are for-profit entities. KHEAA and KHESLC have been given no indication that state-based nonprofit organizations would be provided an opportunity to serve their states. He noted congressional action will be needed; the USDE has not demonstrated a willingness to work with smaller, state-based nonprofit agencies such as KHEAA and KHESLC.

Mr. Ackinson noted the many items that Kentucky's educational system would lose without KHEAA and KHESLC. Kentucky would lose the additional funding for state student awards from the state's financial aid programs, which was \$5.6 million in 2008. He said borrower benefits to reduce the cost of borrowing to pay for higher education would be gone and cost-free administration of state student financial aid programs and services. He also noted losing the free college planning and financial aid publications for high school students and adults and the employment of over 420 people in Frankfort and Louisville.

Senator Winters introduced Mr. Joe Meyer, Deputy Secretary, Kentucky Education and Workforce Development Cabinet, to discuss the ARRA funds and impact within the cabinet. Mr. Meyer said the total amount of ARRA funds will be \$156,447,816 in the Education and Workforce Development Cabinet.

Mr. Meyer said \$44,615,045 will go into the Workforce Investment Act. This is the primary source of job training money for the state and is distributed through the local workforce investment boards that are administered by the area development

districts. He said ten percent of this money will be held for the statewide reserve fund and cannot be used for capital purposes. He noted the cabinet has received over \$284 million in capital requests from libraries, area technology centers, community colleges, and colleges for capital projects and there are no funds to honor any of those requests.

Mr. Meyer said one immediate impact will be a summer youth employment program that will be fully implemented by June 22, 2009. He said this program creates 3,000 to 4,000 jobs for young people in the age group of 16-24.

Mr. Meyer said the bulk of the program is the unemployment insurance fund. He said there are major issues with the solvency of the trust fund. In addition, as part of the federal stimulus program, the President has proposed modernizing, updating, and expanding the benefits of the unemployment insurance program. The Governor has appointed a task force to study both the solvency issues and to make recommendations whether the state should participate in the modernization program. The task force recommendations will be ready in October of 2009 in time for the General Assembly to take action in the 2010 session.

Mr. Meyer said the Office of Vocational Rehabilitation and the Office for the Blind are proposed to be subjected to another 2.6 percent cut during the proposed upcoming special session. He said the 2.6 percent cut translates to a general fund cut of about \$300,000 as well as a 4 to 1 federal fund match, or a \$1.5 million cut to the total agency's budget. He did say impact cuts to vocational rehabilitation would be significantly off-set because of the availability of the stimulus money.

Mr. Meyer said the Office of Career and Technical Education, which operates 53 area technology centers across the state, has taken the full brunt of every budget cut so far. He feels the area technology centers are a program worthy of being funded. He also said the Education Professional Standards Board (EPSB) is subject to being cut again and they are significant in providing teacher quality programs and teacher and principal training. He said there are no stimulus funds to help either of these two agencies.

Representative Collins asked about the cuts to the Department for Vocational Rehabilitation and to the

Carl D. Perkins Center for next year. Mr. Meyer said they would lose \$1.5 million next year from the agency's current budget level. He said \$8 million is being added back into the budget in stimulus money and this impacts the offset of the decreased funds. His concern is that the stimulus money is one-time and will not benefit the department after next year. He also said the matching funds needed to run the Carl D. Perkins Center are at-risk.

Representative Stone said it speaks well of Kentucky that it has found a way not to reduce the SEEK formula in tough economic times. He said it is a good thing that local support for public schools comes primarily from the property tax, which does not go up and down like the economy does, even though people may be having a difficult time paying it. He asked the KDE if the stimulus money will have a positive impact on the general fund balance in most school districts.

Mr. Taylor responded to Mr. Stone and said a maintenance of effort is required each year by a school district to spend a specific amount of state and local dollars for the excess cost of educating students with disabilities. If a district met requirements with its annual determinations then that district has flexibility to be able to reduce the maintenance of fiscal effort by 50 percent of the increase of this year's money, which is double what they received last year. School districts can reduce local and state dollars spent for educating exceptional children. He does not know the specifics of Title I dollars, but he thinks the stimulus money will allow school districts to purchase some things that would have normally been purchased with local dollars.

Mr. Stinson also responded to Mr. Stone and cautioned that Title I dollars will still have to be spent according to the authorized purposes as well as the dollars spent within the IDEA. He said local school districts will not be able to shift something that is currently being paid out of general funds into those sources with the exception of the 50 percent off-set.

Representative Stone asked if there was any feel of the impact for the step increases and the 1 percent raises. Mr. Stinson said there is no data for this year. In the past, school districts have shared that step increases where staff receive additional dollars for years of service, or because

they have enhanced their rank in education, can be as much as 1 to 3 percent increase in salaries for those individuals. He said personnel costs attribute from 75 to 82 percent of a school district's budget. He said a 1 percent raise in schedule can mean a 2 or 4 percent increase in personnel costs for a school district.

Representative Rollins asked if the stimulus dollars have to be spent in 27 months or committed within 27 months. Mr. Taylor clarified that it has to be spent or obligated by September 2011 and obligations have to be paid by December 2011.

Representative Wuchner asked about possible funds that could fund the Infinite Campus. She said the school districts were just billed \$6.31 per student and now there is an opportunity for some matched funds for technology. She asked if the ARRA or SFSF funds could be utilized to fund the \$6 million cost of the Infinite Campus. Mr. Stinson said there is nothing available at this point that can be used at the state level, however districts could use the dollars that flow to them. He said school districts will have to be careful utilizing dollars from Title I or IDEA that had very specific uses. Representative Wuchner asked about KDE offering school districts the opportunity for a \$10 match fund for technology. She said her school district was asking to do a \$4 dollar match instead of \$10 out of their general fund and hopes that KDE will consider this request as general funds are still limited.

Representative Graham asked KDE if they were still planning on paying the maintenance fee for Infinite Campus for school districts. Mr. Stinson responded that it was KDE's intent that the cost would not be passed along to school districts but after a review process, this was not feasible. He said the matching process is the best resolution that KDE can offer at this time. Representative Graham feels this is unfortunate and local school districts will be hard pressed to find this funding. It also furthers their disappointment in KDE's decisions with implementing mandates that are not funded.

Representative Wuchner asked the KDE to come up with an additional plan as everyone is disappointed in this decision. She noted that it is reflected in meetings that Infinite Campus was very expensive and KDE's original intent to bond the cost was lost with the budget constraints and passed on to the local districts.

She said local school districts are under great constraints right now and would like to see a new plan on the billing of Infinite Campus costs.

Representative Carney discussed his concern about Infinite Campus. He feels that the KDE and local school districts should work together to find a compromise in this situation.

Representative Rollins asked CPE President King about figuring the cost of attendance and about the 38 percent of students reflected on the chart that are financial aid recipients with no income information available. He wants to know who they are and what kind of aid they receive. President King said these are students who have not filed the Free Application for Federal Student Aid (FAFSA) form, but who have received merit-based aid either through KEES or from the universities or campuses directly. He also said the cost for room and board was not included in the chart because he feels this is not a direct cost of college as people would have to pay for room and board in the workplace as well. He said they focused on expenses that were singularly related to college attendance. This does not include the loss of income of individuals who choose to go directly into the workplace and not attend college. Representative Rollins said he agrees to an extent, but people cannot attend college and live outside and not eat. He said students need certain basic needs met and these costs are figured in the cost of attendance.

Representative Siler said he is upset over the loan forgiveness program for the "Best in Class" program. He said the legislation passed took care of the interest payments for the current year, but does nothing to relieve families and teachers of long-term obligations. He asked if any of the stimulus money could be used for the "Best in Class" forgiveness program that Kentucky sold with good intentions, but fell short in compliance. Ms. Ellis responded that the stimulus money is not eligible to be used for the loan forgiveness programs. She said most of the stimulus funds are directed toward certain federal programs that are already in place or other types of initiatives. Representative Siler asked if the competitive application program under additional opportunities would qualify to cover loan forgiveness debts. Mr. Ackinson said KDE officials would have to address that question. He noted that KHEAA and

KHESLC have no control over administration of general funds. He said they can only address revenues over the programs they administer and he assured him they remain dedicated to use all available revenues to off-set the borrower benefits in the "Best in Class" program.

Mr. Stinson gave a brief presentation on the implementation of HB 322 that was passed in the 2009 Regular Session relating to disaster days in school calendars. He gave a brief history and noted this bill was passed to provide assistance to school districts in fulfilling calendar requirements when dealing with excessive days missed due to inclement weather such as hurricanes and ice storms. He mentioned that most requests were approved within the 10-day timeframe, however in some instances, decreased staff made it impossible to make a decision within 10 days. He said most of the decision-making on KDE's part was ensuring that the district was in compliance with requirements in other statutory laws such as whether they had used all the make-up days they had intended to use for that school year. Senator Winters commented that several school districts were frustrated by not receiving approval or disapproval of their amended calendar within the 10-day timeframe.

Mr. Phil Rogers, Executive Director, Ms. Alecia Sneed, Director, Legal Services Division, and Dr. Marilyn Troup, Director, Education Preparation Division, EPSB, explained administrative regulation 16 KAR 5:010 - Standards for accreditation of educator preparation units and approval of programs. Ms. Sneed said the proposed amendment transfers responsibility for reimbursing the State Accreditation Board of Examiners team members for travel, lodging, and meals from the EPSB to the institution seeking accreditation. The amendment incorporates by reference the current edition of the "Professional Standards for the Accreditation of Teacher Preparation Institutions" issued by the National Council for Accreditation of Teacher Education (NCATE).

Senator Winters discussed the NCATE process compared to the EPSB accreditation process. Ms. Sneed said the institutions pay for the NCATE team and the EPSB pays for the state members. She said now all members will be paid by the institutions. Senator Winters asked if NCATE had a companion group that accompanies

the EPSB team and Ms. Sneed said not for state accreditation and only if it is a joint state and NCATE accreditation.

Representative Rollins asked who makes the travel arrangements. Dr. Rogers said the university makes the travel arrangements and this is the reason for making the change in the regulation. Dr. Troup said her division actually assigns the board of examiner team and the institution informs the division which hotel they will be staying in and this is checked out. She said there have not been any conflicts or problems in the past.

Senator Winters asked if all eight public institutions were accredited by the NCATE board. Dr. Troup said yes. Dr. Rogers clarified that state employees are not reimbursed by the institutions and said it is only volunteers from other universities who are there to serve on the board of examiners. Senator Winters asked how many individuals typically are there to volunteer. Dr. Troup said it depends on the size of the institution, whether it is a joint visit with an outside team or a state only visit, but usually between four and six members.

Mr. Kevin Brown, General Counsel, and Mr. John LeFevre, Financial Analyst, KDE, explained 702 KAR 3:090 – depository bond, penal sum. Mr. LeFevre said this regulation amends the process for designating depository bonds. The proposed amendment deletes obsolete language relating to collateral requirements and requires a board of education to determine the penal sum of the bond of depository at least 30 days prior to the depository entering upon its duties and retains the July 1 deadline of each fiscal year. He said this provides more leniency to banks and allows them to move collateral up and down as the balances change on a day to day basis.

Representative Stone asked if this changes the nature of what the collateral must be. Mr. LeFevre said it widens the collateral.

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

SPECIAL SUBCOMMITTEE ON ENERGY

**Minutes of the 1st Meeting
of the 2009 Interim
June 19, 2009**

The 1st meeting of the Special Subcommittee on Energy was held on Friday, June 19, 2009, at 2:30 PM,

in Room 131 of the Capitol Annex. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Rick G. Nelson, Co-Chair; Senator Walter Blevins Jr.; Representatives Royce W. Adams, Eddie Ballard, Dwight D. Butler, Leslie Combs, Jim Gooch Jr., Keith Hall, Lonnie Napier, Fred Nesler, Sannie Overly, Tanya Pullin, and Brent Yonts.

LRC Staff: D. Todd Littlefield, CSA, Taylor Moore, and Susan Spoonamore, Committee Assistant.

Rep. Nelson introduced Virginia Carrington, Manager, Department for Community Based Services, Policy Development and Oversight Branch, Division of Family Support.

Ms. Carrington explained the state's Low Income Home Energy Assistance Program (LIHEAP) Annual Plan for FFY 2010. LIHEAP is a block grant to assist low-income individuals and families with their heating and cooling costs and energy conservation measures.

Ms. Carrington stated that the Department will be applying for approximately \$26.6 million for the 2010 FFY. This award could be larger because Congress has yet to vote on a federal appropriations bill for this program. She said that ninety percent (90%) of the award is used for benefits for eligible Kentucky citizens; one percent (1%) is retained for the Preventative Assistance Program; and \$30,000 is available to design and initiate leveraging activities. She said that agencies often retain a small percentage (up to 5%) of their individual allocations to promote household self-sufficiency, which would include budgeting classes, assistance with energy vendors and utility budget plans. She stated that less than (10%) of the award is used for administrative costs.

Through LIHEAP, the Department for Community Based Services contracts with Community Action of Kentucky (CAK) to provide administrative support, training, monitoring, and technical assistance to the frontline service delivery system. She said that CAK sub-contracts with the 23 agencies of Kentucky's Community Action Network for frontline service delivery, serving all of Kentucky's 120 counties.

Ms. Carrington said the LIHEAP serves households whose incomes do not exceed 130% of the Federal Poverty Level. She said that assets

cannot exceed \$3,000 if a person in the household is aged 60 or older or disabled; or \$4,000 if a household member has a catastrophic illness.

Ms. Carrington said that LIHEAP offers two types of benefits, subsidy and crisis components; and the Department can do a summer cooling program if enhanced funding is available.

Ms. Carrington stated that the estimated expenditure for last fiscal year ending March 31, 2009 is \$75.6 million. This includes a large, one-time increase in federal funds above what the Program has historically received. She said that LIHEAP served 119,293 households under the subsidy component and 179,886 households were served under the crisis component.

She explained that the projections for FY2010 would total approximately \$26.6 million which is in line with what congress has historically approximated for LIHEAP. It is anticipated that the Program will serve around 125,000 to 175,000 people next year.

Rep. Pullin asked if free window air-conditioners would be available this year.

Ms. Carrington stated that if funds are available through the summer cooling program, then the Program can provide air-conditioners and fans. Community Action agencies that use different funding streams can make air-conditioners and fans available.

Rep. Hall asked if LIHEAP serves people whose income is above 74% of the federal poverty level.

Ms. Carrington stated that the amount of co-pay they would have to pay is determined by household income. Households up to 130% of the Federal Poverty Level are eligible.

Rep. Hall asked if surrounding states used the 130% Federal Poverty Level threshold and whether it is a federal or state guideline.

Ms. Carrington said she was not aware of what other states were using, but she would get the information.

Rep. Hall asked if he was correct in saying that the applications have increased over 50%, but the monetary payout has doubled, and if that related to higher energy costs.

Ms. Carrington stated that the Program increased benefits and some of it is related to increased energy costs.

Rep. Hall asked if funding for the Program was all federal or some state

funding.

Ms. Carrington stated that all funding is federal.

Rep. Adams stated that if fuel prices continue to rise, vendors cannot continue to deliver small quantities of fuel to LIHEAP recipients. He asked if there was anything that could be done to help the vendors who supply fuel by trucks.

Rep. Nelson asked if money could be allocated to help some of the vendors.

Ms. Carrington stated that the Department did some research on the problem last year. She said that they could create some proposals that could be presented to the Commissioner and the Secretary.

Rep. Napier asked for an explanation of the \$400 increase in benefits.

Ms. Carrington said that through the crisis component, a client would be able to receive up to \$400 which would be used for those with a shut-off notice or eviction notice if a portion of the rent included utilities.

Rep. Napier asked if the vendor could charge a delivery fee through the program.

Ms. Carrington stated that she would have to research that proposal to see if it would be allowable under the federal guidelines.

Rep. Nelson asked that the Department come back to the committee in the next couple of months to address the issues raised today.

Rep. Napier asked if the federal dollars for the programs came directly to the Department or to the Governor.

Ms. Carrington stated that the funds come through the Governor's Office.

Rep. Napier stated that the Committee needs to talk to the officials in the Governor's Office.

Rep. Nelson introduced Dan McKenzie, Energy Director, Community Action of Kentucky (CAK). He stated that approximately 700,000 Kentuckians benefitted from LIHEAP last year. He said that they received 56,000 new applications. LIHEAP is a life saving network that is essential to keeping people alive and in their homes.

Upon voice vote, the LIHEAP Block Grant Application, Proposed Findings of Fact, was approved.

Meeting adjourned at 2:55 p.m.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 1st Meeting of the 2009 Interim Kenton County Justice Center 2nd Floor, Juror Instruction Room 230 Madison Avenue Covington, KY 41011 June 11, 2009

The 1st meeting of the Interim Joint Committee on Judiciary was held on Thursday, June 11, 2009, at 10:00 AM, in the Juror Instruction Room, 2nd Floor, Kenton County Justice Center, 230 Madison Avenue, Covington, KY 41011. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John Tilley, Co-Chair; Senators Perry B. Clark, Ray S. Jones II, Gerald A. Neal, Dan "Malano" Seum, Katie Kratz Stine, and Jack Westwood; Representatives Johnny Bell, Joseph M. Fischer, Kelly Flood, Thomas Kerr, Harry Moberly Jr., Tom Riner, Steven Rudy, and Robin L. Webb.

Guests: Chief Circuit Judge Julie Reinhardt Ward, Campbell County Circuit Court; Christine Vissman, Attorney, Campbell County Community Corrections Program; and Chief District Judge Karen A. Thomas, Campbell County District Court for The Mental Health Court Program and Teen Court Diversion Program in Campbell County.

LRC Staff: Norman W. Lawson, Jr., CSA; Ray DeBolt, Joanna Decker, Jon Grate, Carolyn Gaines and Christy May.

Representative Tilley called the meeting to order, the roll was called, and a quorum was present. Senator Neal introduced Mr. Charles Booker, a third year law student from the University of Louisville. Representative Rudy introduced Representative Pullen who was observing the meeting, and Senator Westwood welcomed the committee and the participants at the meeting to Northern Kentucky. Chairman Tilley announced that Senator Schickel was unable to attend the meeting due to his participation in another committee meeting.

Chairman Tilley named the members of the Penal Code and Controlled Substance Act Subcommittee. The members are Senators: Gerald A. Neal, Co-Chair, Ray S. Jones, Jerry P. Rhoads, John Schickel, Dan "Malano" Seum, Katie Kratz Stein, and Robert Stivers; and Representatives: John Tilley Co-Chair, Johnny Bell, Joseph M. Fischer, Jeff Hoover, Darryl T. Owens,

Robin L. Webb; and Brent Yonts.

Following the Subcommittee introductions, Representative Tilley asked Senator Katie Stine to introduce the speakers and conduct the meeting. The first speaker was Campbell County Chief Circuit Judge Julie Reinhardt Ward, who presented information about the Northern Kentucky Economic Litigation Project. Judge Ward described the economic litigation project as a Supreme Court of Kentucky authorized program for rapid disposition of civil cases in selected courts approved by the Supreme Court of Kentucky. Judge Ward indicated that the program is sometimes referred to as the "rocket docket" for civil cases. The program is governed by Rules 88 through 97 of the Rules of Civil Procedure. Judge Ward described the program as having the following elements: (1) after the case is filed the Circuit Clerk holds the case for 20 days to make certain that all parties are properly summoned and provided the opportunity to file an answer to the allegations; (2) the judge then reviews the case and if no answer was filed then a default judgment may be granted; (3) if an answer was filed, the judge calls the attorneys together within 15 days for a discovery conference to determine the facts which is followed within 60 days by a pretrial conference to see if a compromise can be worked out; (4) if the pretrial conference indicates that a trial will be required a trial date is set within 30 days and judges do not regularly grant trial delays; (5) if the parties do not respond, the case is dismissed but can be refilled if the statute of limitations has not yet expired. Judge Ward indicated that the Economic Litigation docket is in use in three counties, and in Campbell County from January 1, 2007 to June 10, 2009, 3,324 cases were opened, and during that same time period 2,694 cases were closed and only 11, 2007 cases were still open.

When asked about the pros and cons, Judge Ward responded that rules in most cases are modified, that the program keeps cases moving, that judges know the details in the case early on, and the Clerk is not required to wait until the end of the year to attempt to send out notices about lack of progress in cases. Among the negatives, Judge Ward cited were that some attorneys do not like the program because, if they miss deadlines, the cases are dismissed and have to be refilled. Some attorneys

did not like the speed with which actions had to be taken. Representative Webb complimented Representative Jon David Reinhardt's, who is Judge Ward's father, service in the General Assembly and asked Judge Ward if the Economic Litigation Project led to more settlements of cases, to which Judge Ward replied, that it did not. Representative Riner complimented Judge Ward for being the first female Circuit Judge in Campbell County.

The next speaker was Ms. Christine Vissman, an attorney from Campbell County who had recently retired as administrator of the Campbell County Community Corrections Program and who, since retirement, has been helping with the program. Ms. Vissman indicated that the program is being funded by grants from the Department of Corrections and by services rendered by the agencies providing services for the program. Ms. Vissman indicated that the program was instituted ten years ago to serve targeted offenders and to provide training, counseling and other services for them in order for them not to be jailed for their offenses but who must remain employed, pay restitution, pay child support, and pay taxes. Ms. Vissman indicated that presently there were 13 clients in various stages of the program; 10 clients were facing revocation of probation and would have been sent to the penitentiary if not enrolled in the program. One client graduated from the program. Programs currently used by the clients include counseling, outpatient treatment, aftercare treatment, drug and alcohol testing. Ms. Vissman indicated 10 clients are paying child support, 3 clients are paying restitution, one client is paying fines and court costs, while 5 clients are subject to random drug tests.

Ms. Vissman indicated that the Commonwealth would be paying for the incarceration of these clients if they were not in the program and that this group of clients has already paid \$22,530 in child support this grant year. Ms. Vissman observed that since the program's inception that \$253,803 has been collected in child support, \$18,893 has been collected in restitution, and \$5,491 has been collected in fines and court costs, for a total of \$269,922. Ms. Vissman indicated that, particularly in connection with the operation of Mental Health Court, that one of the problems encountered is providing inpatient treatment for clients and

that the wait for inpatient treatment now exceeds 6 months. Ms. Vissman indicated that the program pays the \$20 per day cost for Global Positioning System electronic monitoring when required but in most cases provides the \$5 per day cost for regular monitoring. Ms. Vissman indicated that if the program was not in operation during the third quarter of this grant year alone, its clients would have spent 896 days in prison at a cost of \$37,464, versus the cost of operation of the program for this period which was \$6,350.

Representative Bell asked who funded the program, Ms. Vissman indicated the program was funded by a Department of Corrections grant pursuant to KRS Chapter 196. Representative Bell then asked if the program was available statewide. Ms. Vissman replied that any county could apply funds but that the major problem relating to full statewide implementation was funding which was \$500,000 per year several years ago. Ms. Vissman indicated that funds have been made available for home incarceration programs in Western Kentucky. Representative Webb indicated that one of the problems in making the program available statewide was the lack of services in rural areas, and she asked for the recidivism rate for the program. Ms. Vissman responded that, of the non-support clients, only 2 persons in 10 years had been re-charged with non-support. When asked about the relationship of the program with state probation and parole, Ms. Vissman responded that the program interacts with the state probation and parole program but that the actual monitoring of participants in the program is done by personnel from the program, thus saving probation and parole officers this duty. No supervision fee is charged to the client.

The next speaker was Chief Campbell County District Judge Karen Thomas who spoke about the Northern Kentucky Regional Mental Health Court Program in Campbell, Kenton, and Boone Counties. Judge Thomas observed that many drug court participants had mental health problems as well as substance abuse problems and indicated the Mental Health Court is modeled on the Drug Court Program. Judge Thomas indicated that 5% of persons in the U.S. are mentally ill, 16% of U.S. inmates are mentally ill, that 14% of Kentucky inmates are on psychotropic medication, and that 18% of Kenton

County inmates are on psychotropic medication. Judge Thomas indicated that Kentucky has only two mental health court programs at present while Idaho has 25 such programs. Judge Thomas described the goals of Mental Health Court as: to reduce mental illnesses effect on the offender and society and if applicable, reduce drug dependencies among offenders; to reduce recidivism; to reduce the mental health related court workload; to increase the personal, familial, and societal accountability of offenders; and to promote effective interaction and use of resources among criminal justice personnel and community partners.

Judge Thomas indicated that jail overcrowding created the need for the program and that so far the Mental Health Court Program and the Drug Court Program have been effective in reducing recidivism. Judge Thomas, who also runs the Drug Court Program, observed that the Drug Court Program has saved the state \$42 million in imprisonment costs with the yearly cost of drug court per participant being \$5,179, balanced against \$18,637 yearly cost of incarceration per prisoner. Judge Thomas commented that recidivism for drug court has been 20% versus 57.3% for persons on probation, and that the recidivism for mental health court has been 8%. The Northern Kentucky program was in the planning stage in January, 2007, and the program was partially implemented in November, 2008. The Regional Mental Health Court Program has received grants from Northern Kentucky University, Greater Cincinnati Health Foundation, and Community Corrections funding from the Kentucky Department of Corrections.

Judge Thomas indicated that persons with the following types of charges and illnesses are eligible for the program: Non-violent, nonsexual felony offenses, violent Class C and Class D felony offenses on a case by case basis with consent of the victim; all misdemeanors except sexual offenses on a case by case basis; Axis I and II on a case by case basis; co-occurring disorders, residency within Northern Kentucky and exceptions on a case by case basis. All potential participants are interviewed by a professional or by students supervised by a licensed professional. Typical services provided are for homelessness, case management, transportation, jobs, job training, life skills training, Social Security/Medicare assistance,

after-care, and treatment, and these services are provided by community agencies and organizations. Judge Thomas indicated that she is seeking funding and agencies to increase the program's participants. Representative Webb asked if the participant's attorney was kept informed throughout the program and commented that in some programs the participant's attorney is not present when questioning or critical decisions are taken. Judge Thomas replied that the defendant's counsel is a participant in the program and is notified of actions. Senator Seum asked if the Supreme Court of Kentucky has to approve the initiation of such a program, to which Judge Thomas responded that approval was required and had been given for this program. When asked if other counties wanted to start a Mental Health Court Program, Judge Thomas indicated that Hardin County is interested in the program. Representative Riner asked if it is more harmful for persons with mental health problems to remain in jail rather than participate in a Mental Health Court Program, to which Judge Thomas responded that remaining in jail was more harmful to the participant and that jail has become a mental health facility. This has resulted in the criminalization of mental illness.

Judge Thomas then spoke about the Campbell County Teen Court Program, which is an intervention program for juveniles who commit ordinance violations or minor crimes such as retail theft, minor theft, disorderly conduct, truancy, or minor damage to property. The juvenile admits guilt and may voluntarily enter the Teen Court Program. The juveniles receive sentences from a jury of other teens selected to participate in the program and local attorneys volunteer to assist the Teen Court students and the judges. Sentences may include apology letters, community service, jury duty on the Teen Court, etc. The Teen Court Program is an approved program of the Supreme Court of Kentucky with a mission to: reduce repeat offenses by youth; change the offender's attitudes towards law enforcement, society, and themselves; and have young offenders held accountable for their actions and increase the client's level of understanding how their behaviors have impacted others. Teens charged with juvenile offenses are referred to the program by court designated workers of the Juvenile Division of the Dis-

trict Court. In Campbell County, the court designated worker handles 350 cases, while Teen Court handles 14 cases.

The meeting was adjourned at 11:45 a.m.

INTERIM JOINT COMMITTEE ON JUDICIARY

Subcommittee on the Penal Code and Controlled Substance Act Minutes of the 1st Meeting of the 2009 Interim June 11, 2009

The 1st meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Thursday, June 11, 2009, at the Kenton County Justice Center, in the Juror Instruction Room, 230 Madison Avenue, Covington, KY 41011, upon adjournment of the Interim Joint Committee on Judiciary Meeting, at approximately 12:00 p.m.

Present were:

Members: Representative John Tilley, Co-Chair; Senators Ray S. Jones II and Katie Kratz Stine; Representatives Johnny Bell, Joseph M. Fischer, and Robin L. Webb.

Guests: None were present.

LRC Staff: Norman W. Lawson, Jr., CSA; Ray DeBolt, Joanna Decker, Jon Grate, Carolyn Gaines, and Christy May.

The meeting was called to order by Representative Tilley, the roll was called, and a quorum was not present. Representative Tilley read a statement for Senator Neal, who had a conflict with a concurrent meeting at the Kentucky Bar Association Convention in which Senator Neal recalled the hearings of the committee during last year's Interim, the bills passed by the 2009 Regular Session of the General Assembly, and laid out a plan for implementing this year's work of the Subcommittee.

Under this plan the following six major areas of discussion were identified: Group 1, Basic Philosophy of the Penal Code; Group 2, Bail, Pre-trial Release/Speedy Trial; Group 3, Alternatives to Incarceration; Group 4, Re-Entry of Offenders into Society; Group 5, Persistent Felony Offender Statutes; and Group 6, Controlled Substance Act.

Each group will consist of a Senator and a Representative and will consider questions proposed for action relating to that topic of interest in the form of a bill draft to be presented to the Subcommittee. Each member was urged to "approach their

assignments with serious dedication, abandoning preconceived views, and be guided by what is in the best interest of the public and the Commonwealth.”

After the bills have been presented, the Subcommittee will then review the proposals and create one coordinated bill draft to present to the 2010 General Assembly. Representative Tilley informed the members of the Subcommittee and the public that the Co-Chairs of the Judiciary Committee have requested the Legislative Research Commission for permission to have the next meeting of the Subcommittee on July 14, 2009 in Frankfort, without a meeting of the full Interim Joint Committee on Judiciary. Representative Tilley asked the members to indicate their preference as to topic.

The meeting was adjourned at 12:25 p.m.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

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

The 1st meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, June 12, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Gary Tapp, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Julian M. Carroll, Perry B. Clark, Carroll Gibson, Denise Harper Angel, John Schickel, Dan “Malano” Seum, Kathy W. Stein, and Damon Thayer; Representatives Tom Burch, Larry Clark, Tim Firkins, David Floyd, Dennis Horlander, Joni L. Jenkins, Adam Koenig, Charles Miller, David Osborne, Ruth Ann Palumbo, Carl Rollins II, Arnold Simpson, Ron Weston, and Susan Westrom.

Guests: Tony Dehner, Commissioner, Randy Fawns, Deputy Commissioner, LaTasha Buckner, General Counsel, Alcoholic Beverage Control; Frances Short, Executive Director, Occupations and Professions; Ryan Keith, legal counsel, Cabinet for Public Protection.

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

A quorum being present Chairman Gary Tapp called the meeting to order at 10:03 AM. The first order of business was adopting the minutes

from the November 14, 2008 meeting. With a motion from Senator Buford, seconded by Representative Firkins, the minutes were adopted by voice vote.

The first item on the agenda was an introduction of Tony Dehner, the new Commissioner for the Department of Alcohol Beverage Control (ABC) to committee members. Mr. Dehner said he has previously served as the director of the Division of Insurance Fraud Investigation and had over 30 years experience in the judicial and criminal justice system. He said these years of investigative and mediation experience are an asset to the Department of Alcohol Beverage Control as it continues to accomplish its statutory purpose of protecting the public welfare and interest, and regulating the alcoholic beverage industry through licensing, education and enforcement. Mr. Dehner said that the department appreciated the support of Senator Tapp for sponsoring Senate Bill 34, and Representative Susan Westrom for sponsoring House Bill 129. He said the passage of HB129 strengthens the enforcement power of ABC to keep alcoholic beverages out of the hands of minors.

Mr. Dehner said that ABC would have a housekeeping measure similar to SB34 in 2010, with three changes that would reduce confusion and bring much needed clarity to their statutes. He said that in 2000, the General Assembly passed legislation that created new licenses outside KRS 243.020 and KRS 243.670. The department proposed to correct these types of licenses created under Chapter 242 and avoid future problems when a new license is created and not placed between KRS 234.020 and KRS 243.670.

A second proposal pertains to changing licensee closing requirements during local option elections located in a dry territory to mirror statutes for wet territories. This change will still require all licensees to close but only in the affected territory of the election rather than in the whole county, and only during the hours the polls are open. Mr. Dehner said the final change would delete duplicative wording and clean up punctuation and syntax so that language will comply with LRC drafting rules and federal requirements.

Senator Gibson asked if the agency was requesting 36 new controllers. Mr. Dehner responded that the changes the ABC was asking for

would bring 36 of the ABC statutes into compliance.

Next on the agenda, Frances Short, Executive Director of the Division of Occupations and Professions; and Ryan Keith, general counsel for the Public Protection Cabinet, updated the committee on support provided to professional boards. Ms. Short said the purpose of the division is to provide services on a contractual basis to boards that cannot afford to maintain their own individual staff and offices. She said that in 1974, KRS 224.10-052 was enacted, charging the division with providing administrative services to approximately seven boards; however, all boards maintain their identity and their full authority for making policy decisions in the field they regulate. At the division's inception there were six staff members. At that time the total number of licensees was 5,500 and the division's budget was a combination of general fund dollars and agency receipts from the seven boards. Since that time general fund dollars have been reduced and now the boards are self-funded through their licensure fees. Ms. Short said that currently the Division of Occupations and Professions provides services to 19 boards with a combined total of 20,000 licensees. She stated there are eight Board Administrators to cover these boards. She said in addition to the board administrators there is a director, administrative section supervisor and two fiscal employees. Ms. Short said that currently the division is fully funded by the administrative fees charged to each board for the services it provides. Ms. Short said services provided by the division include implementing and maintaining the system of license issuance, renewal, suspension, revocation, and other administrative action associated with occupational licensing or certifications. She said the division also receives and processes certifications, general correspondence on behalf of the boards; receives and processes complaints; schedules hearings; manages and updates computerized records of all licensees and certificate holders; disseminates meeting notices; coordinates board meetings; maintains continuing education records and assists in preparation of administrative regulations.

Regarding fee transfers, Ms. Short said not all of the boards have fees transferred out of them, but for fiscal year 2008, the fee transfers

from various boards totaled \$235,000 dollars. For fiscal year 2009, the fee transfers from various boards totaled \$1.2 million, and for fiscal year 2010, the fee transfers will total \$305,000 dollars. Ms. Short said that some of the consequences experienced include potential financial insolvency. She said there are five boards that will have a negative impact. She said boards with reduced funds are not able to investigate and respond to complaints received. She said a board's primary function is to serve as consumer protection. Ms. Short said there is no way to anticipate the number of complaints a board will receive each year or how involved they will be; and all expenses related to complaints are fully funded by the boards. She said some boards have full time investigators because there is such a large amount of complaints, and when funds are reduced due to fee transfers it creates a hardship on that board to respond to the complaint. She said each year boards seem to experience an increase in the number of complaints. Ms. Short said boards are concerned about the ability to maintain funds in order to have a sufficient budget to respond to complaints. She said some boards, in order to offset the reduction in budgets, are proposing regulations to increase licensure fees.

Ms. Short said the division is working to enhance technology to provide more support. She said the ability for licensees to enroll electronically and submit application information electronically will provide faster turnaround time, and reduce expenses such as postage. She said the division is currently meeting with board chair to gain their input on how the division can provide better services. She said one consistent response has been improve technology, including phone systems. Ms. Short said another method for boards to save money is meet every other month or quarterly in order to accommodate board business. She said the online payment process is being up-dated to include the ability to pay by credit card or debit card and the ability for licensees to print verification of licensure on agency letter head.

Senator Tapp asked how many complaints the boards receive that are not investigated or are let go because of staff shortage. Ms. Short said it would be difficult to determine because every complaint is different. She said that the majority

of complaints, generally speaking, eighty-five percent, are investigated as valid complaints. She added that no complaint is passed over due to lack of staff. Representative Clark asked how many boards and commissions there are in the Commonwealth. Ms. Short said that there are a substantial amount; however, she could only speak to the boards serviced by the division. Representative Simpson asked if there was a procedure to ascertain if the boards are continuing to function, asking if rather than adding boards, some boards could be removed. Ms. Short said the mechanism by which boards are assigned to the division is through the General Assembly. She said that one board recently moved to function independently as it felt it had enough money to support itself. Representative Simpson asked what oversight existed in the statutory network to oversee boards that are not assigned to the division for administrative oversight. Ryan Keith, General Counsel for the Public Protection Cabinet responded that the office of Boards and Commissions has oversight on those boards. He said the Division of Occupations and Professions is really an opportunity provided by the Finance Cabinet. For example, there are some boards that are organizationally in the cabinet, the Board of Tax Appeals and the Board of Claims. He said the anomaly of the Division of Occupations and Professions is that all that is in the cabinet organizationally is the staff, a pool of people that is available to boards throughout government who either cannot afford, or simply prefer not to have their own independent staff employed by the board. He said the Board of Nursing and the Board of Medical Licensure are much more substantial and have their own staff. They have more substantial operations than the boards that Occupations and Professions serve. He said the division would be open to boards who feel that using division staff services would be an economic and efficient way to proceed. He said the division would negotiate a contract with any board requesting services.

Representative Simpson asked if boards that are assigned administratively have a mechanism to accept complaints relative to the operation of the board rather than of the licensees. He asked how to preclude arbitrary and capricious conduct by the board, or in that instance is the only recourse a court of law if the

board is operating in an arbitrary and capricious manner. Ms. Short said if the complaint is against the actual board itself as opposed to a violation of law, it is her understanding that under statute the board members are protected and she had not encountered a circumstance where there was a complaint brought directly against a board member or the board itself.

Representative Rollins asked if there was a website where there is more information available regarding particular accounts for each boards, such as what the boards have in reserve and what their normal operating costs are. Ms. Short said the division could provide more detailed information. Senator Tapp asked Ms. Short to follow up with staff regarding Representative Rollins request.

Representative Koenig commented that there are over 400 boards and commissions, saying that he is interested in streamlining or combining some of the boards that overlap each other. Representative Westrom asked, if there was a licensing complaint filed against a professional counselor, was the complaint handled by the division. Ms. Short said the function of the Division of Occupations and Professions is strictly administrative. She said that each board had their own board counsel provided through the Attorney General's Office.

Representative Floyd asked if there were other functions the division performed besides providing administrative support for the boards named in statute. He also asked if the division put complaints in writing to be delivered to those boards. Ms. Short replied that all decisions regarding complaints were made by the specific boards; however, the division does get calls for explanations regarding the complaint process. Ryan Keith added that the statute specifically identifies more than 20 boards the division is authorized to work for, if those boards choose to hire the division. He added that there is general language that states that any other similar occupational or licensing board may also choose to use the division staff. Representative Floyd, in response to Mr. Keith, said the statute says that "the boards and commissions are relieved of the power and duty to provide the services for themselves." Representative Floyd asked if that was a directive, or if they may do that regardless. Mr. Keith replied that the division provides administrative services if they

choose to hire the division through a contractual relationship for the purposes of receiving mail, processing licensing, and others duties office staff would perform. Senator Tapp clarified that there is an annual contract that the division charges the board or commission for and asked if the fee charged was based upon the number of licensees. Ms. Short it was a combination of the number of licensees and the amount of time that would be spent working for the board in addition to an administrative fee.

Senator Carroll said in the 70's there were over 5,000 board appointments made adding that board appointments are a major function of the Governor's Office, which has within it an Office of Boards and Commissions. He said the General Assembly did need to take a better look at reining in some of the boards to save overhead cost. He said there is a statutory procedure for individuals who have had a license revoked with a process that goes through the court system. Senator Carroll said there is an enormous case load in Frankfort for handling appeals and felt that an intermediate body in state government that would avoid appeals reaching circuit court could save state government the expense of hiring lawyers. He added that the General Assembly should look at oversight in terms of adequately hearing complaints and adequately providing for a response for these complaints. Senator Carroll asked if there were any discretionary funds that the division could use if a board did not have money to investigate complaints. Ms. Short said generally the division will ask for an emergency allocation for that board and the board repays the allocation as the license fees replenish their budget.

Representative Simpson said boards have attorneys but asked about licensees who cannot afford one. He said those individuals need to have a safety net. Representative Simpson asked if the boards that the division oversees have a uniform policy on payments or are there variations and who makes decisions on board compensation. Ms. Short said compensation is established in regulation and determined by the boards. She said the average per diem is \$100 per day. Some smaller boards that meet quarterly or less pay \$50 per diem. Representative Simpson asked if there were other remunerations for the boards the division oversees. Ms. Short said other than the per diem

costs there would be mileage related to attending board meetings as well as attending conferences related to their field. Senator Tapp said that the fees are set by administrative regulations; however, after the boards are set up they raise fees and the General Assembly sweeps those fees.

Senator Tapp told the committee that if there were any topics members were interested in hearing he and Chairman Keene would review them for future meetings. Representative Simpson asked if it would be appropriate to ask if Program Review would consider having staff do an analysis of all existing boards and bring that report to the committee for consideration. Chairman Keene told the committee that Representative Simpson had been named "Lawyer of the Year" by his fellow attorneys in Kentucky.

There being no further business to come before the committee the meeting was adjourned at 10:47 AM.

INTERIM JOINT COMMITTEE ON TRANSPORTATION Minutes of the First Meeting of the 2009 Interim June 2, 2009

The first meeting of the Interim Joint Committee on Transportation was held on Tuesday, June 2, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Walter Blevins Jr., Charlie Borders, David E. Boswell, David Givens, Bob Leeper, R.J. Palmer II, Brandon Smith, Gary Tapp, and Damon Thayer; Representatives Eddie Ballard, Linda Belcher, Leslie Combs, Tim Couch, Will Coursey, Jim DeCesare, David Floyd, Richard Henderson, Melvin B. Henley, Jimmie Lee, Charles Miller, Lonnie Napier, Rick G. Nelson, Tanya Pullin, Marie Rader, Sal Santoro, Arnold Simpson, Ancel Smith, Fitz Steele, Jim Stewart III, Tommy Turner, and Alecia Webb-Edgington.

Guests Appearing Before the Committee: Representative Fred Nesler; and from the Kentucky Transportation Cabinet: Mike Hancock, State Highway Engineer; Russ Romine, Executive Advisor to the Secretary; Vickie Bourne, Executive Director of the Office of Transportation Delivery.

LRC Staff: John Snyder, Bran-

don White, Dana Fugazzi, and Linda Hughes.

The purpose of this meeting was to discuss the Federal Government's American Recovery & Reinvestment Act (ARRA), sometimes referred to as the Stimulus Package. Preceding this discussion, Chairman Harris asked Mr. Hancock to give the Committee a brief update on the state's Road Fund as it relates to the state's revenue shortfall situation.

Mr. Romine said that the official Road Fund estimate for Fiscal Year 2009 was adjusted down last November by \$105 million, with an additional downward adjustment during the last session of \$96 million. Unfortunately, Mr. Romine said that current receipts show that the state will be \$130 to \$140 million short of the state's original estimate for FY 2009. He said that the Consensus Forecast Group's official Fiscal Year 2010 estimate revision for next year shows the Road Fund down approximately \$239 million from its original estimate.

Chairman Harris asked the Cabinet to send staff a brief chart showing the Consensus Forecast Group's original estimate, where the state was at the end of March, and the Group's latest estimate, as it pertains to the Road Fund and its various taxes.

Mr. Romine noted that Kentucky benefited from ARRA through two programs: Highway Infrastructure Investment, and Transit Capital Investment. From a total of \$275 billion nationwide, Kentucky will receive \$421.1 million for its Highway Infrastructure Investment and an additional \$51.5 million for its Transit Capital Investment.

Mr. Romine stated that the state's \$421.1 million Highway Infrastructure Investment distribution will be \$367.8 million to statewide projects identified in the 2009 Highway Plan; \$12.6 million to transportation enhancement projects, which will be selected from projects submitted for the 2008 application process; and the remaining \$40.6 million will be dedicated to MPO projects, selected by local planning committee members. The MPO breakdown is as follows: Northern KY will receive \$8,761,860; Henderson receiving \$831,184; Lexington receiving \$7,845,004; and the remaining \$23,149,098 going to Louisville.

Representative Simpson asked how the MPO amounts were determined. Mr. Hancock said the formula is a formula from the Federal

Highway Trust Fund, and it is based primarily on population. Representative Simpson asked if the Cabinet had and oversight or veto measures in this formula. Mr. Hancock said that the state does have input on how the funds are used, but only as one voice on a committee, and that it does not have any veto powers.

Representative Webb-Edgington asked if there were any new projects considered outside the state's Road Plan. Mr. Hancock said no new projects were included, only those projects already contained in the state's approved Highway Plan.

Mr. Romine stated there were three Federal stipulations placed on the Recovery Act money – states must obligate 50 percent (for KY that is \$147.4 million) by June 30, 2009; states must obligate 100 percent (KY - \$421.1 million) by March 2, 2010; and the Recovery Act funds are only available until September 30, 2015. Mr. Romine stated that he did not believe Kentucky would have a problem meeting all three stipulations. He said that the state's 2009 Highway Plan identified \$442.7 million for the stimulus projects, and it has already met the 50 percent obligation (\$163 million obligated and approved by Federal Highway Administration (FHWA) with an additional \$56 million awaiting FHWA approval); plus \$109.1 million has been bid and awarded to-date.

Mr. Romine stated that there is also Federal accountability involved. He said that the FHWA is the oversight agency for Highway Infrastructure Investment. There is monthly reporting required, as well as additional monthly reporting to the U.S. House Transportation Infrastructure Committee.

As for the Transit Capital Assistance, Mr. Romine stated that \$32.2 million will be formulated through the Section 5307 Urban Formula and \$19.2 million through the Section 5311 Rural Formula. The Federal stipulations for the Transit Capital Assistance Investment are as follows - states must obligate 50 percent of Transit funding by September 1, 2009; 100 percent by March 5, 2010; Of Kentucky's \$51.5 million, \$21.4 million will flow through the Transportation Cabinet; and the remaining \$30.1 million will flow directly from the Federal Transit Administration to individual transit agencies.

Oversight accountability will be monitored by the Federal Transit Administration, with monthly report-

ing, including a monthly report to the U.S. House Transportation Infrastructure Committee.

Chairman Collins asked what the \$19.2 million rural transit funds covered. Ms. Bourne said that it will be statewide coverage, with the majority of the funds used for bus purchases. Chairman Collins asked if the Medicaid services come into play with this money. Ms. Bourne said, for instance, the Sandy Valley area is receiving \$300,000.

Chairman Collins asked for an update on the local money that will be received from the 2 cents increase in the fuel tax. Mr. Hancock said that currently the Cabinet has obligated approximately \$11.4 million for projects under the state bond program. He said that the Cabinet has yet to sell those bonds, but has made all the arrangements to do so. He pointed out that the state saves interest money by not issuing the bonds until it is ready to utilize their proceeds.

Chairman Collins asked if any of the local money derived from the 2 cents increase will be available this fiscal year. Mr. Romine said that there are two programs that affect the counties – the rural secondary program and the county aid program. He said that he thought Chairman Collins was referring to the county aid program distributions where counties receive three distributions during a given year. Mr. Romine said that the first two distributions happen in the fiscal year and the third happens after the fiscal year closes, and is based on actual motor fuels tax receipts. He said that the third distribution will take place during the July-August timeframe, and it will be based upon the actual motor fuel collections.

Representative Pullin asked if any of the stimulus money would be allocated to rail. Mr. Hancock said that as the Recovery Act came to Kentucky (the \$421.1 million) there was eligibility for some of that funding to be used for rail infrastructure. However, none of that money has been earmarked for rail infrastructure; it has been identified primarily for highway and transportation enhancement projects. He said that there is a discretionary grant program for freight and passenger rail that has been introduced and the application period just opened last week. Mr. Hancock stated that the Cabinet is receiving a lot of contact from the rail industry on potential applications for

those funds. In addition Mr. Hancock said that there is an \$8 billion grant that Kentucky does not qualify for in the Recovery Act for high speed passenger and intercity passenger rail. However, the Obama Administration has just issued a strategic plan that identified the Chicago/Louisville route. Mr. Romine stated that the Cabinet has not currently applied for any of the high speed passenger, or intercity passenger, rail. However, he said, the Cabinet is watching the funding activity around Amtrak and if there is an opportunity for the state to participate it will do so.

Representative Lee asked for an update on the rehabilitation of the state's interstates. Representative Lee stated that he is receiving 15 complaints a week just on the stretch of road between Louisville and Elizabethtown on I-65, which is particularly dangerous for motorcycles. Mr. Hancock stated that the past winter storms were extremely tough on Kentucky's highways. He said the Cabinet has been trying to keep the highways in as best of a shape as it can. However, he said that that section on I-65 between Elizabethtown and Louisville has major problems and that those problems are a major focal point in the state's stimulus program. Mr. Hancock said currently there is roughly \$36 million that will be channeled to I-65 improvements.

With no further business before the Committee, the meeting adjourned at 2:05 p.m.

CAPITAL PLANNING ADVISORY BOARD Minutes of the 1st Meeting of the 2009 Calendar Year June 4, 2009

The 1st meeting of the Capital Planning Advisory Board (Board) was held on Thursday, June 4, 2009, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Melvin B. Henley, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Melvin B. Henley, Co-Chair; Senator David E. Boswell; Representative Ron Crimm; David Buchta, Carole Henderson, Bill Hintze, William May, Katie Quitter, Edmund Sauer, and Laurel True.

Guests: Tony Wilder, Commissioner, Mike Hale, Flood Control Administrator, and Harry Carver, Renaissance on Main Project Manager, Department for Local Government;

John Covington, Executive Director, Kentucky Infrastructure Authority; Warren Nash, Deputy Commissioner, Department of Commercialization & Innovation, Donna Duncan, Commissioner, Department of Financial Incentives, and Holly Spade, Executive Director, Office of Legal Services, Economic Development Cabinet; Robert Tarvin, Executive Director, School Facilities Construction Commission; Steve Reeder, Executive Director, Don Morse, Staff Assistant, and David Hamilton, Engineer, Kentucky River Authority; Craig Maffet, Deputy Commissioner, Department of Agriculture; Tammy Branham, Executive Director and Jeff Morris, Director, Division of Facilities, Transportation Cabinet.

LRC Staff: Don Mullis, Shawn Bowen, and Jennifer Luttrell.

Co-Chair Henley asked Co-Chair Westwood to make introductory remarks. He thanked everyone for attending and welcomed the new members to the Board.

Co-Chair Westwood's motion to approve the minutes of the September 23, 2008, meeting was seconded by Representative Henley and approved by voice vote.

Co-Chair Westwood then noted that the major responsibility of the Board every two years is the development of a statewide capital improvement plan. Before beginning the review of the six-year capital plans of the various agencies, he asked Mr. Mullis to go over the informational items and to provide an overview of the planning process.

Mr. Mullis explained that the Status of Implementation of Senate Bill 189 would have to be postponed until the next meeting because Mr. John Hicks was not able to attend. He then explained that either there was a staff analysis of various agencies that do not have a capital request or the nature of their capital request has not changed over the last several plan cycles. These agencies would not appear before the Board. He noted that this would help reduce the number of meetings that would be necessary between this date and October.

Mr. Mullis reviewed the statutory basis for the Board's development of a six-year statewide capital improvement plan. He then described the content and review format of the agency six-year plan submissions. Noting that the agency plans contain a large amount of information, Mr. Mullis also reviewed the summary

materials that would be provided to the members in the "CPAB Staff Analysis and Comments" for each plan. He then introduced staff who would be working with the Board during the 2010-2016 planning process. He requested that the Board schedule the next two meeting dates.

Co-Chair Henley requested that the Board set the next two meeting dates. The dates set were July 7 and August 21st.

Co-Chair Henley said the first agency plan to be reviewed would be the Department for Local Government. Representing the Department were Mr. Tony Wilder Commissioner, Mr. Mike Hale, Flood Control Administrator, Mr. John Covington, Executive Director of the Kentucky Infrastructure Authority (KIA), and Mr. Harry Carver, Renaissance on Main Director.

Mr. Mullis gave a brief overview of the Department's purpose and priorities for the general fund during this planning process.

Commissioner Wilder asked Mr. Mike Hale to give a brief overview of the Flood Control program and to present the needs of this program.

Mr. Hale said the Flood Control Matching Program was funded to help communities meet federal match requirements for flood damage abatement. The Department is seeking funding in the upcoming biennium to respond to changes at the federal level. Mr. Hale said that because of the Katrina disaster in New Orleans, FEMA wants to make sure that all levies and floodwalls can sustain the floodwaters. The next component of this request has to do with Natural Resource Conservation Service Dam Repairs. The Federal Government has provided stimulus monies to communities to allow for repair or rehabilitation of dams that the Division of Water has determined to have deteriorated from a moderate hazard to a high hazard. Downstream development since construction of these dams has placed a tremendous need to match those federal programs and requirements as was evidenced by the recent flooding disasters.

In response to Co-Chair Henley's question about whether the Department coordinates with the Kentucky River Authority (KRA) on the locks and dams, Mr. Hale replied that they had some initial conversations, but because the locks and dams have to do with navigation and not flood control, they have not been coordinating with KRA.

Co-Chair Henley asked how the stimulus monies would affect this program. Mr. Hale replied that Natural Resources Conservation Service has received some money recently, but the Department will need from \$1 to \$4 million to match the federal-funded dams program.

Co-Chair Henley asked if the Department will apply for competitive grants. Mr. Hale replied that the communities would apply for the grants and then request the Department to assist with that local match which would apply to the Natural Resources Conservation funding.

Commissioner Wilder then asked Mr. John Covington, Executive Director of the KIA, to give a brief overview of the Authority and the funds being requested.

Mr. Covington gave a brief history of KIA. He then stated KIA is requesting \$50 million from the Infrastructure Revolving Fund (Fund B) to be used to fund water and sewer projects that are not eligible to be funded by the Federally Assisted Wastewater Revolving Fund Program (Fund A) or the Federally Assisted Drinking Water Revolving Loan Program (Fund F). He said there is a significant demand for Infrastructure projects across the state and a recent call for projects for the \$68 million in American Recovery and Reinvestment Act stimulus funds generated over a billion dollars in requests.

Mr. Covington said KIA is requesting \$172 million for the Fund A program. This consists of \$60 million in federal funds, \$12 million in general funds for the required state match and \$100 million from agency bonds. The increase in federal funds from the current request is based upon the proposed federal budget. The funding levels in both programs are consistent with the proposed increase in the federal budget. The Authority is requesting \$100 million in agency bonds, which is a decrease from what was requested in the last biennium. This decrease is a result of the increase of the federal budget for this program. This program has a history of increased loan repayment so there will be more funds available for this program. The debt service on the agency bonds is paid from program revenues and does not require general fund dollars. Mr. Covington stated that KIA is requesting \$63.4 million for Fund F, which consists of \$32 million in federal funds, \$6.4 million from the general fund for the required state match and \$25 million

in agency bonds.

Mr. Laurel True asked when the agency bonds would be issued. Mr. Covington replied that they are working with the Office of Financial Management to select an underwriter and bond counsel. Requests for Proposals are due on June 12, and they anticipate the bonds being sold within the upcoming fiscal year.

Mr. True asked where the agency revenues come from to which Mr. Covington replied that they come from the repayment of loans. He also noted that these bonds have been favorably received in the market.

At the request of Commissioner Wilder, Mr. Harry Carver, Renaissance on Main Project Manager, briefly discussed the history of the program. He noted that there was no funding received for this program in the last biennium.

Representative Henley added that this program has increased the downtown property values.

Commissioner Wilder addressed the request for \$3 million for the Community Enhancement Funds indicating that there is not an existing program for communities that might have needs that are not provided for in any of the other funds.

The next plan to be reviewed was for the Economic Development Cabinet. Representing the Cabinet were Ms. Donna Duncan, Commissioner of the Department of Financial Incentives; Mr. Warren Nash, Deputy Commissioner, Department of Commercialization and Innovation; and Ms. Holly Spade, Executive Director, Office of Legal Services.

Mr. Mullis first gave a brief overview of the Cabinet's programs and priority requests. Ms. Duncan then gave a brief overview of the Kentucky Economic Development Finance Authority (KEDFA). She stated that the biennial budget approved for the fiscal year ending June 30, 2009, requires KEDFA to transfer \$23 million to the general fund. This transfer is to be made this month and when it is effective will leave \$5 million to meet loan demands and cover operational expenses. HB 406 (budget bill) also reauthorized a prior period bond authorization to allow KEDFA to share proceeds of a \$20 million bond issue with projects initiated by the Department of Commercialization and Innovation through the high tech investment pool. This pool currently has \$7 million in uncommitted funds available. Loan demand is increasing due to economic condi-

tions. The Cabinet is requesting \$15 million for each of the next three biennia to meet the needs of the Commonwealth in order to be competitive with other states. The KEDFA program is requesting \$100 million in the 2010-2012 biennium that includes advanced disbursement options. A statutory change would be needed. These advanced disbursements would be treated as loans, would require collateral, and have set repayment schedules. She also addressed the Economic Development Bond program. She gave a brief history and overview of the program. She noted that there have been no major changes in this program since the last capital plan submission. Currently ten projects have been approved which total \$50 million as approved by HB 406. The request for the next three biennia is for \$20 million, each which should be sufficient for the projects they anticipate.

Ms. Duncan replied yes to Co-Chair Henley's question as to whether they were serious about the paybacks.

Representative Crimm asked how many loans were being requested. Ms. Duncan replied five to ten per year.

In response to Co-Chair Henley's comment, that if the state had loan money available it might be in a good position to attract companies that could not borrow money elsewhere, Ms. Duncan stated that she thought that was a fair statement. She also noted that it would be a benefit to the state.

Mr. Nash then addressed the high tech construction pools. He gave a brief overview of these pools established under KRS 154B as forgivable loans. There are currently 31 high tech companies that are in monitoring status. It is projected that over the next three to five years, 750 high-tech management and technical jobs paying salaries in excess of \$50,000 will be created. There are 25 active projects at various stages that will be coming to the high tech pools for funding. Another program that is feeding this pipeline is the Federal Small Business and Innovative Research (SBIR) Program. This program encourages small businesses to explore their technology potential and is the first of this sort of program in the nation. Since 2006, the state has provided matching funds. He pointed out that the state has had companies locate to the state because of this program. At the International

Bio Conference in Atlanta, Governor Beshear promoted this program. In Phase I, up to \$100,000 is matched to support the exploration of technical merit and in Phase II, up to \$500,000 is matched to develop the prototypes of those technologies. This program has been recognized as the number one state assistance program in the nation. As these companies continue to grow, they will be requesting assistance so Economic Development Cabinet is requesting \$40 million per biennium over the next three biennia to support this program. The bond authorization from HB 406 balance is \$7 million, which is shared between the high tech pools and the capital loan programs for the rest of this year and the next biennium. The balance in the high tech pools is below \$3 million to last the rest of this year and the next biennium as well. He noted that this program is quite successful.

The next plan to be reviewed was for the School Facilities Construction Commission (SFCC). Representing the Commission was Dr. Robert Tarvin, Executive Director.

Mr. Mullis gave a brief overview of the Commission's purpose and priorities for funding. He also noted that the Condition Facilities Category "Fair to Poor" rating has changed to 142 as opposed to the latest report of 173 in 2007. The "Poor" rating changed from 10 in 2007 to 16.

Dr. Tarvin distributed a handout that contained charts addressing the conditions of all the school building in the state from 1998 – 2008 based on research conducted by the Kentucky Department of Education. The first request is for \$150 million in bonds for the General Offers Program. The state provides \$100 per student to every local school district for facilities. That amount has remained the same since 1976. Every district is required to have 5 cents of local taxes to support the facilities. SFCC makes up the difference between funds available and what each school needs from the bonds. In 2003, the legislature instituted a program known as Category 5, or Urgent Needs, or Targeted Funding to address schools with the worst conditions. Every project has been executed except for five projects through this three-year cycle. There is \$27 million in bond money available to complete those five projects.

Co-Chair Henley asked if there was enough money to take care of the sixteen schools that need atten-

tion. Dr. Tarvin replied no, but that they were not planning to take care of all sixteen schools at once. He noted that there was a priority list of projects and that they conduct this plan every four years as approved by the Department of Education.

The next plan to be reviewed was the Kentucky River Authority (KRA). Representing the Authority was Mr. Steve Reeder, Executive Director; Mr. Don Morse, Staff Assistant; and Mr. David Hamilton, Engineer.

Mr. Mullis first gave a brief overview of the Authority's programs and priority requests. Mr. Reeder then gave a brief history and purpose of KRA. He stated that the only funds that KRA receives are water user fees. He stated that there are \$32 million of structural problems that need to be addressed with general funds. They currently have a \$17.5 million bond. KRA would like to receive general fund money to renovate Locks 3 and 4 in this next biennium and then to do stop gap work on Locks 1 and 2 with the \$2.5 million that should be left over from Locks 3 and 4. KRA would then like to work on Dams 7 in the biennium after that because it has a crack in the dam at the hydro plant. KRA is requesting funds to work on Lock 8 in Nicholasville in the 2010-2012 biennium because the work that was completed in 2005 was not successful and that dam is a high priority since it serves Fayette County.

The next plan to be reviewed was the Department of Agriculture. Representing the Department was Mr. Craig Maffet, Deputy Commissioner.

Mr. Mullis first gave a brief overview of the Department's programs and priorities for funding. Mr. Maffet then stated that the Department's two general fund priorities are Animal Shelters and the Purchase of Agriculture Easements (PACE) program. In 2007, with some preferential tax treatments, the Department brought in \$17 million worth of easements into the program with \$250,000 in funding which comes from the federal government. As far as the Animal Shelter program, he pointed out that funds are needed to control disease and public health issues that occur if there is not a place to house homeless animals. He also noted that as the economy declines, there is a larger need to take care of these neglected animals.

The next plan to be reviewed was for the Transportation Cabinet.

Representing the Cabinet was Ms. Tammy Branham, Executive Director; and Mr. Jeff Morris, Director, Division of Facilities.

Mr. Mullis gave a brief overview of the Cabinet's programs and priorities for funding.

Ms. Branham stated that the Cabinet's focus is maintaining the state's transportation systems. This consists of maintaining all the state's transportation buildings, salt storage structures, environmental compliance, technology and transport upgrade projects, and aircraft maintenance. These projects will cost the Road Fund \$13.9 million over the biennium and require \$800,000 from the General Fund. The 2010-16 plan varies from the last submission in that the request in the first biennium is \$98 million compared to \$58 million to replace structures and facilities because the needs have multiplied.

Mr. Morris stated that there are 18 facilities that need to be replaced.

Co-Chair Henley asked if there would be enough money to bring the Cabinet's aircraft up to speed. Ms. Branham responded that the request that the Cabinet is submitting would adequately maintain the equipment that they have.

There being no further business, the meeting was adjourned at 3:22 p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

**Minutes
May 14, 2009**

The Capital Projects and Bond Oversight Committee met on Thursday, May 14, 2009, at 1:00 PM, in Room 169 of the Capitol Annex.

Present were:

Members: Senators Julian M. Carroll, Bob Leeper, and Elizabeth Tori; Representatives Robert R. Dameron, Steven Rudy, Jim Wayne, and Susan Westrom.

Guests: Bob Wiseman and Frank Butler, University of Kentucky; Charles Bush, Division of Real Properties; Sandy Williams and John Herald, Kentucky Infrastructure Authority; Judge Henry W. Bertram, Pendleton County; Representative Tom McKee; Katie Smith, Department for Financial Incentives; Tom Howard and Brett Antle, Office of Financial Management; and Rick McQuady and Kevin Bradley, Kentucky Housing Corporation.

LRC Staff: Don Mullis, Kristi Culpepper, and Samantha Gange.

Don Mullis, Committee Staff Administrator called the meeting to order and asked the Secretary to take the roll.

Representative Damron made a motion to approve the minutes of the April 21, 2009, meeting. The motion was seconded by Senator Tori and approved by voice vote.

Next Mr. Mullis said that an election for a Senate Co-Chair and House Co-Chair was needed. Senator Carroll nominated Senator Leeper for the position of Senate Co-Chair. The motion was seconded by Senator Tori. Senator Carroll then made a motion that nominations cease and that Senator Leeper be elected Senate Co-Chair by acclamation. The motion was seconded by Senator Tori and approved by voice vote.

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

Representative Westrom asked Mr. Mullis to discuss correspondence and information items. Mr. Mullis said members' folders contained several correspondence items: a letter sent to the Finance and Administration Cabinet relating to the Kentucky Infrastructure (KIA) 2020 program grant to the City of Williamstown; correspondence from KIA; correspondence from the Cabinet for Health and Family Services relating to the Boni Bill; and correspondence from the Office of Financial Management (OFM) regarding questions related to the states portfolio.

Mr. Mullis also noted that members' folders contained several information items: Energy Performance Savings Contract Leases (EPSC); KIA Economic Stimulus Recovery Funding update; and the staff and bond market updates.

Representative Westrom called on Bob Wiseman, Vice President for Facilities Management, University of Kentucky (UK), and Frank Butler, Executive Vice President for Finance and Administration, UK, to discuss a report. Mr. Wiseman reported the final purchase of the Samaritan Hospital at a previously agreed upon price of \$35 million. The purchase includes almost 14 acres of land adjacent to UK campus, a hospital, a parking ga-

rage, and a medical office building. He said that the financing is a fixed-rate, lease-purchase agreement as authorized by the General Assembly in SB 143 of the 2007 Regular Session. The Committee was briefed on the acquisition on June 19, 2007 and July 24, 2007. The purchase agreement and financing were approved at the UK Board of Trustees March 10, 2009 meeting. The financing vehicle is a 20-year fixed-rate lease-purchase agreement through the Kentucky Association of Counties Leasing Trust (CoLT). [CoLT is a member service of the Kentucky Association of Counties (KACo), established in 1989 to assist in financing governmental purpose projects.]

Mr. Butler discussed some background information pertaining to the acquisition of Samaritan Hospital. He said that at the time UK sought the acquisition of Samaritan Hospital it was in the early stages of bankruptcy filing. It was in UK's interest to maintain the facility and keep the 450 employees. The number of people employed at the facility has since increased to 680. The acquisition of Samaritan has also allowed UK to provide more access to patients. Mr. Butler indicated that UK was under pressure to acquire the Samaritan Hospital because of a 90-day put option with Ventas to execute a purchase agreement.

Representative Damron asked why UK entered into a financing arrangement for Samaritan Hospital that used derivatives when UK has been very successful with fixed-rate bonds. Representative Damron also asked if UK believed they had a fixed-rate when they signed the agreement. Mr. Wiseman said that Schedule B of the lease identifies it as a fixed-rate agreement. Representative Damron said that there are provisions in the document that allow for the payments to change.

Representative Damron asked who told UK that they had a fixed-rate. Mr. Butler said that was the university's interpretation from internal discussions and discussions with KACo. Mr. Butler indicated that UK was aware that the letter of credit and administrative expenses can rise during the lease period. Mr. Butler noted that UK is not a party to the swap agreement.

Representative Damron then asked if U.S. Bank gets downgraded, who is responsible for paying for the additional costs associated with the downgrade. Mr. Butler said

that KACo would be responsible for the additional costs. Representative Damron asked if KACo has the financial standing and ability to cover the financial risk of an entity being downgraded. Representative Damron said he is concerned about swaps because of what is happening to local governments around the country such as in Tennessee. He said there is a municipality in Tennessee that was involved in a swap and officials believed they had a fixed rate. However, the rate was not actually fixed and the municipality ended up paying hundreds of thousands of dollars more than officials expected.

Representative Damron commented that he did not understand why UK would enter into a swap agreement when UK has good credit ratings, especially with all the negativity surrounding swaps. He said that he thinks UK has a lot of risk exposure that they are not identifying. Mr. Butler said that UK did not have bond authority for this acquisition and went with the best alternative given the time frame. Mr. Wiseman also commented that this issue points out the value of the bill Representative Damron has been proposing the last few sessions that would give universities the option of bringing a bond proposal to the Committee during the interim.

Representative Damron said that, understanding that there is additional risk exposure from the potential of U.S. Bank to be downgraded from its current rating, would it be possible for UK to negotiate a side agreement with U.S. Bank clarifying that UK does not have any risk exposure. Mr. Butler said UK would be willing to seek that, but he did not know if KACo would agree to it. Representative Damron said that it would make the Committee more comfortable if UK could get in writing that KACo is taking the risk.

Representative Damron said that when the lease statutes were written, \$35 million leases with 20-year terms were not anticipated. He suggested that leases exceeding some dollar figure or maturity have the same reporting requirements as bond issues. He also suggested that the Committee should consider ways to ensure that governmental entities understand the risks involved when they use derivative-based financial products.

Representative Westrom asked if UK worked with a financial advisor. Mr. Butler said that UK evaluated the

financing internally and did not consult its bond counsel.

Representative Wayne asked why UK did not approach the General Assembly and ask for bonding authority in February 2009 when they knew the put option was being exercised. Mr. Butler said UK was actually notified in November of 2008 that Ventas was exercising the put option. He said UK wanted to use the lease-purchase authorization provided by the General Assembly. Mr. Butler said that past experience with getting bonding authority from the General Assembly has not been successful. He said UK did not want to take a chance of losing the financing mechanism approved by the legislature. Mr. Wiseman commented that giving UK bonding authority would alleviate these issues.

Representative Wayne asked Mr. Wiseman if he could report back to the Committee whether or not a side agreement with KACo is reached concerning the risk exposure. Representative Wayne expressed his concerns with the financial stability of CoLT.

Representative Wayne asked who oversees CoLT. Mr. Wiseman said he thought that there was a board, but would clarify that for the Committee.

Representative Wayne asked Mr. Wiseman to report back to the Committee on the side agreement with KACo as well as who oversees CoLT.

Representative Damron commented on bonding authority. He said because of provisions in the swap agreement, terminating the agreement could be too costly and that pursuing bonding authority for the Samaritan Hospital was not a viable option. He said that the only way for UK to avoid risk exposure is to get KACo and U.S. Bank to sign a side agreement saying that UK would not be held liable for any costs other than the letter of credit. Mr. Butler said that the \$35 million lease-purchase agreement represents three percent of UK's debt.

Next, Representative Westrom asked Mr. Mullis to give a report on Murray State University (MSU) land acquisition. Mr. Mullis said that MSU has taken action on an approved project to acquire \$1 million of land in Paducah, Kentucky. No Committee action was required.

Representative Westrom asked Mr. Mullis to report on the Energy Savings Performance Contract (ESPC) for Eastern Kentucky University

(EKU) due to a representative from EKU not being present. Mr. Mullis said that pursuant to KRS 56.770-56.784 enacted in 2002, ESPCs are to be reviewed and approved by OFM prior to contract executions. Under an ESPC, a contractor agrees to design, finance, install, or manage energy conservation measures in state buildings and guarantees an amount of energy savings. Mr. Mullis said as discussed in the information item from OFM to postsecondary institutions regarding ESPCs, OFM cannot approve any ESPC financing arrangement that requires a pledge of the university's general receipts on a parity basis with the institution's General Receipts Trust Indenture. EKU included this ESPC under their General Receipts Trust Indenture subsequent to OFM's review of the project. Mr. Mullis said any future ESPCs will be executed pursuant to statute. No Committee action was required.

Representative Westrom called on Charles Bush, Director, Division of Real Properties, Finance and Administration Cabinet, to report several lease modifications and a new lease. Mr. Bush said that two of the lease modifications are being reported to the Committee late. He said that to prevent this in the future he has asked staff to include language in the initiation documents that will address the Committee's reporting process. The first lease modification was for the Cabinet for Health and Family Services (CHFS) in Martin County (PR-4792). CHFS requested replacement space of approximately 12,000 square feet to accommodate 53 staff members. The cost of the modifications, \$86,701.72, will be amortized over the lease term (through June 30, 2014). The second lease modification was for CHFS in Rowan County (PR-4867). CHFS had leased space under two leases and requested approval for approximately 9,000 square feet of space that included a regional training room that would accommodate 21 work stations. The new lease is \$137,655 annually and expires June 30, 2015. The last lease modification was a transfer to Justice and Public Safety Cabinet, Department of Juvenile Justice (Department) (PR-3769) from CHFS. The Department previously occupied 4,669 square feet of leased space. The Department was required to vacate the facility because of a transfer of the property to the City of Frankfort and the lease was terminated. The Department

submitted a request for permanent replacement space for nine community services staff with a need of 2,070 square feet of space. During the same period, CHFS submitted a request to terminate an existing lease of 14,740 square feet. CHFS transferred the lease to the Department, with the reduced lease space from 14,740 to 2,266 square feet. The annual rental cost reduced from \$99,495 to \$15,296 and extended the term for one additional year (through June 30, 2011). No Committee action was needed.

Next, Mr. Bush asked for approval of a new lease that exceeds an annual cost of \$100,000. He reported a new lease of office space for CHFS (PR-4948) in Jefferson County. He said the current lessor, Hurstborne Business Park Partnership, submitted the winning proposal. The new rate is \$11.75 sq. ft., or \$291,541 annually, an increase of 25.7%.

Representative Wayne made a motion to approve the lease. The motion was seconded by Senator Carroll and passed by unanimous roll call vote.

Representative Wayne asked why the lease for CHFS in Martin County increased so dramatically. Mr. Bush said that the new lease provided additional parking spaces as well as provided space in the new Fiscal Court Building to accommodate the overcrowded conditions.

Representative Westrom then called on Sandy Williams, Financial Analyst, KIA to present several loans and a grant. The first loan request was for a Fund A loan for the City of Mt. Washington (City) in Bullitt County. The City is requesting a \$10.5 million loan to expand its wastewater treatment plant from 1.3 million gallons per day (MGD) to 3.5 MGD. The project will address an agreed order with the Division of Water and will eliminate contamination of tributaries to Floyd's Fork and the Salt River. The loan term is 20 years with an interest rate of three percent.

Representative Rudy made a motion to approve the Fund A Loan for the City of Mt. Washington in Bullitt County. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Ms. Williams next presented a Fund F loan increase for the City of Hopkinsville (City) for the Hopkinsville Water Environment Authority (Authority) in Christian County. The City is requesting a \$4 million increase to the previously approved \$4

million loan to increase the capacity of the Authority's water treatment plant from 10 to 15 MGD. These improvements will allow the Authority to meet projected demand until 2030 and comply with federal drinking water regulations. The new loan amount is \$8 million. The loan term is 20 years with an interest rate of one percent.

In response to questions from Representative Westrom, Ms. Williams said that the original loan request for the City was \$8 million. However, the KIA Board policy is that a borrower cannot receive more than \$4 million in a funding year from a capitalization grant. The City was told by KIA that they would be eligible for the additional \$4 million in the next funding cycle. Ms. Williams also said that the City has not yet issued bonds for this project.

In response to a question from Senator Tori, Ms. Williams said that the rate increase to customers is based on 4,000 gallons.

Representative Wayne asked what deductive alternatives were included in the bid package. Ms. Williams said that the deductive alternatives are the items that the water district would like to include that are not integral to the project, but will need in the future. An example is backup generators.

Representative Wayne made a motion to approve the Fund F loan increase for the City of Hopkinsville in Christian County. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Next Representative Westrom asked John Herald, Deputy Director, KIA to present a request from the City of Williamstown (City) for a 2020 grant (Water Resources Development Bond Program) in the amount of \$548,378. [This project was also presented to the Committee in April 2009.] The grant would be used for the planning phase of the Lake Williamstown Expansion Project. The planning project would eventually lead to the construction phase for the proposed expansion of Lake Williamstown (Lake) from its current 300 acres to 1,300 acres.

Judge Henry W. Bertram, Pendleton County, came to the table for a presentation of the project. Judge Bertram said that the Lake Williamstown Project is a joint regional project of Grant and Pendleton counties. The dam's structural integrity is currently weakened, and local govern-

ment has spent over \$1 million for ongoing repairs to the dam. Building the proposed dam would have significant economic impact, while constructing a new dam below the current dam or reconstructing the spillway would not have any economic impact and would cost about the same.

Judge Bertram also said that constructing the proposed dam would prevent potential dam failure, which would result in total water supply loss. The project would also eliminate potential for regional water shortages in the future and double fresh water output from 5 MGD to 10 MGD. This project will allow the region to have access to 10 MGD of clean water and could potentially serve as an alternative water source for the Northern Kentucky Region during emergencies. Additionally, Judge Bertram said that potential economic benefits for the region over a 20 year period include \$259 million in additional gross business sales, \$83 million in additional household earnings, \$8.5 million in additional tax revenue to the region, and tourism and recreational benefits.

Representative McKee came to the table to speak further on the Lake Williamstown Expansion Project. He said that this project is the top priority project in his district and he supports the project.

In response to questions from Representative Wayne, Judge Bertram said that the watershed area will have its own zoning regulations, which will be different from what the counties have.

Representative Wayne expressed his concern about urban sprawl and the costs associated with sprawl. Judge Bertram said the project would promote smart growth and not urban sprawl.

In response to additional questions from Representative Wayne, Judge Bertram said the Corps of Engineers (Corps) began the study of the dam in 2004 and the money from the 2020 grant would be used to finalize the study. George Woolwine, HDR Engineering, Lexington, Kentucky, came to the table to further discuss the study. Mr. Woolwine said that the study showed very little impact on the current environment of the Lake. He said that the Corps has asked that the study look at replacing the dam in the future. Also, the Corps indicated that the Section 404 construction permit and the Section 401 water quality permit would

need to be obtained before the Corps could review the study.

In response to questions from Senator Tori, Judge Bertram said that building a new dam would not have an economic impact and would cost about the same amount. The study would take five years to complete. Judge Bertram said rate increases for customers have not been looked at yet.

Representative Wayne said that the 2020 program was developed to provide drinking water to areas of the state that are unserved. He asked why this project did not seek other sources of funding such as a Community Development Block Grant (CDBG). Judge Bertram said that they are not eligible for the CDBG based on median household income. Mr. Herald said that the reason the KIA Board approved this project was because of the regional concept. He also said that under KIA regulations, the project qualifies for the grant.

Senator Carroll made a motion to approve the 2020 grant for the City of Williamstown. The motion was seconded by Senator Tori. Six members voted affirmatively, one member voted "No." The motion passed.

Ms. Williams indicated that various coal and tobacco development grants authorized by the General Assembly were included in members' folders. Each project was authorized in a budget bill and no further Committee action was needed.

Representative Westrom called Katie Smith, Deputy Commissioner, Department of Financial Incentives, Cabinet for Economic Development to the table. Ms. Smith asked for the approval of a new Economic Development (EDB) grant for Simba USA, LLC (Simba) in Morehead, Kentucky. The loan amount is \$325,000 for five years with an interest rate of two percent to purchase equipment and software at the company's golf towel manufacturing facility. In consideration of the loan, Simba has agreed to create 13 new full-time jobs for Kentucky residents within two years and maintain those jobs and its existing workforce of 12 employees for an additional year.

In response to questions from Representative Wayne, Ms. Smith said this is a loan and Simba will be repaying the loan. Ms. Smith also said that the company has an operation in Mexico and the company is currently in the process of negotiating new contracts that could potentially bring additional jobs to Kentucky.

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

Next Representative Westrom called on Tom Howard, Executive Director, OFM, and Brett Antle, Deputy Director, OFM to discuss several items. Mr. Antle presented a new bond issue for Kentucky Housing Corporation (KHC) Single Family Housing Revenue Bonds Series 2009 B and C in an amount not to exceed \$150 million. Proceeds from this bond issue will provide financing for first-time and moderate income homebuyers.

Representative Damron asked if this new bond issue will be sold with bond insurance. Mr. Howard responded that KHC bonds are naturally AAA-rated.

Representative Damron thanked Mr. Howard for his follow-up report to the Committee concerning the Semi-Annual Report of the Kentucky Asset/Liability Commission. He asked Mr. Howard if all the bonds have been issued that were authorized in 2006. Mr. Howard said all the projects have access to funding. Mr. Howard also commented that the investment portfolio continues to make ample returns given the circumstances.

Representative Wayne made a motion to approve KHC Single Family Housing Revenue Bonds Series 2009 B and C. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Next Representative Westrom asked Rick McQuady, Chief Executive Officer, KHC to discuss the new KHC Mortgage Credit Certificate (MCC) program. Mr. McQuady said that as part of the Housing and Economic Recovery Act passed by Congress in July 2008, KHC received an additional \$110 million in private activity bond cap. KHC has developed a MCC program to assist homebuyers in Kentucky that will utilize a portion of its available bond cap. The MCC program will convert \$50 million of available bond cap to \$12.5 million of 25 percent MCCs. Under the MCC program, mortgage borrowers receive a 25 percent tax credit on the interest they pay on their mortgage loans over the life of the loans, up to \$2,000 and that any unused amounts could be carried forward.

In response to a question from Representative Wayne, Mr. McQuady said that it is a federal tax credit not a state tax credit.

In response to a question from Representative Westrom, Mr. McQuady said that a first-time homebuyer is defined as someone who has not owned a home in three years.

In response to a question from Senator Carroll, Mr. McQuady said the total outstanding bonded indebtedness for KHC is approximately \$2.3 billion. Mr. McQuady also said this is a statewide program and the program should be ready the first part of August.

Next, Mr. Antle provided four follow-up reports. The first report was for the Turnpike Authority of Kentucky Economic Development Road Revenue Bonds (Revitalization projects), 2009 Series A, in the amount of \$153,305,000. Proceeds from this bond issue will provide \$50 million of new money for highway projects and refund \$100 million of Kentucky Asset/Liability Commission Road Fund First Series A Project Notes that were issued to finance Road Fund supported projects. The second report was for the KHC Revenue Bonds 2009 Series A bond issue, in the amount of \$40,000,000. Proceeds from this bond issue will fund mortgage loans for Kentucky residents by providing new money for KHC's mortgage purchase account and by refunding existing KHC debt. The third report was for Eastern Kentucky University General Receipts Bonds, 2009 Series, in the amount of \$12,095,000. Proceeds from this bond issue will provide financing for two projects: 1) Renovate Residence Hall – HB 406 (2008-10 Budget), and 2) Construct Intramural fields – HB 267 (2004-06 Budget). The last report was for Murray State University General Receipts Bonds, 2009 Series A, in the amount of \$7,665,000. Proceeds from this bond issue will provide financing for three projects authorized in HB 406 (2008-10 Budget): 1) New Residential College – Richmond Hall – additional; 2) Renovate Buildings; and 3) Complete Capital Renewal. No Committee action was needed.

Mr. Antle then reported two new bond issues with the School Facilities Construction Commission (SFCC) debt participation for Carter County and Campbell County.

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

Representative Westrom asked Mr. Mullis to report the new local school district bond issues. Mr. Mul-

lis said there were four school district bond issues with 100 percent local debt service support: Hardin County, Boone County, Laurel County, and Butler County. All disclosure information has been filed. No Committee action was required.

With there being no further business, Representative Wayne made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 3:05p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

**Minutes
June 16, 2009**

The Capital Projects and Bond Oversight Committee met on Tuesday, June 16, 2009, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Susan Westrom, Co-Chair; Senators Tom Buford, Julian M. Carroll, and Elizabeth Tori; Representatives Robert R. Damron and Steven Rudy.

Guests: Larry Owsley, University of Louisville; John Hicks, Governor's Office for Policy and Management; Sam Ruth, Facilities and Support Services; Charles Bush, Division of Real Properties; Sandy Williams, Kentucky Infrastructure Authority; Katie Smith, Department of Financial Incentives; Brett Antle, Office of Financial Management; Tom Strohmeier, Morgan Keegan; Mike Walters, Morehead State University; and Brandon Loport, Summit Housing Partners.

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

Senator Carroll made a motion to approve the minutes of the May 14, 2009, meeting. The motion was seconded by Senator Tori and approved by voice vote.

Senator Leeper called on Don Mullis, Committee Staff Administrator, to discuss correspondence and information items. Mr. Mullis said members' folders contained a correspondence item from the University of Kentucky (UK) related to the lease-purchase of Samaritan Hospital. Mr. Mullis also noted that members' folders contained the staff and market updates.

Senator Leeper asked Mr. Mul-

lis to report on the allocations from the Research Challenge Trust Fund and the Comprehensive University Trust Fund (CUETF) for postsecondary education due to a representative from the Council on Postsecondary Education (CPE) not being available. Mr. Mullis said that the 2008 General Assembly authorized \$50 million in General Fund supported bonds for the 2008-09 Research Challenge Trust Fund to support the Endowment Match Program and a newly created Research Capital Match Program. Funds from the Research Capital Match Program will allocate \$33.3 million to UK and \$16.6 million to the University of Louisville (UL). HB 406 also authorized \$10 million in bond funds for the CUETF. These funds will be allocated among the six comprehensive universities.

Mr. Mullis said that CPE is reporting to the Committee that it has received reports from Morehead State University (MoSU) and Murray State University regarding allocations of the CUETF. CPE reviewed the reports and found them in compliance with the guidelines. Mr. Mullis also reported that UK has received pledges sufficient to provide the match for the approved Digital Village project.

Senator Leeper then called on Larry Owsley, Vice President of Business Affairs, UL, to present an unbudgeted project. Mr. Owsley said that UL is requesting authorization to renovate Ernst Hall. The renovated space would be used for the Conn Center for Renewable Energy Research and Environmental Stewardship. The university has received a \$20 million donation to establish the program. The project scope is estimated to be \$1.5 million and will be funded from at least 50 percent private funding.

Senator Carroll asked if this project was a matching program. Mr. Owsley responded that it was not a matching program.

Mr. Mullis noted that the project has not yet been approved by CPE however, UL requested approval from the Committee contingent upon approval by CPE at its July 2009 meeting.

Senator Buford made a motion to approve the unbudgeted project for UL to renovate Ernst Hall. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

Next Senator Leeper called on John Hicks, Deputy Budget Director, Governor's Office for Policy and

Management, and Sam Ruth, Commissioner of Facilities and Support Services, Finance and Administration Cabinet, to discuss two reporting items. Mr. Hicks first reported that the Finance and Administration Cabinet has allocated \$16,295,000 from the 2008-10 Budget authorization for the Kentucky River Authority – Kentucky Locks and Dams Maintenance and Renovation Pool for construction of Dam 3. The total cost for the project is \$18,230,400. No Committee action was needed.

Senator Buford asked if Dam 9 was near completion. Mr. Hicks responded that he thought the project was almost completed.

Senator Buford asked if construction on Dam 3 has begun. Mr. Hicks responded that the project has just been bid and construction would start soon.

Mr. Hicks next reported that the Finance and Administration Cabinet has allocated \$990,000 from the Department's bond-funded maintenance pool for the Main Building Roof Replacement project at the Kentucky Correctional Institute for Women. The project will address issues related to poor drainage and water leaks into the living areas of the building. The current roofs are over 25 years old. No Committee action was needed.

Senator Tori asked if the remaining balance in this pool account is sufficient to address other facilities' needs. Mr. Hicks responded that approximately \$290,000 remains in the pool.

Senator Tori asked what was the normal life of a roof. Mr. Ruth responded that 20 years is the norm.

Senator Leeper then called on Charles Bush, Director, Division of Real Properties, Finance and Administration Cabinet to report on a lease modification. Mr. Bush said that the lease modification was for the State Services Organization, Inc., Office of the Governor in Washington, D.C. (PR-4647). The Governor's Office has leased space in the Hall of States in Washington, D.C. and has requested reduced space. The cost of the lease will decrease by \$63,156 annually and expires January 31, 2014. No Committee action was needed.

Senator Leeper called on Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority (KIA) to present 11 Fund A loan requests for Sanitation District No. 1 (District), a Fund F Loan for Ohio County, a Fund B grant for Bath County and several coal/tobacco grants. The first

loan request was for a Fund A loan for the District (Boone, Kenton, and Campbell Counties). The District is requesting a \$20 million increase to the \$50 million Fund A loan approved by the Committee in May 2008 to construct a new 20 million-gallons-per-day (MGD) wastewater treatment plant. The new loan amount is \$83,147,554. The loan term is 20 years with an interest rate of one percent. The project will address a Consent Decree the District entered into with the U.S. Environmental Protection Agency (EPA), Kentucky Environmental and Public Protection Cabinet, and the U.S. Department of Justice requiring an approximately \$880 million investment to address sewage outflows in the region.

The second loan request was a \$4,473,000 Fund A Loan for the District to replace the 30-year-old main drives, feed assemblies, and sludge collector mechanisms for four final clarifiers at the Dry Creek Wastewater Treatment Plant. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent.

The third loan request was a \$5,592,000 Fund A loan for the District to construct a gravity sewer and related appurtenances from the Diversions Pump Station and Turkeyfoot Force Main West to the Western Regional Collection System. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent.

The fourth loan request was a \$15,230,000 Fund A loan for the District to construct various gravity sewers leading to the Western Regional Collection System to eliminate combined sewer overflow. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent.

The fifth loan request was a \$5,768,000 Fund A Loan for the District to construct a gravity sewer and associated appurtenances along the South Fork of Gunpowder Creek to eliminate combined sewer overflows. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent.

The sixth loan request was a \$2,470,000 Fund A loan for the District to construct a ductile iron force main and associated appurtenances. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent.

The seventh loan request was a \$9,900,000 Fund A loan for the Dis-

trict to construct a 20.5 MGD peak flow capacity diversion pump station. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent.

The eighth loan request was a \$395,000 Fund A loan for the District to construct a sanitary sewer line at Banklick Creek. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The ninth loan request was a \$740,000 Fund A loan for the District to construct a 3-acre wetland site located immediately upstream of Banklick Creek. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The tenth loan request was a \$2,000,000 Fund A loan for the District to retro-fit an 80,000 square foot basin with a regional bioretention facility. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The eleventh loan request was a \$1,000,000 Fund A loan to provide reforestation and construction of storm water management improvements. This project will address the Consent Decree. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

In response to questions from Senator Leeper, Ms. Williams said that the District represents about 20 percent of the KIA Fund A loan portfolio. KIA has been in contact with the rating agencies and it is not unusual for an SRF program to have a high concentration in one borrower. KIA will obtain underwriting and bond counsel for the issuance of leveraged bonds. She also said the ratings agencies told KIA that this will not negatively impact any of the bond issuances.

Senator Leeper asked what the current status was of KIA's leveraged bond program. Ms. Williams said that KIA has authorization to issue \$200 million for the Clean Water Program and \$30 million for the Drinking Water Program. KIA has made loan commitments for all of the leveraged

funds.

Senator Carroll asked what percentage of the revenue is committed to bond repayment for the District. Ms. Williams responded that she was not sure of the exact percentage, but that the District has a strong debt service coverage ratio.

Senator Leeper asked if the District expects to issue its own bonds to fund a portion of the projects to address the Consent Decree. Ms. Williams responded affirmatively.

Senator Carroll made a motion to approve the 11 Fund A loan requests for the District. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

Ms. Williams then presented a Fund B grant for Bath County Water District in Bath County. KIA is reporting the reissuance of a \$250,000 grant agreement for various improvements related to the expansion of Custom Foods' facilities, including upgrading a pump station, constructing a water tank, and installing generators. The Committee approved the grant in January 2007, but the grant was placed on hold due to personnel changes and lack of funding. No Committee action was needed.

Senator Buford asked why the engineering fees were so high. Ms. Williams responded that there was some opposition to the location of the water tank and extra work was needed to address the issue.

Next Ms. Williams presented a Fund F loan for Ohio County Water District (District) in Ohio County. The District is requesting a \$2 million increase to the previously approved \$3 million loan to construct a new 4 MGD water treatment plant. The new treatment plant will replace an existing 2 MGD plant and offset the loss of treated water supplied to the District by a poultry processing facility. The new loan amount is \$5 million. The loan term is 20 years with an interest rate of one percent.

Senator Leeper asked why the re-bid for the project was lower than the original bid. Ms. Williams responded that the project was originally bid in the fall of 2008 and resulted in \$5 million over the projected cost. The District decided the customer base could not afford a rate increase to cover the costs. However, during this time the District was able to secure a \$550,000 grant and the project was re-bid in May 2009 and came in at a lower project cost because of lowered construction costs.

Senator Carroll made a motion

to approve the Fund F loan increase for Ohio County Water District. The motion was seconded by Representative Westrom and passed unanimously by roll call vote.

Ms. Williams indicated that various coal and tobacco development grants authorized by the General Assembly were included in members' folders. Each project was authorized in a budget bill and no further Committee action was needed.

Senator Leeper called Katie Smith, Deputy Commissioner, Department of Financial Incentives, Cabinet for Economic Development, to the table. Ms. Smith asked for the approval of a new Economic Development (EDB) grant for the Crittenden County Fiscal Court for the benefit of Safetran Systems Corporation (Safetran) in Marion, Kentucky. The grant amount is \$525,000 to offset the cost of expanding the company's Marion, Kentucky operations through the acquisition, improvement, and equipping of a 110,000 square-foot facility on 24 acres. Safetran is a supplier and manufacturer of switch machines, railroad wayside signal systems, rail transit signaling, and rail-highway grade crossing active warning systems for the railroad industry headquartered in Louisville, Kentucky. In consideration of the grant, Safetran has agreed to create 150 full-time jobs for Kentucky residents paying an average hourly wage of \$13.00, excluding benefits, within three years of completing and occupying the facility, in addition to maintaining the company's existing workforce.

Senator Buford asked why a Safetran subsidiary is laying off most of the employees at one of its locations in Florida. Ms. Smith responded that Safetran is opening an administrative facility in Louisville and can relocate those employees.

Senator Carroll made a motion to approve the EDB grant for Safetran. The motion was seconded by Representative Rudy and approved unanimously by roll call vote.

Senator Buford asked if Safetran is experiencing any financial difficulties. Ms. Smith said she would provide the information to the Committee.

Next Senator Leeper called on Brett Antle, Deputy Director, Office of Financial Management to discuss several items. Mr. Antle presented a new bond issue for State Property and Buildings Commission (SPBC) Revenue and Revenue Refunding

Bonds, Project No. 95 Series A, B, C, and D in a principal amount not to exceed \$425 million. Proceeds from this bond issue will provide permanent financing for approximately \$230 million General Fund supported projects authorized in HB 267 (2004-06 Budget), HB 380 (2006-08 Budget), and HB 406 (2008-10 Budget), and 2009 HB 143; and refund bonds issued by the SPBC, Asset/Liability Commission, and KIA to restructure the state's debt service and provide approximately \$113 million in budgetary relief for fiscal year 2010. Approximately \$30 million of the new money for projects provided will be from taxable bonds and approximately \$200 million will be from taxable Build America Bonds (BABs).

Senator Carroll asked if the \$113 million in budgetary relief for fiscal year 2010 is for projects or for expenditures. Mr. Antle said for expenditures.

Senator Buford asked if this bond issue will contribute to the structural imbalance of the budget. Mr. Antle said it will contribute to the 2010 budgetary relief. The money is non-recurring.

Representative Damron asked if the GARVEE bonds from the 2008 Session (HB 406) or the state bond pool for roads from the 2009 Session (HB 536) have been issued. Mr. Hicks said the GARVEE bonds have not yet been issued and no plans to issue the bonds are currently in place. Mr. Antle said half of the \$400 million road bonds will be issued in late summer or early fall.

Representative Damron asked about the status of the authorized GARVEE bonds. Mr. Hicks said the GARVEE bonds were directed towards bridges projects and he would have to report back to the Committee regarding the status of these bonds.

Senator Buford asked if there was any need for new language in HB 406 regarding the GARVEE bonds. Mr. Hicks said he was not aware of any need for new language.

Senator Leeper asked how much authorization for bonding the General Assembly gave for fiscal year 2010. Mr. Hicks said most of the authorization passed during the 2008 Session was made available in the first fiscal year. Everything that was authorized through the 2009 Session for bonds is now under a plan of finance and the authority for those projects will not lapse come June 30, 2010.

Senator Leeper asked if the authorization includes HB 2 from the

2009 Session. Mr. Hicks said HB 2 bonds are not currently under a plan of finance. Mr. Antle added that \$100 million of energy bonds from the 2007 Second Special Session are not covered under a plan of finance because the bonds are taxable. Mr. Hicks said that the bonds not under a plan of finance could be re-authorized so that there is not a lapse in authority.

Senator Carroll made a motion to approve the SPBC Revenue and Revenue Refunding Bonds, Project No. 95 Series A, B, C, and D in a principal amount not to exceed \$425 million. The motion was seconded by Representative Rudy and approved unanimously by roll call vote.

Senator Leeper asked if he could get clarification on the status of HB 2. Mr. Hicks responded he would provide the information to the Committee.

Mr. Antle next presented a new bond issue for Kentucky Housing Corporation (KHC) Multifamily Housing Revenue Bonds, Series 2009 (Country Place Apartments Project). Proceeds from this conduit bond issue will be used to finance the acquisition, rehabilitation, and equipping of the 150-unit Country Place Apartments in Hebron, Kentucky. All of the units included in the project will be reserved for families earning 60 percent or less of the area median income.

Senator Carroll asked about occupancy rates and whether there is a waiting list. Brandon Loporto, Summit Housing Partners, said that there is not currently a waiting list, but that the complex is near full occupancy.

Senator Carroll asked if there would be enough occupancy to retire the bonds and what percent of occupancy is required to retire the bonds. Mr. Loporto responded that the project has maintained above a 94 percent occupancy and performs very well.

Senator Carroll made a motion to approve the KHC Multifamily Housing Revenue Bonds, Series 2009 (Country Place Apartments Project). The motion was seconded by Senator Buford and passed unanimously by roll call vote.

Mr. Antle presented the last new bond issue for Morehead State University (MoSU) General Receipts bonds in a total par amount not to exceed \$39,425,000. This bond issue will be structured in one of two ways: 1) In two series: \$30 million MoSU

General Receipts Bonds Series 2009 A (Bank-Qualified) and \$9,425,000 MoSU General Receipts Bonds, Taxable Series 2009B – BABs, or 2) In one series: \$39,425,000 MoSU General Receipts Bonds, Taxable Series 2009A – BABs. Proceeds from this bond issue will provide financing for two projects authorized in HB 406 (2008-10 Budget). Construct Campus Recreation Center and Renovate Alumni Tower Residence Hall.

Senator Carroll asked if the interest rate was low because of the BAB program. Mr. Antle said the university would issue bonds in which the interest income is federally taxable; however, under the BAB program the U.S. government reimburses 35 percent of the university's interest payment. In the current market, the program has been successful. Tom Strohmeier, Morgan Keegan, commented that the first BAB issue in Kentucky was the Fayette County School District and the MoSU issue is being modeled after that sale. Morgan Keegan has a dedicated taxable municipal desk and has purchased nine sets of bonds out of 50 sets of BAB issues.

Representative Damron commented that it is his understanding that the BABs are doing well because they are competing with corporate bonds. Municipals seem to be less risky and more attractive than corporate bonds. He said that when the amount of the federal interest subsidy is taken into account, the net effective cost is less than what the bonds would sell for if they were sold on a tax-exempt basis. Mr. Strohmeier said he agreed with this analysis.

Senator Carroll made a motion to approve the new bond issue for MoSU General Receipts Bonds in a total par amount not to exceed \$39,425,000. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Mr. Antle reported sixteen new bond issues with the School Facilities Construction Commission (SFCC) debt participation for Bellevue Independent (Campbell County), Bullitt County, Carlisle County, Carlisle County, Covington Independent (Kenton County), Dawson Springs Independent (Hopkins County), Fayette County, Franklin County, Greenup County, Jefferson County, Jessamine County, Leslie County, Marion County, Pike County, and Pikeville Independent (Pike County).

Senator Buford made a motion

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

Senator Leeper asked Mr. Mullis to report the new local school bond issue. Mr. Mullis said there was one school district bond issue with 100 percent local debt service support for McCracken County. All disclosure information has been filed. No Committee action was needed.

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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the May Meeting May 12, 2009

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 12, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Senators David Givens, Alice Forgy Kerr, and Joey Pendleton; and Representatives Robert R. Damron, Danny Ford, and Jimmie Lee.

Guests: Senator Katie Kratz Stine, Alicia A. Sneed, Dr. Marilyn Troupe, Education Professional Standards Board; Hiren Desai, DeVon Hankins, Tom Howard, Steven Jones, Brad Nilsson, Travis Powell, Finance and Administration Cabinet; Tony Barrett, Billy Van Pelt, Horst Schach, Board of Landscape Architects; Nathan Goldman, Board of Nursing; Karen Alexy, Margaret Everson, Catherine York, Kentucky Department of Fish and Wildlife Resources; Chris Ewing, Patrick Garrity, Pete Goodman, Franklin Hall Jr., Time Hubbard, Aaron Keatley, Kim Leingang, Kelli Reynolds, Abby Powell, Bruce Scott; Environmental Public Protection Services; Caleb Asbridge, Karen King Jones, Joslyn Olinger, Department of Juvenile Justice; Kevin Brown, John LeFevre, Piper Lewis, Kentucky Department of Education; Brigid DeVries, Julian Tackett; Kentucky High School Athletics Association; Jill Mitchell, Melea Rivera, Department of Insurance; Jamie Eads, John Forgy, Kentucky Horse Racing Commission; Michael Bennett, Dan Chapman, Department of Housing, Buildings, and Construction; Carrie Banahan, Marchetta Carmicle, Stuart Owen, Cabi-

net for Health and Family Services.

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

The Administrative Regulation Review Subcommittee met on Tuesday, May 12, 2009, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Educator Preparation

16 KAR 5:010. Standards for accreditation of educator preparation units and approval of programs. Alicia A. Sneed, director of legal services, and Dr. Marilyn Troupe, director of education preparation, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, 12, 17, and 19 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Purchasing

200 KAR 5:380. Protests. Hiren Desai, deputy general counsel, and Brad Nilsson, staff attorney, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add the link to the eProcurement Web site; (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 3 to correct citations; (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (4) to amend Section 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

State Investment Commission

200 KAR 14:011 & E. Qualified investments. Tom Howard, executive director; Steven Jones, analyst; and Travis Powell, staff attorney, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 5 and 9 to make technical corrections; and (2) to amend Section 6

to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Examiners and Registration of Landscape Architects: Board

201 KAR 10:050. Fees. Tony Barrett, secretary; Horst Schach, trustee; and Billy Van Pelt, president, represented the board.

In response to a question by Representative Lee, Mr. Schach stated that the only licensees affected were those going into inactive status and new applicants for licensure.

Board of Nursing: Board

201 KAR 20:225. Reinstatement of license. Nathan Goldman, general counsel, represented the board.

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

201 KAR 20:270. Programs of nursing site visits.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete unused definitions; (2) to amend Section 2 to clarify that the board may accept national accreditation in lieu of a site visit; (3) to amend Sections 2 and 3 to specify citations; and (4) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:290. Standards for prelicensure registered nurse and practical nurse secondary or distance learning sites.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 5 and 6 to specify citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:111. Deer and turkey hunting on special areas. Karen Alexy, wildlife division director, and Margaret Everson, assistant attorney general, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 5, 7, and 8 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

Representative Damron stated his continuing concern regarding the constitutionality of prohibiting hunters without a CCDW permit from carrying a firearm afield during archery season.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 5, 7, 10, and 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:178. Deer hunting on wildlife management areas and state parks.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 and 5 through 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

401 KAR 8:040. Laboratory certification. Peter Goodman, acting executive director of the Division of Water; Franklin C. Hall, Jr., supervisor; Aaron Keatley, executive director of the Division of Compliance Assistance; and Bruce Scott, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY para-

graphs to correct citations; and (2) to amend Sections 2 and 4 through 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 8:050. Drinking water program fees.

In response to comments by Representative Ford, Mr. Goodman stated that the certification fees, which were last raised in 1994, would be doubled. He stated that the public water systems would primarily be impacted by the fee increase, which indirectly added approximately two (2) dollars per sample to analyses costs. Mr. Goodman further stated that the number of samples required for a public water system depended on the size of the system and that the testing was important for compliance with the Safe Drinking Water Act.

Mr. Scott stated that the price for sample analysis would go, for example, from \$250 to \$252 as a result of the indirect impact the certification fees would have on the overall cost of laboratory analysis.

In response to questions by Representative Damron, Mr. Scott stated that raising the fee would double the revenue in order to pay the salaries of those who work for the Division of Water to ensure the safety of the public water supply. He stated that the funds would be dedicated revenue but still would not cover all of the costs because the department's budget had been cut by twenty (20) percent.

In response to a question by Senator Kerr, Mr. Hall stated that proper certification helped to ensure quality laboratory results in order to protect the public water supply.

Water Quality Standards

401 KAR 10:026. Designation of uses of surface waters. Peter Goodman, acting executive director; Franklin C. Hall, Jr., supervisor; and Bruce Scott, commissioner, represented the department.

In response to a question by Senator Pendleton, Mr. Goodman stated that the Division of Water had begun in April to test the Little River in Christian County for biological contaminants and that bacteriological samples would be collected locally from May through October. Mr. Scott stated that, if the sample analyses indicated that the Little River was "clean", the issues would be resolved but, if the sample analyses

indicated impairment, the division would begin TMDL (Total Maximum Daily Load) implementation, which would not affect the BMPs (Best Management Practices) of local farmers. Mr. Goodman added that the samples would be collected by staff of the DEP's Madisonville Regional Office and that two (2) different laboratories would be utilized to ensure the accuracy of the results.

In response to questions by Representative Damron, Mr. Hall stated that reservoirs and lakes were also tested. Mr. Goodman stated that expanding a reservoir didn't necessarily impact water quality and that, in order to expand a reservoir, the facility would first have to acquire a 404 permit from the federal Army Corps of Engineers. Then, other state permits would be required. Mr. Scott stated that it was rare to get approval for expansion in Kentucky from the Army Corps of Engineers.

A motion was made and seconded to approve the following amendments: to amend river mile location technical data for various waterways in Table C. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 10:029. General provisions.

In response to a question by Senator Kerr, Mr. Scott stated that the specific velocity requirement for a multiport outfall structure was being deleted because of comments received during the public comment period.

A motion was made and seconded to approve the following amendment: to amend Section 4 to delete the specific velocity requirement for a multiport outfall structure. Without objection, and with agreement of the agency, the amendment was approved.

401 KAR 10:031. Surface water standards.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2, 6, and 8 to make technical corrections; and (2) to amend Section 4 to delete the specific dissolved oxygen standard for Outstanding State Resource Waters. Without objection, and with agreement of the agency, the amendments were approved.

Division of Waste Management: Methamphetamines

401 KAR 101:001. Definitions for 401 KAR Chapter 101. Tim Hubbard, assistant director; Kim Leingang, program coordinator; and Bruce

Scott, commissioner, represented the department.

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

401 KAR 101:010. Contractor certification.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 1 through 3 and 7 to comply with the drafting and format requirements of KRS Chapter 13A; (3) to revise the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE; and (4) to revise the Certified Contractor Application and the Kentucky Cleanup Guidance for Methamphetamine Contaminated Properties to make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 101:020. Financial requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 13 to: (a) comply with KRS Chapter 13A; (b) make technical corrections; and (c) correct cross-reference citations. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 101:030. Tiered response system.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 1 through 7 to comply with the drafting and format requirements of

KRS Chapter 13A; (3) to revise the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE; and (4) to revise the incorporated Clandestine Drug Lab Preliminary Assessment Tier Selection Criteria to make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 101:040. Cleanup and sampling requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Sections 1 through 10 and 12 to comply with the drafting and format requirements of KRS Chapter 13A; (3) to revise the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE; and (4) to revise two (2) forms incorporated by reference to make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Division of Placement Services: Child Welfare

505 KAR 1:100 & E. Department of Juvenile Justice Policies and Procedures: admissions. Caleb Asbridge, assistant director of program services, and Karen King Jones, branch manager, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1(1)(b) and the Classification and Placement Manual to clarify: (1) the factors for placement in a Level III Youth Development Center; and (2) the procedures for an administrative transfer request for a youth in an out-of-home placement. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: School Administration and Finance

702 KAR 3:090. Depository bond, penal sum. Kevin C. Brown, general counsel; John LeFevre, financial analyst; and Piper Lewis, branch manager, represented the department.

In response to a question by Representative Damron, Ms. Lewis stated that the bankers and school board had agreed with the amendments and that the changes should facilitate the process for small bank-

ing institutions. Mr. LeFevre stated that the institutions had the option to buy surety bonds but were not required to do so.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 17:480. Uniform evaluation and reevaluation of providers. Jill Mitchell, branch manager, and Melea Rivera, health policy specialist, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define the term "Applicant" and to include a more specific definition of "Reevaluation" or "recredentialing"; (2) to amend Section 2 to replace the term "health care provider" with the term "applicant"; (3) to amend the "Kentucky Application for Provider Evaluation and Reevaluation" form to replace questions that had been removed due to a comment that was later retracted by the commentator, along with a request to replace the original questions; and (4) to amend the RELATES TO paragraph and Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Horse Racing Commission: Quarter Horse, Appaloosa and Arabian Racing

811 KAR 2:120 & E. Kentucky Horse Breeders' Incentive fund. Jamie Eads, director of the Division of Breeder Incentives, and John Forgy, general counsel, represented the commission.

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

Department of Housing, Building, and Construction: Division of

Building Code Enforcement: Manufactured Homes and Recreational Vehicles

815 KAR 25:060. Licensing of manufactured and home retailers. Michael D. Bennett, staff attorney, and Dan Chapman, supervisor, represented the division.

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

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Community Alternatives: Medicaid Services

907 KAR 1:585. Estate recovery. Stuart Owen, regulation coordinator, represented the department.

In response to questions by Representative Ford, Mr. Owen stated that the amount of Medicaid benefit is reduced by the amount of long-term care insurance, if applicable. He stated that the Medicaid cost is reduced by payments from long-term care insurers.

Representative Lee stated that this was a good amendment because the changes avoided costs and allowed protection for a portion of estates.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 2, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:645. Resource standards for Medicaid.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 4 to correct statutory citations; and (2) to amend Sections 2, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:650. Trust and transferred resource requirements for Medicaid.

A motion was made and seconded to approve the following amend-

ments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 2, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:655. Spousal impoverishment and nursing facility requirements for Medicaid.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 1, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Payment and Services

907 KAR 3:170. Telehealth services and reimbursement.

Representative Lee stated that the telehealth program was good because it reduced travel and provided opportunities to avoid the cost of bad diagnoses made by nonspecialists.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a typographical error; (3) to amend Section 1 to add a definition of "diabetes self-management education", "dietitian", "optometrist", and "physician assistant"; (4) to amend Sections 1 and 2 to: (a) include optometrists in the list of approved healthcare providers; and (b) provide that the department shall reimburse for optometric telehealth consultations not provided in a community mental health center if the consultation has a specified evaluation and management code; (5) to amend Section 2 to specify when patient diabetes self-management education will be covered; and (6) to amend Sections 1 to 4 and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the June 9, 2009, meeting of the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Di-

vision of Student and Administrative Services: Authority

11 KAR 4:080. Student aid applications.

Grant Programs

11 KAR 5:200. Go Higher Grant Program.

Robert C. Byrd Honors Scholarship Program

11 KAR 18:010. Robert C. Byrd Honors Scholarship Program.

PERSONNEL CABINET: Classified

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

GENERAL GOVERNMENT CABINET: Board of Veterinary Examiners: Board

201 KAR 16:015. Fees.

Board of Licensure for Marriage and Family Therapists: Board

201 KAR 32:025. Marriage and family therapists associate.

201 KAR 32:030. Fees.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: Facilities Management

702 KAR 4:160. Capital Construction process.

Food Service Programs

702 KAR 6:010. Local responsibilities.

702 KAR 6:020. District school nutrition director.

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

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

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

702 KAR 6:075. Reports and funds.

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

School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics. Kevin C. Brown, general counsel; Brigid DeVries, commissioner; and Julian Tackett, assistant commissioner, represented the Kentucky High School Athletic

Association.

In response to questions by Senator Pendleton, Mr. Brown stated that a temporary injunction would usually allow, but not require, a student athlete to compete in athletic activities. Ms. DeVries stated that the Kentucky High School Athletics Association (KHSAA) would comply with a court order unless a court of appeals found a problem with the court order resulting in an injunction, in which case, the rules of the KHSAA would override the court's injunction. Mr. Tackett stated that 177 high schools out of 280 voted to retain this policy at the previous association meeting. He stated that teams that had been defeated by teams that had played an ineligible student were not permitted an opportunity to replay those lost games.

In response to a question by Co-Chair Tori, Ms. DeVries stated that it was rare that a decision is appealed and results in a KHSAA override.

Representative Damron stated that the provision to override a court determination was not in compliance with the Kentucky Constitution, Sections 27 and 28, and that the KHSAA should defer this administrative regulation until this matter is appropriately addressed. He stated that, upon his swearing in, he swore to uphold the Kentucky Constitution and that, to not vote against this provision, would constitute a failure to adhere to that oath.

In response to questions by Representative Damron, Mr. Brown stated that the decision as to whether or not a student shall play has always rested with the individual coach, regardless of a decision by a court. He stated that the association agreed to defer the matter until June in order to bring the issue before the Board of Control.

In response to questions by Senator Kerr, Ms. DeVries stated that training had begun regarding sports safety issues and that the Kentucky Medical Association (KMA) had agreed to assist. Mr. Tackett stated that the KMA had agreed to assist with the training free of cost and that the response from schools has been very positive. He stated that on-line training would be available hosted by KMA doctors and by certified trainers.

Senator Stine stated that the United States is a nation of laws and that no one is above the law. She stated that some past decisions of the KHSAA have been arbitrary and

capricious, and she cited the Mitchell case as an example. She further thanked the Subcommittee members for a valiant defense of the Kentucky Constitution.

In response to questions by Senator Givens, Ms. DeVries stated that a judge could fine a school or request that a school forfeit games independent of the KHSAA. Mr. Tackett responded that a judge could impose the same penalties as those typically imposed by the KHSAA.

Representative Lee stated that this provision would establish a dangerous precedent by permitting a state agency to impose a penalty in opposition to a court injunction. He stated that a judge would not issue an injunction without compelling evidence.

Co-Chair Tori stated that it was important that the Subcommittee not lose sight of what was good for Kentucky's young people.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 through 4 to comply with the formatting and drafting requirements of KRS Chapter 13A; (2) to add a Section 5 that incorporates by reference: (a) the KHSAA Constitution; (b) the KHSAA Bylaws; (c) the KHSAA Due Process Procedure; (d) the KHSAA Board of Control Policies; (e) the KHSAA Officials Guidebook; and (f) fifty-six (56) forms required for use by the agency; and (3) to amend Bylaw 27 to include requirements necessitated by 2009 HB 383, relative to Sports Safety Training. With agreement of the agency, the amendments were approved. Without objection, and with agreement of the agency, the administrative regulation as amended was deferred to the June meeting of the Subcommittee.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:025 & E. Licensing thoroughbred racing.

Harness Racing

811 KAR 1:070 & E. Licensing standardbred racing.

Department of Housing, Buildings, and Construction: Division of Building Code Enforcement: Standards of Safety

815 KAR 10:060. Kentucky standards of safety.

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

900 KAR 5:020. State health plan for facilities and services. Carrie

Banahan, executive director, represented the office.

In response to questions by Representative Ford, Ms. Banahan stated that in limited situations, depending upon which Area Development District (ADD) was involved, this revision may make more psychiatric beds available. She stated that the method they have used historically includes a need formula and that the beds were available based on the population of the ADD. She further stated that ADD 9 had 80,000 people, thus 32 psychiatric beds were available in ADD 9. She also stated that the office wished to defer this administrative regulation until the June meeting of the Subcommittee.

Representative Lee commended the cabinet for opting to defer this administrative regulation until discussions regarding its implications of this were complete. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Senator Kerr made a motion, seconded by Senator Pendleton, to nominate Senator Elizabeth Tori for the position as the Subcommittee Senate Co-Chair. Senator Tori accepted the nomination. A motion was made and seconded to end nominations. Senator Tori was unanimously (by all present) elected as Senate Co-Chair.

Staff introduced and welcomed the newest member of the Subcommittee, Senator David Givens.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the June Meeting June 9, 2009

The June meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, June 9, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Amy Andrews, Amy Barker, Van Ingram, Justice and Public Safety Cabinet; Becky Gilpatrick, Melissa Justice, Kentucky Higher Education Assistance Authority; Stephen Crawford, DeVon Hankins,

Greg Jennings, Celeste Popplewell, Lisa Swiger, Department of Revenue; Jennifer Jones, Kentucky Retirement Systems; Hiren Desai, Paul Gannoe, Paul Kaplan, Office of the Secretary; John Covington, Kasi White, Kentucky Infrastructure Authority; Jonathan Buckley, David Cox, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors; Dr. Charlotte Beason, Nathan Goldman, Dr. Jim Isenberg, Carol Komara, Mary Kleber, Board of Nursing; Karalee Oldenkamp, Board of Chiropractic Examiners; Becky Klusch, Board of Physical Therapy; Larry Disney, Jim Grawe, Kentucky Real Estate Appraisers Board; Frances Short, Board of Licensure for Marriage and Family Therapists; Benjy Kinman, Catherine York, Kentucky Department of Fish and Wildlife Resources; R. Bruce Scott, Peter Goodman, Department for Environmental Protection-Division of Water; Kevin Brown, Bridget DeVries, Mark Rawl, Department of Education; Rowena Holloway, Virginia Moore, Commission on the Deaf and Hard of Hearing; Sharon Clark, DJ Wasson, Department of Insurance; John Forgy, Kentucky Horse Racing Commission; Dawn Bellis, Tim House, George Mann, Richard Moloney, Mel Trivette, Department of Housing, Buildings, and Construction; Stephanie Brammer-Barnes, Lee Guice, David Hopkins, Sadiqa Reynolds, David Salengs, Cabinet for Health and Family Services; Glenn Bryant, Department for Mental Health and Mental Retardation Services.

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

Administrative Regulations Reviewed by the Subcommittee:

JUSTICE AND PUBLIC SAFETY CABINET: Office of Drug Control Policy: Kentucky Agency for Substance Abuse Policy

10 KAR 7:010. Kentucky Agency for Substance Abuse Policy (KY-ASAP) Program and start-up funding. Amy Andrews, program coordinator; Amy Barker, assistant general counsel; and Van Ingram, acting executive director, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to revise Sections 1 through 9 to reflect current procedures for local boards to receive start-up funding and to delete outdated procedures; (2) to amend the Title and the NECESSITY, FUNCTION, AND CONFORMITY paragraph to

clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

10 KAR 7:020. Kentucky Agency for Substance Abuse Policy on-going funding.

A motion was made and seconded to approve the following amendments: (1) to revise Sections 2 and 4 to reflect current procedures for local boards to receive on-going funding and to delete outdated procedures; (2) to amend the Title and the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Authority

11 KAR 4:080. Student aid applications. Becky Gilpatrick, student aid branch manager, and Melissa Justice, senior associate counsel, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 2 to update the edition dates of two (2) forms incorporated by reference; and (3) to amend two (2) application forms incorporated by reference to align the forms with the provisions of this administrative regulation and 11 KAR 18:010. Without objection, and with agreement of the agency, the amendments were approved.

Grant Programs

11 KAR 5:200. Go Higher Grant Program.

A motion was made and seconded to approve the following amendment: to amend Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without

objection, and with agreement of the agency, the amendment was approved.

Robert C. Byrd Honors Scholarship Program

11 KAR 18:010. Robert C. Byrd Honors Scholarship Program.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define "GED coordinator"; (2) to amend Section 3 to clarify which parts of the application shall be submitted electronically and which parts shall be mailed; and (3) to amend Sections 1, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:010. General Administrative Forms Manual. Greg A. Jennings, attorney, and Celeste Popplewell, branch manager, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to: (1) delete the incorporation by reference of Form 10A170, which is no longer needed due to changes in KRS 13A.270(3); (2) update the EFT Bank Change form to add the title to the form; and (3) comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Retirement Systems: General Rules

105 KAR 1:130 & E. Hazardous duty coverage. Jennifer A. Jones, assistant general counsel, represented the systems.

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

Office of the Secretary: Property

200 KAR 6:070 & E. High performance building standards. Hiren Desai, deputy general counsel, and Paul Kaplan, senior advisor, represented the cabinet.

In response to a question by Representative Ford, Mr. Desai stated that an emergency administrative regulation was in place in conjunction with this ordinary administrative regulation that allowed a state

agency or university to consider energy efficiency standards.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to insert a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; and (3) to amend Sections 1 through 3 to make technical corrections and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Infrastructure Authority: Kentucky Infrastructure Authority

200 KAR 17:010. Guidelines for Infrastructure Revolving Fund. John Covington, executive director, and Kasi White, financial analyst, represented the authority.

In response to questions by Representative Damron, Mr. Covington stated that this administrative regulation was being updated to correspond with statutory changes and to reflect current practices at the authority. He stated that economic development approval was no longer required in this administrative regulation. He further stated that this administrative regulation did not affect the grant approval process and did not change the process for rating counties.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend Section 6 to specify criteria for the agency to make a decision about non-standard rate qualification; and (3) to amend Sections 1 through 9 to make technical corrections and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Professional Engineers and Land Surveyors: Board

201 KAR 18:115. License reinstatement. Jonathan Buckley, general counsel, and David Cox, executive director, represented the board.

201 KAR 18:142. Code of professional practice and conduct.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through

5, 7, and 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:360. Evaluation of prelicensure registered nurse and practical nurse programs. Dr. Charlotte Beason, executive director; Nathan Goldman, general counsel; Dr. Jim Isenberg, board president; and Carol Koumard, board member, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete the new provision that allowed the board to fine nursing programs for failing to file a plan of correction for deficiencies as it exceeded the board's statutory authority and because KRS 314.111 already provides a remedy for noncompliance by the nursing programs; (2) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 and 6 to specify citations; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Chiropractic Examiners: Board

201 KAR 21:095. Licensure and registration of persons performing peer review. Dr. Karalee Oldenkamp, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy: Board

201 KAR 22:045. Continued requirements and procedures. Becky Klusch, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to define "jurisprudence examination"; and (2) to amend Section 2 to: (a) insert the term, "jurisprudence examination"; (b) allow coursework from other professional licensing boards; (c) allow credit for clinical fellowship program; (d) allow credit

for authoring a research article or presentation of a scientific poster; and (e) make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Real Estate Appraisers Board: Board

201 KAR 30:040. Standards of practice. Larry Disney, executive director, and Jim Grawe, assistant attorney general, represented the board.

Board of Licensure for Marriage and Family Therapists: Board

201 KAR 32:025. Marriage and family therapists associate. Frances Short, Director of the Division of Occupations and Professions, represented the board.

In response to questions by Representative Lee, Ms. Short stated that all licensees had been notified of the proposed fee increases and given time to comment. She stated that the only comments the board received were from licensees prepared to pay the higher fees prior to the official fee increase. She further stated that the Subcommittee members should not expect to receive complaints from licensees that the licensees were not notified of the fee increases.

A motion was made and seconded at the April 14, 2009, meeting of the Subcommittee to approve the following amendments: (1) to amend the Title and STATUTORY AUTHORITY paragraph to comply with format standards; (2) to amend Sections 1 through 6 to comply with the drafting and format requirements of KRS Chapter 13A; (3) to amend the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE; and (4) to amend an application form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 32:030. Fees.

A motion was made and seconded at the April 14, 2009, meeting of the Subcommittee to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Sections 1 through 6 and 8 to comply with the drafting and format requirements of KRS Chapter 13A; (3) to amend the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE; and (4) to amend material incorporated by reference. Without objection, and with agreement

of the agency, the amendments were approved.

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

301 KAR 1:201. Recreational fishing limits. Benjy Kinman, deputy commissioner, and Catherine York, deputy general counsel, represented the department.

In response to questions by Representative Damron, Mr. Kinman stated that this administrative regulation did not relate to the confiscation of turkeys and did not affect boat docks on Lake Malone.

In response to a question by Senator Givens, Mr. Kinman explained the changes to the size limits for Muskellunge.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:030. Antidegradation policy implementation methodology. Peter Goodmann, assistant executive director, and Bruce Scott, commissioner, represented the division.

In response to questions by Senator Kerr, Mr. Scott stated that large urban areas were required to obtain a general stormwater permit. He stated that this administrative regulation proposed alternative forms of addressing antidegradation and that the goal was to protect water quality. He further stated that the division did not believe that using these alternative forms of addressing antidegradation undermined water quality and that these alternatives were a better way to implement antidegradation.

In response to questions by Senator Givens, Mr. Scott stated that stakeholders, including the agriculture community, had been involved in forming this administrative regulation since the beginning of policy development. He stated that, specifically, Ms. Laura Nolt of the Kentucky Farm Bureau had been actively involved in representing the interests of the agricultural community.

A motion was made and seconded to approve the following amendments: (1) to amend river mile information in Table 2 to make technical corrections; (2) to amend the RELATES TO paragraph to insert a statutory citation; (3) to amend Section 1 to: (a) make technical corrections; (b) clarify requirements; and (c) comply with the U.S. Court of Appeals Sixth Circuit Court opinion 06-5614, which determined that U.S. EPA

erred in approving certain Kentucky exemptions from Tier II review; and (4) to amend Section 3 to: (a) make a technical correction; and (b) insert a revised version of the procedures for conducting a socioeconomic demonstration and alternative analysis. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: Facilities Management

702 KAR 4:160. Capital Construction process. Kevin Brown, general counsel, and Mark Riles, facilities management, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 9 and 10 through 13 to: (1) comply with the drafting and format requirements of KRS Chapter 13A; and (2) use the correct titles and form numbers for the materials incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics. Kevin Brown, general counsel, and Brigid DeVries, commissioner of the Kentucky High School Athletic Association, represented the cabinet.

Representative Damron thanked the Kentucky High School Athletic Association and the Kentucky Board of Education for revising the policy.

A motion was made and seconded at the May 12, 2009, meeting of the Subcommittee to approve the following amendments: (1) to amend Sections 2 through 4 to comply with the formatting and drafting requirements of KRS Chapter 13A; (2) to amend Section 5 to incorporate by reference: (a) the KHSAA Constitution; (b) the KHSAA Bylaws; (c) the KHSAA Due Process Procedure; (d) the KHSAA Board of Control Policies; (e) the KHSAA Officials Guidebook; and (f) fifty-six (56) forms required for use by the agency; and (3) Bylaw 27 to include requirements necessitated by 2009 HB 383, relative to Sports Safety Training. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to approve the following additional

amendments: to amend Section 2 of the administrative regulation and By-law 33 in the material incorporated by reference to prohibit the KHSAA from punishing or sanctioning any member school, student, coach, or administrator for allowing a student to play in a game or practice with the team during a time when a court order exists that stays or enjoins enforcement of a KHSAA final decision on eligibility. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORK-FORCE DEVELOPMENT CABINET: Commission on the Deaf and Hard of Hearing: Commission

735 KAR 1:010 & E. Eligibility requirements, application and certification procedures to receive specialized telecommunications equipment for the deaf, hard of hearing, and speech impaired. Rowena Holloway, internal policy analyst, and Virginia Moore, acting executive director, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to insert a statutory citation; and (2) to amend Sections 1, 2, 4, 5, and 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

735 KAR 1:020 & E. Processing system including vendor participation, security, and maintenance and repair for specialized telecommunications equipment.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add the definition for “telecommunications access line”; (2) to amend Section 5 to require the recipient, rather than the contracted repair agent, to provide repair documentation to the agency; and (3) to amend Sections 1, 3, and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department for Insurance: Health and Insurance Policy and Managed Care Division: Group and Blanket Health Insurance

806 KAR 18:090E. Notice of extension of election period for continuation of a group policy. Sharon Clark, commissioner, and DJ Wasson, staff assistant, represented the department.

Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:009. Jockeys. John Forgy, general counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 14 and 17 to correct citations; and (2) to amend Section 14 to specify that a helmet shall have a tag, stamp, or similar identifying marker indicating that it meets one of the required safety standards. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:026. Racing associations.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 24, 26, and 29 to correct citations; (2) to amend Section 30 to specify that a helmet shall have a tag, stamp, or similar identifying marker indicating that it meets one of the required safety standards; and (3) to amend Sections 16, 19, 23, 28, 29, 35, and 36 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings, and Construction: Division of Building Code Enforcement: Kentucky Building Code

815 KAR 7:120. Kentucky Building Code. Dawn M. Bellis, general counsel; Larry Bond, deputy secretary; George Mann, deputy commissioner; and Richard Moloney, commissioner, represented the department. Charles Maxwell, electrical inspector for the City of Bowling Green; Dennis Steier, secretary - treasurer for the Kentucky Chapter of the International Association of Electrical Inspectors; Don Summers, electrical inspector in Henderson; Jack Reckner, Kentucky Association of Fire Chiefs; Teddy Webb, electrical inspector for the City of Bowling Green; and Steve Willinghurst, director of Education and Training for Louisville Electrical JATC, appeared in support of the adoption of the 2008 National Electric Code in this administrative regulation, 815 KAR 7:125, and 815 KAR 10:060. William Becktall, senior building official in Northern Kentucky, and Corey M.

Roblee, regional director of government relations for the International Code Council, appeared in opposition to provisions in this administrative regulation and 815 KAR 7:125 to eliminate Kentucky's use of the International Code Council's Fuel Gas Code and replace it with the National Fire Prevention Association Fuel Gas Code 54.

Mr. Maxwell stated his support for adopting the 2008 National Electric Code, including requirements for arc fault interrupters and tamper resistant receptacles.

In response to a question by Co-Chair Tori, Mr. Reckner stated that he did not have with him data regarding the number of lives lost without arc fault interrupters, but he stated that he would follow up and report that data to the Subcommittee members.

In response to questions by Co-Chair Tori, Mr. Steier stated that outlets were required every twelve (12) feet. The cost differences pertaining to the installation of arc fault interrupters and tamper resistant receptacles were primarily based on the size of the structure. For example, a typical residence would require approximately \$200 more for materials, with labor costs remaining the same for these or standard receptacles. Seven (7) children a day were injured by inserting something into an outlet, to the tamper resistant receptacles would save lives and property. Additionally, new receptacles were not required for all rooms in a residence, but for bedrooms, living rooms, and possibly dining rooms.

In response to questions by Co-Chair Tori, Mr. Willinghurst stated that sump pump standards were different than most other appliances and sump pumps in the past. A properly-working, modern sump pump should not “trip” an arc fault interrupter. Many sump pump manufacturers mandated or recommended that the device be installed using a ground fault interrupter and failure to install pursuant to manufacturer's instructions may result in violation of electrical rules. An electrical shock had the potential to interrupt heart rhythm. Children may be shocked or burned from tampering with an outlet. Over 10,000 children had been shocked or burned over a ten (10) year period from outlet tampering and many children were able to remove “childproof” outlet protectors. Mr. Willinghurst explained the process and the public input required to develop the National Electric Code.

In response to questions by Representative Ford, Mr. Steier stated that the material cost of \$150 to \$200 was based on a 2,500 square foot residence. Mr. Willinghurst stated that larger homes may cost more to outfit with the receptacles and that a contractor may choose to significantly mark up the cost of the construction. Mr. Steier stated that it was not necessary to reset a breaker if an arc fault interrupter “tripped” and that the device could be reset by simply pressing the reset button on the receptacle. Mr. Reckner stated that he would query the number of fatalities in the last five (5) years that were the result of persons eighteen (18) years of age or younger tampering with a receptacle. He stated that this information was available through the National Fire Incident Reporting System and that he would provide those results to the members of the Subcommittee. Mr. Steier commented that the General Assembly had previously passed “Isaac's Law” after a child was electrocuted after touching a garage door that was not properly grounded. He added that Kentucky had slipped from the ninth to the eighth worst state in the U.S. pursuant to fire-related deaths.

In response to questions by Senator Givens, Mr. Steier stated that these requirements did not apply to remodeling, but only to new construction. The National Electric Code was revised triennially, but anyone was authorized to present proposals or provide input in the National Electric Code development process. Mr. Willinghurst stated that Kentucky had never failed to adopt the National Electric Code in its entirety.

Senator Pendleton applauded the agency's safety efforts and stated his hope that contractors would not resort to large markups in providing these receptacles.

Mr. Becktall stated that he supported the 2008 National Electric Code, but was opposed to changing from the International Code Council's Fuel Gas Code to the National Fire Prevention Association's Fuel Gas Code 54.

Mr. Roblee stated that changing from the International Code Council's Fuel Gas Code to the National Fire Prevention Association's Fuel Gas Code 54 would be detrimental to Kentucky because the proposed new code would not be as comprehensive as the International Code Council's code and would be an extraneous version of the code. This proposed

amendment would cause unnecessary conflicts between the fuel gas code and Kentucky's model building and residential codes. The overall costs of business in Kentucky would increase as a result of adopting this code and the cost to provide code books throughout the state would be substantial. He stated that incentives had been offered to the Board of Housing, Buildings and Construction in exchange for voting in support of changing the code and that this may be construed to be unethical. He recommended that the proposal be reviewed by the Executive Ethics Commission prior to adopting the code change.

In response to a question by Senator Pendleton, Mr. Roblee stated that there was not a conflict when Kentucky adopted the 2005 National Electric Code because the administrative regulation still used the International Code Council's Fuel Gas Code.

In response to a question by Representative Ford, Mr. Bond stated that safety concerns outweighed the cost concerns of the 2008 National Electric Code and that the cabinet would cooperate in any investigation regarding allegations of unethical voting by the board. The cabinet had been working to adopt this administrative regulation since 2007 and that the cabinet did not want to hold up adoption any longer than necessary.

In response to a question by Representative Ford, Ms. Bellis stated that in 2002 the Executive Ethics Commission had issued an opinion that the National Fire Prevention Association could provide training free of charge.

In response to a question by Senator Givens, Ms. Bellis stated that the National Fire Prevention Association's Fuel Gas Code 54 was separate from the 2008 National Electric Code although they were in the same administrative regulation.

In response to a question by Co-Chair Combs, Mr. Roblee stated that he had not filed the allegation with the Executive Ethics Commission but that, during the public comment period for this administrative regulation and 815 KAR 7:125, he had raised a concern regarding the ethics of offering free training.

In response to a question by Representative Lee, Mr. Roblee stated his opinion that the incentive to the board to vote in support of the National Fire Prevention Association's

Fuel Gas Code 54 was the offer of free training from the National Fire Prevention Association.

Senator Pendleton stated that Mr. Roblee should file a complaint with the Executive Ethics Commission within twenty-four (24) hours.

Mr. Bond stated a similar issue was brought before the Executive Ethics Commission in 2002 and that the commission had determined that a conflict did not exist.

In response to a question by Representative Ford, Mr. Roblee stated that the 2002 situation was similar but not exactly the same as his allegation.

Ms. Bellis stated that the Executive Ethics Commission had investigated this issue previously but had not addressed this specific situation.

In response to a question by Representative Lee, Mr. Reckner stated that similar allegations have been investigated in several states and determined not to be of substance. He stated that the board voted to change the code because the board preferred the requirements in the National Fire Prevention Association's Fuel Gas Code 54 over the requirements from the International Code Council.

In response to questions by Co-Chair Tori, Mr. Steier stated that the previous edition of the code book was forty-five (45) dollars and that the new edition would cost fifty-four (54) dollars. Mr. Bond stated that anyone involved with the code would need the new book. He also stated that the Department of Insurance would need to explain insurance ramifications of the new requirements but that it would be difficult for an insurance company to deny coverage if the code was met unless a specific provision for arc fault interrupters or tamper resistant receptacles was stated in the individual policy. Ms. Bellis stated that the administrative regulation went before the committee and board for the first time in February 2008.

In response to a question by Representative Lee, Mr. Mann stated that the Public Service Commission supported the National Fire Prevention Association's Fuel Gas Code 54 over the code from the International Code Council.

Senator Kerr stated that the Subcommittee members should be respectful to all commenters and apologized to Mr. Roblee for any inappropriate responses to his testimony.

Co-Chair Combs stated that

ethical questions are matters for the Executive Ethics Commission and that this Subcommittee's duties consist of administrative regulation review.

In response to a question by Representative Ford, Subcommittee staff stated that a committee amendment could be drafted to remove the adoption of the National Fire Prevention Association's Fuel Gas Code 54 and to revert back to the International Code Council's code.

In response to a question by Senator Pendleton, Subcommittee staff stated that, if such a committee amendment were approved by the Subcommittee, the administrative regulation requirements would revert to the International Code Council's Fuel Gas Code unless an amendment was proposed in the future to change to the National Fire Prevention Association's Fuel Gas Code 54.

A motion was made by Representative Ford and seconded by Senator Givens to amend this administrative regulation to delete references to the National Fire Prevention Association's Fuel Gas Code 54 and readopt the International Code Council's code. The roll-call vote was conducted with unanimous approval to adopt the committee amendment. Ms. Bellis and Mr. Bond stated that the agency agreed to the amendments.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend Sections 1 and 3 to make technical corrections; (3) to amend Section 1 to comply with the drafting and format requirements of KRS Chapter 13A; (4) to amend Section 5 to revise the edition date of the Kentucky Building Code; and (5) to amend the material incorporated by reference to delete references to the National Fire Prevention Association's Fuel Gas Code 54 and to revert back to the International Code Council's Fuel Gas Code. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 7:125. Kentucky Residential code.

A motion was made by Representative Ford and seconded by Senator Givens for a roll-call vote on a committee amendment that would delete references to the National Fire Prevention Association's Fuel Gas Code 54. The roll-call vote was conducted with unanimous approval to

adopt the committee amendment.

A motion was made and seconded to approve the following amendments: (1) to amend the Title and Sections 1 and 2 to make technical corrections; (2) to amend the RELATES TO paragraph to insert applicable statutory citations; (3) to amend Section 3 to revise the edition date of the Kentucky Residential Code; and (4) to amend the material incorporated by reference to delete references to the National Fire Prevention Association's Fuel Gas Code 54 and to revert back to the International Code Council's Fuel Gas Code. Without objection, and with agreement of the agency, the amendments were approved.

Standards of Safety

815 KAR 10:060. Kentucky standards of safety.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 and 3 to make technical corrections; and (4) to amend Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Plumbing; Plumbing

815 KAR 20:020. Parts or materials list.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 to 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:060. Quality and weight of materials.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 5, 10, and 19 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 1 to define "CISPI" (the Cast Iron Soil Pipe Institute) and to delete terms defined in 815 KAR 20:010. Without objection, and with agreement of the agency, the amendments

were approved.

815 KAR 20:070. Plumbing fixtures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 6, 10, and 12 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:071. Storage and installation of Schedule 40, ABS, and PVS plastic pipe and fittings.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 5, 6, and 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:074. Installation standards for steel and wrought iron pipe.

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

815 KAR 20:079. Repeal of 815 KAR 20:077.

815 KAR 20:090. Soil, waste, and vent systems.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 19, 20, 30, 32, 33, 35, and 38 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:100. Joints and connections.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3, 4, 5, 7, 8, 9, and 19 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:120. Water supply

and distribution.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 5, 9, 10, 12, 14, 17, and 19 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:130. House sewers and storm water piping; methods of installation.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 8, 11, 12, 13, and 17 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:170. Mobile home park waste systems and connections.

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

815 KAR 20:195. Medical gas piping installations.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Audits and Investigations: Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances. Sadiqa Reynolds, inspector general, and Dave Sallengs, branch manager, represented the office.

In response to questions by Representative Lee, Ms. Reynolds stated that the one (1) day change

to a seven (7) day reporting deadline was to ensure consistency between the KASPER system and the National All-schedules Prescription Electronic Reporting Act in order to qualify for grants. She stated that KASPER is the premier system in the United States and that she did not know of any state that used a real-time reporting system. She also stated that criminals had been apprehended using the KASPER system and that connectivity complications were the reason for the delay in real-time reporting. She added that most "doctor-shopping" prescription abusers would be apprehended using the KASPER system because those criminals tended to abuse prescriptions over a long period of time.

Representative Damron stated that he had received a report from the University of Louisville that studied and tested real-time reporting. He stated that the cabinet had been reluctant to contact the University of Louisville to enquire. He further stated that Lieutenant Governor Mongiardo was an advocate for real-time KASPER reporting and that the Lieutenant Governor had participated in the test at the University of Louisville. Representative Damron disagreed that the reporting delay was a problem for the KASPER system.

Department for Mental Health and Mental Retardation Services: Division of Administration and Financial Management: Institutional Care
908 KAR 3:050. Per diem rates. Glenn Bryant, assistant director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct typographical errors; and (2) to amend Section 1 to: (a) change references from June 30 and July 1, 2009, to the effective date of this administrative regulation, to comply with KRS 13A.330; and (b) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

908 KAR 3:060. "Means test" for determining patient liability.

A motion was made and seconded to approve the following amendments: to amend Section 3 to: (1) change references from June 30 and July 1, 2009, to the effective date of this administrative regulation, to

comply with KRS 13A.330; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Other Business:

Representative Ford recognized a special guest, Mr. Edward Buis.

Co-Chair Combs welcomed Senator David Givens to the Subcommittee.

The following administrative regulations were deferred to the July 14, 2009, meeting of the Subcommittee:

PERSONNEL CABINET: Classified

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

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:045. Technicians.

Board of Veterinary Examiners: Board

201 KAR 16:015. Fees.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: Food Service Programs

702 KAR 6:010. Local responsibilities.

702 KAR 6:020. District school nutrition director.

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

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

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

702 KAR 6:075. Reports and funds.

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

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:025 & E. Licensing thoroughbred racing.

Harness Racing

811 KAR 1:070. Licensing standardbred racing.

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

900 KAR 5:020. State health plan for facilities and services.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

June 9, 2009, Meeting

The Education Assessment and Accountability Review Subcommittee met on Tuesday, June 9, 2009, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Jack Westwood called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Dan Kelly, Jack Westwood, and Ken Winters; Representatives Bill Farmer, Harry Moberly Jr., and Kent Stevens.

Guests: Senator Katie Stine; Representative Carl Rollins, II; and Wayne Young, Executive Director, Kentucky Association of School Administrators.

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

The first order of business was election of the co-chairs by the respective members from each chamber. Representative Moberly nominated Representative Stevens and Representative Farmer seconded the motion. Representative Moberly made a motion that the nominations cease and that Representative Stevens be elected House co-chair for the Education Assessment and Accountability Review Subcommittee (EAARS) by acclamation. The motion was seconded by Representative Farmer and approved by voice vote. Representative Stevens assumed the chair and asked for nominations for Senate co-chair for EAARS. Senator Winters nominated Senator Westwood and Senator Kelly seconded the motion. Senator Winters made a motion that the nominations cease and that Senator Westwood be elected Senate co-chair by acclamation. The motion was seconded by Senator Kelly and approved by voice vote.

Senator Westwood assumed the chair for the remainder of the meeting.

Senator Westwood asked for approval of the minutes of the December 9, 2008, meeting. Representative Moberly made a motion that the minutes be approved. Senator Winters seconded the motion and the motion was approved by voice vote.

Senator Westwood said that Senate Bill I passed in the last session of the General Assembly requires the Kentucky Department of Education (KDE) and the Council on

Postsecondary Education (CPE) to collaboratively plan and implement a process for revising the academic content standards in reading, language arts including writing, mathematics, science, social studies, arts and humanities and practical living skills and career studies. He asked representatives from KDE and CPE to give their presentation on progress made to date in carrying out the requirements of the legislation.

Committee members were provided a copy of the PowerPoint presentation and various documents relating to Senate Bill I.

The presentation was given by Ms. Elaine Farris, KDE Interim Commissioner; Ms. Jamie Spugnardi, KDE Associate Commissioner of Office of Teaching and Learning; Mr. Michael Miller, KDE Director of Office of Teaching and Learning; Mr. Ken Draut, KDE Associate Commissioner of the Office of Assessment and Accountability; Dr. Robert King, CPE President; and Dr. Sue Cain, CPE Coordinator for Developmental Education and College Readiness Initiative.

Senator Westwood announced that Ms. Elaine Farris is leaving KDE to accept other employment and that Kevin Noland will serve as interim commissioner until the new commissioner is appointed. He thanked Ms. Farris for the work she has done in education and in assisting legislators with their work.

Ms. Farris said that Senate Bill I requires KDE and CPE to collaborate on implementing a comprehensive process for revising the academic content standards. She said Ms. Spugnardi and Mr. Miller would discuss the steps taken thus far in concert with CPE to develop the required plan.

Dr. King said that Dr. Cain is currently on the faculty at Eastern Kentucky University and is serving as CPE's liaison with KDE on this project. He said that the adoption of Senate Bill I is extremely important in improving the educational outcomes for the state and that he is delighted to be a part of it.

Mr. Miller said the presentation relates to the components of Senate Bill I pertaining to the content standards for K-12, the readiness standards, and the introductory course standards at the postsecondary level. He said the revised content standards as directed in the legislation will focus on critical knowledge, skills and capabilities and there will be fewer but more in-depth standards devel-

oped from evidence-based research using international benchmarks. He said the standards are to be common from high school to introductory course expectations in postsecondary institutions.

Mr. Miller said the steering committee members include the Secretary of Education and Workforce Development Cabinet, legislators, CPE president, KDE commissioner, the Education Professional Standards Board (EPSB) executive director, postsecondary institution presidents or provosts, and a public school superintendent. He said the steering committee will provide oversight of all activities; review the process and timeline for revision of the college entry level course content standards plan; report policy implications back to their representative groups; provide guidance for evaluation; and develop procedures to complete the requirements of the legislation.

Mr. Miller said the content workgroup membership includes postsecondary faculty, public educators, and various entities already in place in the areas of literacy development, mathematics and science. He explained that the content workgroup will analyze the common core standards scheduled to be released through the National Governor's Association and Council of Chief State School Officers (CCSSO) and make recommendations regarding those standards; review and define standards for postsecondary introductory courses; and develop K-12 standards to match readiness levels for college and the workforce.

Mr. Miller said that Kentucky along with 49 other states and territories will participate in the Common Core Standards State Initiative. He explained that national groups, such as ACT, SAT, and other experts, are doing the initial consultation for the standards and, when their work is completed, the standards will be validated by a select group. He said Governor Beshear will submit nominations to the National Governor's Association of persons from Kentucky interested in serving on the validation panel. The goal is to have a common core of standards that states can voluntarily adopt. States may choose to include additional standards beyond the common core as long as the common core represents at least 85 percent of the state's standards in English-language arts and mathematics. Mr. Miller provided information on the timeline for

the mathematics and language arts common core standards with initial release anticipated for July 2009 and finalization and approval by December 2009.

Dr. Cain said that two workgroups are being assembled at the postsecondary level. The College Readiness Workgroup will develop a unified strategy to reduce the need for remediation in postsecondary institutions or for students entering the workforce. The membership for the workgroup has already been established and includes a representative from each public postsecondary institution, the Kentucky Community and Technical College System (KCTCS), and the independent colleges and universities. She said the group will review current postsecondary placement standards in mathematics, English, and reading and compare them with CCSSO standards when they are released. Ms. Cain said the workgroup would also make recommendations regarding professional development for educators in P-20 and review the assessments and intervention systems. Ms. Cain said that implementing the P-20 Data System will also be very important. Dr. King added that CPE and KDE have reached agreement on the data system and it may be possible to use federal stimulus dollars to fund the system. Ms. Cain said that it will also be important that the P-16 councils foster the necessary community relationships to involve parents, community leaders, and others in the process of eliminating the need for remediation.

Senator Westwood asked when the membership of the various workgroups will be identified. Dr. Cain responded that the math group for postsecondary has been finalized. She said that three of the public postsecondary institutions and the independent colleges have not named their college readiness representatives and that group will begin meeting as soon as the membership is named. Mr. Miller said the P-12 groups will be meeting in July. Senator Westwood asked for a point of contact for someone who has expressed an interest to him in serving on a workgroup, to which Mr. Miller responded that either he or Dr. Cain should be contacted.

Senator Kelly praised the KDE and CPE staff on the vigorous and aggressive steps being taken in response to Senate Bill I. He asked how the postsecondary president/

provost representative will be identified for the Steering Committee. Dr. Cain said that the provost would actually identify the person. Senator Kelly asked if every institution would have a representative. Dr. Cain said that the provost group for the public institutions would name the representative. Senator Kelly said he believes it is important that the Secretary or designee for the Education and Workforce Development Cabinet also attend EAARS meetings to keep legislators fully informed of their participation in the process. Senator Kelly asked if discussion has occurred regarding a new accountability system which may be needed when the new standards and assessments have been developed. Mr. Draut informed Senator Kelly that the information in their meeting folders entitled "Senate Bill 1 Summary of Completed Work as of June 4, 2009" relates to the assessment work required as a result of the legislation and the document entitled "SBI Timeline, Draft – Ongoing Updates" identifies the tasks and timelines that have established to accomplish Senate Bill 1 mandates including revision of the accountability system. Mr. Draut said the Board of Education will need to develop a new accountability system for the long term model that starts in the Spring of 2012. Senator Kelly said the EAARS committee needs to be involved in any dialogue regarding the accountability system.

Representative Stevens wanted to know who was responsible for naming the membership for the steering committee and why school teachers were not included on the committee. Ms. Spugnardi responded that the steering committee will be a policy development group and that public school teachers will be deeply involved with the content workgroups in developing the standards.

Senator Winters asked to what degree independent colleges and universities are represented on the steering committee. Dr. Cain responded that the independent colleges and universities will have four representatives and KCTCS will also have four representatives. Senator Winters asked for more information on the timeline for the Language Arts component. Mr. Miller responded that the Senate Bill 1 timeline for the completion of the reading, writing, and language arts standards was December of 2010 but that deadline will probably be exceeded with the

standards being ready as early as December 2009 or during the winter of 2010. Senator Winters asked if a timeline has been established on when outside vendors will be contacted to develop the system when the standards are complete. He also asked if the assessments would all be done at the same time or in waves as the standards are completed on each content area. Ms. Spugnardi responded that was correct.

Representative Moberly asked when the new mathematics test could be given with the new standards. Mr. Draut responded it is anticipated that the new math assessment could be given in spring of 2011, if the timeline for development of the new standards has been met and then consideration would need to be given about the revised accountability index. He said funding will also need to be identified before a vendor can be selected to develop the assessments. Representative Moberly said he would like to see the process completed as quickly as possible but not for accountability purposes until the appropriate professional development has been completed.

Senator Westwood said that Senate Bill 1 not only addressed accountability for K-12 but also for postsecondary institutions and asked if the model presented addresses that concern. Dr. King said he did not think there was any language in Senate Bill 1 that particularly directs accountability for postsecondary institutions but CPE is very interested in making sure that postsecondary institutions can demonstrate a level of accountability to the public, its students, and the legislature focused around graduation and retention rates. He said a number of states are considering funding models related to outcomes and CPE is following those discussions. He said that CPE will be working with public institutions in developing a budgeting, funding and tuition model tied to outcomes and he would keep the legislature informed. Senator Westwood said it is crucial that every institution participate in education accountability. Dr. King related that data from May graduations showed that the number of doctorate, master and associate degrees increased by double digits over the previous year and bachelor degrees increased by 7%.

Representative Moberly said Senate Bill 1 contained goals on reducing the remediation rate and increasing the graduation rate of stu-

dents in one or more remedial classes and if those goals are not met, the legislature will be asking questions as to why those goals were not met.

Senator Westwood asked Ms. Marcia Seiler, Director of the Office of Education Accountability (OEA), and Dr. Ken Chilton, OEA Director of Research, to present the information on the Kentucky District Data Profiles.

Committee members were provided a copy of the PowerPoint presentation and a draft copy of the Kentucky District Data Profiles: School Year 2007-2008.

Prior to discussing the District Data Profiles, at the request of Senator Westwood, Ms. Seiler updated the committee on her staff, Mr. Doug Terry, who recently survived a traumatic automobile accident because of "Good Samaritan" assistance and is now in rehabilitation at his residence.

Ms. Seiler said the District Data Profiles in 2008 is a comprehensive report of all types of education data by school district. She said they would provide each legislator with a final copy and district personnel could call OEA or obtain the report online.

Dr. Chilton said the purpose of the report is to provide an easy access to commonly used education data by district and can be used for comparative purposes. He said the report contains a data dictionary which contains definitions and sources of all the variables used in the report. He said the profiles on each district are provided in alphabetically order followed by a profile for the entire state with data on staffing, finance, and performance and the report also contains a section of overview and trends. He said changes in the 2009 edition from the first published report in 2008 is that current expenditures is based on the National Center for Education Statistics definition giving a little more balance and accurate depiction of expenditures by which captures Pre-K-12 spending including payments for benefits, such as health insurance, retirement, and vocational education, but excludes capital outlays, equipment, construction, equipment replacement, debt service, adult education and other community type programs. He said the report also includes ACT results of 11th grade students because of SB 130. Dr. Chilton said the report is self explanatory and he briefly explained the various sections and explained that the data

dictionary also helps the reader in understanding what is included in each category. He said the District Data Profile complements the OEA Compendium of Education Statistics and the profile is updated annually to reflect new legislation.

Dr. Chilton updated the committee on upcoming OEA reports which will include the third annual compendium of state education rankings, are half way through the mathematics study and are also working on the leadership training study.

Senator Westwood asked what formula was used to define dropout rates. Ms. Seiler said that the definition for dropout is included in the data dictionary and is the same definition KDE uses. Dr. Chilton added that it is inclusive of a single group of students tracked from Grades 9 through 12.

Representative Farmer said since the document is very large he wanted to know if it could be accessed online stating that he received several request when the document was published last year. Ms. Seiler said it is online. The web link is OEA's published studies. She said if a legislator received a request for a hard copy, her office may be contacted or emailed and they will provide a copy. She also said they would provide a printout of the profiles for each school district in each legislator's respective district prior to the beginning of next session.

Senator Westwood thanked Representative Moberly for his leadership as co-chair of the EAARS committee over the years.

Senator Winters made a motion that the meeting adjourn and Representative Stevens seconded the motion. By voice vote, the meeting adjourned at 2:30 PM.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes June 9, 2009

The Government Contract Review Committee met on Tuesday, June 9, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Bill Schmidt, Preston P. Nunnelley, MD, James T. Jennings, MD, Brigid Adams, Kevin Pangburn, Brian Bishop, Renee Close, David Gayle, Mark Cornett, Pat Seybold, Kathy Burke, Glenn Bryant, Mike Denney, Steve Casebeer, Ken Draut, Janet Hartlage, Shaun Murphy, Linda Robinson, Connie Lester, David Cook, Paul Gannoe, Jennifer Linton, Walt Gaffield, Barbara Barnes, Peggy Stratton, Earl Gresham, Todd Shipp, Shanon Maggard, and Dennis Taulbee.

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

A motion was made by Senator Tori to approve Minutes of the May 12, 2009 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

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

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

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

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

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

United Health Care of Hardin d/b/a Lincoln Trail Hospital, 0900012542.

DENTISTRY, BOARD OF:

Robert S. Thompson III, 0900012052; Marquetta Poynter,

DMD, 0900012053; Kentucky Law Group, PLLC, 0900012529.

DEPARTMENT FOR NATURAL RESOURCES:

R. M. Johnson Engineering Incorporated, 0900011876.

EASTERN KENTUCKY UNIVERSITY:

Compass Knowledge Group, LLC, 10043; Deloitte & Touche, LLP, 10044.

EDUCATION, OFFICE OF THE SECRETARY:

Logan and Gaines, 0900012431.

EDUCATIONAL TELEVISION, KENTUCKY:

Patsy Crawford Carruthers, 0900012539.

FINANCE AND ADMINISTRATION CABINET:

Bond Logistix, 0900012267.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Luckett and Farley Architects Engineers and Construction Managers Incorporated, 0900012055.

FISH & WILDLIFE, DEPARTMENT OF:

National Wild Turkey Federation, 0900011648; Quail Unlimited Incorporated, 0900011716.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

Dinsmore & Shohl, LLP, 10001.

KENTUCKY HOUSING CORPORATION:

Default Mitigation Management, LLC, 201010; Stierle & Stierle, Attorneys At Law, 201011; Goldberg Simpson, LLC, 201012; Middleton Reutlinger, 201013; Kinkead & Stilz, PLLC, 201014; Law Offices of Cecil F. Dunn, 201015.

KENTUCKY LOTTERY CORPORATION:

GTSI Corporation, 1008057; Paul Kramer, 1009007.

MOREHEAD STATE UNIVERSITY:

Timothy M. Nelson, 09015; Dean Dorton Ford, PSC, 10001.

MURRAY STATE UNIVERSITY:

Capitol Solutions, LLC, 00110; Multi, 00210; Luckett & Farley, 00310; Hastings & Chivetta, 00410; Great Energy Partners, 00510; BKD, LLP, 01409.

NORTHERN KENTUCKY UNIVERSITY:

George Ann Rice, 2010495.

REAL ESTATE APPRAISERS BOARD:

Wilson Law Firm, PLLC, 0900012151.

TRANSPORTATION CABINET:

Strand Associates Incorporated, 0900011365; Lochner H. W. Incorporated Consulting, 0900012181; URS Corporation, 0900012389; HDR Engineering Incorporated, 0900012406; BTM Associates Incorporated, 0900012415; EA Partners, PLC, 0900012421; HMB Professional Engineers Incorporated, 0900012535.

UNIVERSITY OF KENTUCKY:

Facility Commissioning Group, K09172; Institute of Internal Auditors, K09173.

UNIVERSITY OF LOUISVILLE:

Bon Vivant Savant, 09095; Environmental Health Management, 09109.

WESTERN KENTUCKY UNIVERSITY:

THP Limited Incorporated, 080994; Lynne Sullivan, 080995; Multi, 091001.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Harding Shymanski and Company, 0800009343.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

OWL d/b/a Opportunity for Work and Learning, 0800007565.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Shield Environmental Associates Midwest Incorporated, C-04482417-4; Stantec Consulting Services Incorporated, C-04482533-5; Howard K. Bell Consulting, C-05442803-2; Nesbitt Engineering Incorporated, C-06007303.

DEPARTMENT FOR MEDICAID SERVICES:

Navigant Consulting Incorporated, 0800007088.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Theracare Alliance, 0800006961; Dennis Buchholz, 0800007054; Vincent Dummer, PhD, 0800007158.

DEPARTMENT FOR NATURAL RESOURCES:

Bowser Morner Associates Incorporated, 0800010721; William J. Kovacic, 0900011594.

EDUCATION, DEPARTMENT OF:

Bethune Institute, 0800008759; Pleasant Green Baptist Church, 0800008773; PCG Incorporated, 0800009240; Merenbloom Seminars Incorporated, 0900011368; Lotts Creek Community School, 0900011491.

EDUCATIONAL TELEVISION,

KENTUCKY:

James R. Slone, 0800009139; James Bugay, 0800009144; Roger M. Bondurant, 0800009149; Michelle Larock, 0800009152; William K. Durham, 0800009155; Britt Davis, 0800009156; Steven G. Shaw, 0800011296.

FAIR BOARD:

Mountjoy & Bressler, LLP, 0800007649.

FINANCE AND ADMINISTRATION CABINET:

J. Smith Lanier & Company Assignee for, 0800011259.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Gresham Smith & Partners, 0600002251; Kersey and Kersey Incorporated, 0600002855; Hastings & Chivetta Architects, 0700004255; Multi, 0800010783; Sherman Carter Barnhart, C-05236910.

JUVENILE JUSTICE, DEPARTMENT OF:

Gateway Juvenile Diversion Project Incorporated, 0800008134.

KENTUCKY HOUSING CORPORATION:

Gill Group Incorporated, 200915; Allgeier Company, 200916.

MURRAY STATE UNIVERSITY:

Kelsh Wilson Design Incorporated (KWD), 01209.

OFFICE OF HOMELAND SECURITY:

Stantec Consulting Services Incorporated, 0800008515.

TRANSPORTATION CABINET:

QK4, 0600002843; TBE Group, 0800010442; Hall Harmon Engineers Incorporated, C-00335972; Gresham Smith and Partners, C-01209233-3; J M Crawford and Associates, C-05374700; J. M. Crawford and Associates, C-06001754; T H E Engineers Incorporated, C-06133540.

UNIVERSITY OF KENTUCKY:

Ekhoff, Ochenkoski, Polk Architects, A0071060; GBBN Architects, A061080.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

EDUCATION, DEPARTMENT OF:

Henry County Board of Education, 0900011730; Anderson County Board of Education, 0900011731; Floyd County Board of Education, 0900011737; Owen County Board of Education, 0900011739; Madison County Board of Education, 0900011750; Carter County Board of Education, 0900011765;

Bourbon County Board of Education, 0900011770; Bowling Green Independent Board of Education, 0900011778; Todd County Board of Education, 0900011783; Fleming County Board of Education, 0900011833; Shelby County Board of Education, 0900011841; Danville Independent Board of Education, 0900011842; Jefferson County Board of Education, 0900012028; Laurel County Board of Education, 0900012029; Bullitt County Board of Education, 0900012352; Christian County Board of Education, 0900012354; Daviess County Board of Education, 0900012357; Fayette County Board of Education, 0900012358; Floyd County Board of Education, 0900012359; Henderson County Board of Education, 0900012362; Jefferson County Board of Education, 0900012365; Jessamine County Board of Education, 0900012367; Kenton County Board of Education, 0900012368; Madison County Board of Education, 0900012372; Pike County Board of Education, 0900012378; Pulaski County Board of Education, 0900012379; Green River Regional Education, 0900012404; Green River Regional Education, 0900012412; Madison County Board of Education, 0900012427.

INFRASTRUCTURE AUTHORITY:

City of Buckhorn, 0800010401; Mountain Water District, 0900012076; Slaughters Waterworks, 0900012174; Harlan County Fiscal Court, 0900012662; Harlan County Fiscal Court, 0900012663.

JUVENILE JUSTICE, DEPARTMENT OF:

Bell County Board of Education, 0900012047; Calloway County Board of Education, 0900012051; Frankfort Independent Board of Education, 0900012059; Ohio County Board of Education, 0900012068; Pike County Board of Education, 0900012069.

KENTUCKY RIVER AUTHORITY:

Department of the Interior United States Geological Survey, 0900011695.

MURRAY STATE UNIVERSITY:

Hickman County Schools, 90010.

OFFICE OF INSPECTOR GENERAL:

Kentucky Board of Nursing, 0800011219.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Monticello, 0900012126; Owsley County Fiscal Court, 0900012451; Knox County Fiscal Court, 0900012457; Harlan County Fiscal Court, 0900012476; City of Corbin, 0900012486; City of Elkhorn City, 0900012494; City of Pikeville, 0900012503; City of Pikeville, 0900012504; City of Pikeville, 0900012509; City of Pikeville, 0900012511; Harlan County Fiscal Court, 0900012583; City of Salyersville, 0900012608.

TRANSPORTATION CABINET:

Commonwealth of Kentucky Personnel Cabinet, 0900012182.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011698.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Licking Valley Community Action Agency, 0800007511.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Harlan County Community Action Agency, 0800007423; Community Action Kentucky Incorporated, 0800008411.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Pennyroyal Mental Health, 0800006845; Division of Mental Health, 0800006856; Four Rivers Behavioral Health, 0800008001; Green River Regional Mental Health Mental Retardation Board d/b/a Rivervalley Behavior, 0800008003; Lifeskills Incorporated, 0800008004; Communicare Incorporated, 0800008005; Comprehend Incorporated, 0800008008; Pathways Incorporated, 0800008009; Lake Cumberland Mental Health Mental Retardation Board d/b/a The Adanta Group, 0800008013.

EDUCATION, DEPARTMENT OF:

Lee County Board of Education, 0800007128; Fayette County Board of Education, 0800007200; Adair County Board of Education, 0800007289; Fleming County Board of Education, 0800007614; Green River Regional Education, 0800007658; Central Kentucky Educational Cooperative, 0800007717; Fayette County Board of Education, 0800007719; Green River Regional Education, 0800007727; Ashland Independent Board of Education, 0800007935; Boone County Board of Education, 0800007941;

Boyd County Board of Education, 0800007944; Campbellsville Independent Board of Education, 0800007948; Casey County Board of Education, 0800007954; Clinton County Board of Education, 0800007962; Corbin Independent Board of Education, 0800007963; Covington Independent Board of Education, 0800007964; Dayton Independent Board of Education, 0800008312; Eminence Independent Board of Education, 0800008313; Jefferson County Board of Education, 0800008315; Jenkins Independent Board of Education, 0800008317; Knox County Board of Education, 0800008318; Lawrence County Board of Education, 0800008321; Lee County Board of Education, 0800008322; Lewis County Board of Education, 0800008323; Livingston County Board of Education, 0800008325; Lyon County Board of Education, 0800008326; Madison County Board of Education, 0800008328; Marion County Board of Education, 0800008329; Middlesboro Independent Board of Education, 0800008331; Monroe County Board of Education, 0800008332; Monticello Independent Board of Education, 0800008334; Nelson County Board of Education, 0800008336; Owen County Board of Education, 0800008338; Owensboro Independent Board of Education, 0800008340; Paintsville Independent Board of Education, 0800008344; Pineville Independent Board of Education, 0800008348; Powell County Board of Education, 0800008349; Raceland Worthington Independent Board of Education, 0800008350; Russell County Board of Education, 0800008359; Washington County Board of Education, 0800008363; Whitley County Board of Education, 0800008365; Barren County Board of Education, 0800008381; Hancock County Board of Education, 0800008392; Harlan County Board of Education, 0800008401; Nicholas County Board of Education, 0800008405; Taylor County Board of Education, 0800008407; Wolfe County Board of Education, 0800008408; Paris Independent Board of Education, 0800008780; Cumberland County Board of Education, 0800008826; Jackson Independent Board of Education, 0800008834; Jefferson County Board of Education, 0800010088; Green River Regional Education, 0800010130; Bourbon County Board of Education, 0800010131;

Bourbon County Board of Education, 0800010132; Collaborative for Teaching & Learning, 0800010234; Grayson County Board of Education, 0800010279; Elliott County Board of Education, 0800010423; Kentucky Valley Education, 0800010547.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Frankfort Tourist Commission, 0900011342.

FISH & WILDLIFE, DEPARTMENT OF:

Big Sandy Resource Conservation & Development Council Incorporated, 0800008152.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Owsley County Fiscal Court, 0600002541; Monroe County Fiscal Court, 0600002837; Graves County Fiscal Court, 0700003402; Woodford County Fiscal Court, 0700003851; Community Ventures Corporation, 0700004320; Bell County Fiscal Court, 0700006403; Johnson County Fiscal Court, 0700006544; Letcher County Fiscal Court, 0700006618; Bell County Fiscal Court, 0700006676; Hopkins County Fiscal Court, 0800007039; Hopkins County Fiscal Court, 0800007040; Martin County Fiscal Court, 0800010600; Lawrence County Fiscal Court, 0900011700; City of Grayson Utilities, M-04202635-2; Knott County Fiscal Court, M-05185688; Breathitt County Fiscal Court, M-06121724-1.

WORKFORCE INVESTMENT, OFFICE OF:

Green River Area Development District, 0800008196.

THE FOLLOWING DEFERRED CONTRACT WAS SELECTED FOR FURTHER REVIEW:

MEDICAL LICENSURE, BOARD OF

Kentucky Physicians Health Foundation Incorporated, 0900011846. Bill Schmidt, Preston P. Nunnelle, MD, and James T. Jennings discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Montell seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF

Chrysalis House Incorporated, 0900012442. Kevin Pangburn and

Brigid Adams discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

DENTISTRY, BOARD OF

Kentucky Dental Associates, 0900012050. Brian Bishop discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Audubon Area Community Services, 0900012169; Community Coordinated Child Care, 0900012170; Child Care Council of Kentucky, 0900012171; Child Care Council of Kentucky, 0900012172; Child Care Council of Kentucky, 0900012173. Renee Close, David Gayle, and Mark Cornett discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES

Best Buddies International, 0900011906. Pat Seybold, Kathy Burke, and Glenn Bryant discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senator Tori voting NO and Representative Montell electing to abstain (pass).

KENTUCKY LOTTERY CORPORATION

GTECH Corporation, 1095089. Mike Denney and Steve Casebeer discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

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

DEPARTMENT FOR COMMUNITY BASED SERVICES

Prevent Child Abuse Kentucky, 0800010324. Renee Close, David Gayle, and Mark Cornett discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as

reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES

Crown Services Incorporated, 0800007418. Pat Seybold, Kathy Burke, and Glenn Bryant discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF

MeasuredProgress, 0800008435. Ken Draut and Janet Hartlage discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion which passed unanimously.

EDUCATION, DEPARTMENT OF

Campbell County YMCA After School, 0800008769. Shaun Murphy, Linda Robinson, and Janet Hartlage discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING

CDP Engineers Incorporated 0700003162; Ekhoﬀ Ochenkoski & Polk, PSC, 0700005000; Stantec Consulting Services Incorporated, 0800006925. Paul Gannoe and Jennifer Linton discussed the contracts with the committee. A motion was made by Representative Crenshaw to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING

Paladin Incorporated, 0900011444. Paul Gannoe and Jennifer Linton discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

PERSONNEL ADMINISTRATION, DEPARTMENT FOR

Salvaggio Teal and Associates, M-06189445. Walt Gaffield and Barbara Barnes discussed the contract with the committee. A motion was made Senator Carroll to consider the contract as reviewed. Representative

Yonts seconded the motion, which passed unanimously.

TRANSPORTATION CABINET

Taylor Keller Dunaway & Tooms, PLLC, 0800009578. Peggy Stratton, Earl Grisham and Todd Shipp discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Tori seconded the motion, which passed with Representative Crenshaw electing to abstain (pass).

THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10,000 AND UNDER WAS SELECTED FOR FURTHER REVIEW:

KENTUCKY LOTTERY CORPORATION

Dr. Curtis Barrett, 1001122. Mike Denney and Steve Casebeer discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Montell seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF

Elizabethtown Independent Board of Education, 0900011727; Franklin County Board of Education, 0900011732; Clay County Board of Education, 0900011733; Corbin Independent Board of Education, 0900011735; Shelby County Board of Education, 0900011736; Campbellsville Independent Board of Education, 0900011748; Mercer County Board of Education, 0900011754; Trigg County Board of Education, 0900011755; Frankfort Independent Board of Education, 0900011756; Owensboro Independent Board of Education, 0900011759; Pike County Board of Education, 0900011763; Bourbon County Board of Education, 0900011767; Fleming County Board of Education, 0900011768; Madison County Board of Education, 0900011769; Floyd County Board of Education, 0900011771; Lincoln County Board of Education, 0900011773; East Bernstadt Independent Board of Education, 0900011775; Lincoln County Board of Education, 0900011779; Warren County Board of Education, 0900011781; Madison County Board of Education, 0900011784; Bell County Board of Education, 0900012074; Daviess County Board of Education, 0900012077; Pulaski County Board of Education, 0900012078; Scott County Board of Education,

0900012079; Warren County Board of Education, 0900012087; Bourbon County Board of Education, 0900012093; Eminence Independent Board of Education, 0900012094; Bullitt County Board of Education, 0900012098; Green County Board of Education, 0900012101; Letcher County Board of Education, 0900012104; Green County Board of Education, 0900012105. Janet Hartlage, Connie Lester, and David Cook discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed with Senator Tori voting NO and Senator Gibson electing to abstain (pass).

THE FOLLOWING MEMORANDUM OF AGREEMENT AMENDMENT WAS SELECTED FOR FURTHER REVIEW:

EDUCATIONAL TELEVISION, KENTUCKY

Nell Cox Films Incorporated, 0900012176. Shanon Maggard discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION

Dennis Taulbee discussed a request for waiver of the biennial time limit for 100% Federally Funded grant agreements with the committee. A motion was made by Representative Yonts to approve the request to September 30, 2010. Representative Crenshaw seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 12:17 PM.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes
May 14, 2009

The Program Review and Investigations Committee met on Thursday, May 14, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Reginald Meeks, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Reginald Meeks, Co-Chair; Senators Vernie McGaha, R.J. Palmer II, Joey Pendleton, Dan "Malano" Seum, and Brandon Smith; Representatives Dwight D. Butler, Leslie Combs, Rick G. Nelson, Ruth Ann Palumbo, Rick Rand, Arnold Simpson, and Ken Upchurch.

Guests: Kay Kennedy, Director of the Division of District Operations, Office of District Support Services; Shelda Hale, Academic Program Consultant for the Title III Program; Kentucky Department of Education. LaDonna Thompson, Commissioner; Brigid Adams, Office of Research and Grants Internal Policy Analyst; Department of Corrections. Secretary J. Michael Brown, Justice and Public Safety Cabinet.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Colleen Kennedy; Van Knowles; Lora Littleton; Rkia Rhrif; Sarah Spaulding; Katherine Thomas; Cindy Upton; Stella Mountain, Committee Assistant; Program Review and Investigations Committee Staff. Jon Roenker; LRC Staff Economists.

Upon motion made by Representative Rand and seconded by Senator Seum, the minutes of the December 11, 2008 meeting were approved by voice vote, without objection.

Upon motion made by Representative Rand and seconded by Senator Palmer, the minutes of the January 9, 2009 meeting were approved by voice vote, without objection.

Rick Graycarek presented the report *Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs but Overall Cost and Benefits Are Unknown*.

Mr. Graycarek said that the study had three objectives: describe the constitutional and legal framework related to immigration and unauthorized aliens; review the literature related to the fiscal impact of unauthorized aliens on state and local government; and estimate, if possible, the net fiscal impact related to state and local government programs accessed by unauthorized aliens in Kentucky.

He said the study has five major conclusions. 1) Unauthorized aliens generally do not want to be identified, so the number of unauthorized aliens cannot be determined with accuracy. 2) Unauthorized aliens can access relatively few public programs. 3) Federal provisions for those programs frequently prohibit asking recipients about their immigration

status. 4) Kentucky correctional facilities check inmate immigration status inconsistently. 5) The net fiscal impact of unauthorized aliens in Kentucky cannot be determined with reasonable accuracy.

He said that an exact number of unauthorized aliens living in the U.S. is not known, but as of 2008, there were an estimated 11.4 million to 12.4 million, which represented approximately 4 percent of the total population.

He said there were an estimated 30,000 to 60,000 unauthorized aliens in Kentucky, which represents between 0.7 and 1.4 percent of the state's population. Kentucky has a similar number of unauthorized aliens as the neighboring states of Missouri and Indiana. Compared to most states, however, the estimated population of authorized aliens in Kentucky is small.

Mr. Graycarek said immigration law is a federal prerogative. Federal laws determine who can enter the United States, the legal rights of immigrants, and the process by which immigrants can become U.S. citizens. State and local governments can affect public policy related to immigration only if there is no conflict with these federal provisions. Investigating, identifying, and apprehending unauthorized aliens is the responsibility of the Immigration and Customs Enforcement (ICE) agency, which is a part of U.S. Department of Homeland Security.

He noted that staff reviewed 28 fiscal impact studies related to immigration and unauthorized aliens. None of the studies considered the full sum of the costs and benefits related to all programs accessed by unauthorized aliens. By necessity, the studies generally focused on short-term costs of providing services to unauthorized aliens for a limited number of programs. He said the Program Review study took a similar approach by examining four programs: primary and secondary public education, emergency medical assistance under Medicaid, public health, and correctional facilities.

He said the first program considered was primary and secondary public education. A 1982 U.S. Supreme Court ruling established that children are eligible to attend public school regardless of their immigration status or the immigration status of their parents. An effect of the ruling is that only minimal information can be required to enroll a student

in school. Immigration status cannot be requested. A Social Security number may be requested but it cannot be required by schools.

He noted that the documents required to enroll a student in school are established in Kentucky statute and the state does not mandate a specific enrollment form that school districts must use. Some districts' forms require a Social Security number, which is contrary to federal case law. Some enrollment forms say that a birth certificate is required but fail to note that other documents may also be acceptable.

Recommendation 3.1 is that the Kentucky Department of Education should identify the information public schools may legally require or request of first-time enrollees. The department should facilitate and monitor compliance by all Kentucky school districts.

LRC staff estimated the number of students in Kentucky schools who may be unauthorized aliens based on data provided by the Kentucky Department of Education. Staff identified 2,534 students who were not U.S. citizens, who were born in a foreign country, and who did not have Social Security numbers. Of these students, 74 percent were in five districts. About a third were in Fayette County, accounting for 2.4 percent of students in the district. To estimate cost, staff multiplied the number of students in each district who may be unauthorized aliens by the district's average per-pupil expenditure. This resulted in a statewide estimated cost of \$24.6 million in state and local expenditures that may be attributable to unauthorized alien students. The actual number of students who are unauthorized aliens may be higher or lower than this estimate, and extra costs potentially imposed by unauthorized alien students were not included in the estimate.

He said the second program considered in the report is emergency medical assistance under Medicaid. Unauthorized aliens are not eligible for full Medicaid benefits. Under federal law and state regulation, those who cannot document that they are legal residents, which includes unauthorized aliens, may be eligible for a Medicaid program that pays certain emergency medical costs. They access emergency medical services by going to a hospital, a physician, or a primary care facility. If a person is unable to document their immigration status at the time service is provid-

ed, all of his or her costs may be paid by Medicaid for up to 2 consecutive months. The Department for Medicaid Services records this information. Using this data, staff estimated that, in Kentucky, 14,400 claims were filed in Fiscal Year 2007 by recipients who were unable to document their immigration status, and those services imposed a state Medicaid cost of \$2.3 million. This does not necessarily mean that all recipients were unauthorized aliens.

He said that the third program reviewed is public health. In Kentucky, 56 local public health departments serve all 120 counties. They provide nonclinical services, such as food inspections and septic inspections, and clinical services, which include prenatal care, immunizations, tuberculosis screening, and well-child pediatrics. Federal provisions for testing, immunizations, and treatment of communicable diseases, prohibit public health departments from asking about immigration status. Public health departments collect information related to provision of services, but that information was insufficient for LRC staff to estimate with reasonable accuracy the number or costs of recipients who may be unauthorized aliens.

He said the final program considered was correctional facilities: state prisons and local jails. Correctional facilities are not prohibited from asking inmates about their immigration status. Local correctional facilities use different criteria to identify suspected unauthorized alien inmates and use different methods to check inmates' immigration status. Even if they go through this process of checking an inmate's immigration status, they may not document whether or not an inmate actually is an unauthorized alien. Local correctional facilities maintain separate inmate databases. There is no state-level method to access specific information about all the inmates in Kentucky jails.

He said that staff used existing information to estimate the number and costs of unauthorized alien inmates. The federal government operates the State Criminal Alien Assistance Program (SCAAP), which reimburses correctional facilities for a portion of their salary costs related to housing unauthorized alien inmates. LRC staff used information about the five correctional facilities that applied for reimbursement last year as a basis for estimating the

number of unauthorized alien inmates statewide. In fiscal year 2008, 985 to 1,545 inmates may have been unauthorized aliens and imposed total costs of \$1.7 to \$2.8 million.

Reasons correctional facilities gave for not applying for this reimbursement included too few staff and not being aware of the program. Recommendation 6.1 is that the Kentucky Department of Corrections should support local correctional facilities that want to apply for this funding from the federal State Criminal Alien Assistance Program.

Senator Seum asked staff about the term “sanctuary cities” and whether Kentucky has any.

Ms. Colleen Kennedy said her understanding of a true sanctuary city is one that has a written statement of an ordinance or a law that may be in conflict with federal law on immigrants.

Senator Seum asked whether federal immigration law is not enforced in a sanctuary city, and whether there are any penalties, such as losing federal money, for being a sanctuary city.

Mr. Graycarek said he was not aware of that.

Representative Palumbo asked whether it would be accurate to state that no city puts it in statute because the federal government prohibits asking questions regarding immigration status.

Ms. Colleen Kennedy said the sanctuary city issue is more concerned with police officers, not the four areas that staff studied.

Representative Palumbo asked whether the police are allowed to ask anybody if they are an unauthorized alien.

Ms. Colleen Kennedy said that was an unclear area that was not addressed in this study.

Representative Palumbo asked for clarification of a figure in the report which indicated that the number of unauthorized aliens nationally decreased from 2007 to 2008.

Mr. Graycarek replied that the numbers for 2007 and 2008 were estimates and the margins of error were large enough that it is possible that there was no actual decrease. If there was an actual decrease, it could be related to the economic downturn in the U.S.

Senator Seum asked whether there are penalties for school systems or police officers for asking about a person’s immigration status and whether it would be a civil rights

issue.

Ms. Colleen Kennedy said illegal presence in the U.S. is a civil violation; the act of crossing the border illegally is a criminal violation.

Senator Smith asked whether correctional facilities are allowed to use their own criteria and methods to determine inmates’ immigration status.

Mr. Graycarek said that is correct. There is no requirement for correctional facilities to check immigration status and once they decide to do so, they establish their own policy.

Senator Smith said it may be wise for legislators to put a uniform policy into place to better screen inmates. He asked why illegal inmates are not turned over to the federal Immigration and Naturalization Service because they are not supposed to be here, have committed a criminal act, and are an expense to the state.

Mr. Graycarek said immigration and customs enforcement officials do not want all of them because of the cost. According to federal officials, it would be unfair to deport unauthorized alien inmates prior to them completing their sentences.

Senator Smith said that this is a tremendous problem that should be addressed by the General Assembly. He asked what actions, if any, are taken to have known illegal alien inmates deported.

Mr. Graycarek said that immigration is a federal issue. State and local governments cannot make the determination whether or not a person is illegal. The correctional facility has to send information about the inmate to a federal agency to have it determine whether or not the inmate actually is an unauthorized alien. Once that has been established, it is up to federal officials to proceed with any type of deportation process against that individual.

Representative Combs asked whether the state can do anything about the situation before the federal agency gets involved in the process.

Ms. Colleen Kennedy said that for the four areas addressed in the study, it is federal law that certain services must be provided. However, there are certain areas that states have some latitude, and some states have a law that all inmates be run through the federal check.

Representative Combs said it needs to be determined how the state could or could not have any control over the situation. She asked

whether the court system is allowed to identify unauthorized aliens.

Mr. Graycarek said the report considered both state and local jails and it is up to both entities to decide how and when they request or seek information about those inmates to find out whether or not they are unauthorized aliens.

Senator Smith asked the committee to work on a possible bill for a uniform policy to determine unauthorized alien inmates in the correctional facilities in Kentucky.

Representative Meeks asked whether it is true that there is no centralized database for all correctional institutions in the state.

Mr. Graycarek said that is correct.

Representative Meeks said that would be another area to look at.

Mr. Graycarek added that there is a method to query the individual databases to find out if somebody is incarcerated anywhere in the state but one cannot pull general information from all those separate databases.

Representative Meeks asked what staff findings were regarding Kentucky businesses’ challenges in trying to identify unauthorized aliens.

Mr. Graycarek said staff did not investigate the private sector. Staff looked at state and local government fiscal impacts.

Representative Meeks asked what percentage of the overall inmate population illegal undocumented aliens represent.

Mr. Graycarek said the inmate population is about 37,000, of which an estimated 985 to 1,500 are illegal undocumented aliens. [Note: Based on these numbers, unauthorized aliens are an estimated 2.7 percent to 4.1 percent of inmates in Kentucky.]

Representative Combs asked if there is a state considered to deal with illegal undocumented alien inmates in the best way.

Mr. Graycarek said staff did not look closely at other states, but that there does not seem to be a model state.

Senator Schickel asked what facilities in Kentucky applied for SCAAP funds.

Mr. Graycarek said the five facilities in fiscal year 2008 were Carroll County, Lexington-Fayette, Nelson County, Shelby County, and the state.

Representative Meeks asked Commissioner Thompson of the Department of Corrections to respond

to the report.

Commissioner Thompson responded to the recommendation that the department should assist local correctional facilities that want to apply for funding from the federal State Criminal Alien Assistance Program. The department has committed to inform the jailers about the SCAAP funds at the jailers’ conferences in June. Closer to the time of submitting the funding requests, the department will train staff who prepare those requests. Because of local jail staff turnover, the department is also creating computer-based training that can be taken at any time.

Senator Schickel asked how a jail applies for the funds and what the criteria are.

Ms. Adams, who processes the SCAAP funds application for the Department of Corrections, explained that the entire application is done online through the U.S. Bureau of Justice Assistance. The first step is to identify the offenders who are potentially aliens. The only criterion is that they have been housed at least 4 days. That data is submitted, along with data about the facility, for example, the security staff, the number of security staff, the salaries paid to those staff, the number of inmates housed on a daily basis, and the number of inmate days, which is the total of all the inmates housed every day for the entire year.

Senator Schickel asked whether this is an annual process.

Ms. Adams said it was.

Representative Meek asked how much is available nationally through these funds, and how much Kentucky has received in the past.

Commissioner Thompson said there is a cap and the amount that the facilities receive depends on how many facilities apply, so it is different every year. She said the largest amount the Department of Corrections has received in the past three years has been \$66,000. She did not know what the local jails received.

Mr. Graycarek said the total appropriation varies by year but nationally it has been about \$250 million. The allocations depend on how many correctional facilities apply and how many unauthorized alien inmates they have.

Representative Meeks asked what the barriers were to the application process and whether the process can be made more user-friendly.

Commissioner Thompson said the application process is user-

friendly. The concern with the jails is a shortage of staff, staff turnover, and whether it costs more in staff time than the money that they would receive.

Representative Meeks asked whether it would be possible to have a centralized application process in which one office submits applications for all facilities.

Commissioner Thompson said the biggest barrier with that process is identifying the inmates in the 75 different databases.

Ms. Adams added that the application is simple; gathering the data needed for the application is the hard part.

Representative Meeks asked representatives from the Kentucky Department of Education (KDE) to respond to the report.

Ms. Hale said the recommendation given was to identify the information the public schools may legally require or request of first-time enrollees and the department should facilitate and monitor compliance by all Kentucky school districts. The programs mentioned in the response to the committee in December 2008 include Title III, Migrant Education, McKinney-Vento Education for Homeless and others. They are in compliance with this because it is a federal mandate. They are already facilitating and monitoring compliance by the school districts with annual desk audits, site visits, and through program reviews. They are still in discussions with colleagues and in the process of creating a document that explains the federal case laws and the current state laws, which will be shared with KDE personnel and superintendents.

Representative Meeks asked when the department anticipates the document to be completed.

Ms. Hale said their action plan and time-line are not complete yet and the process requires the participation of personnel from different offices. She said the big issue is the variance in the enrollment forms at the district level, and in their training and professional development they address legal requirements for state and federal laws. Once this clarification is completed, it can be shared with personnel.

Representative Meeks asked whether the department expects to have a policy in place by the coming school year for all the data to be collected consistently across the Commonwealth.

Ms. Hale said she thinks it can be done by the start of the school year.

Senator McGaha asked for clarification that it is illegal to ask for a Social Security number for a child of an illegal alien and for a child of a legal resident.

Ms. Kay Kennedy said that is correct. She said she is responsible for collection of student information at the school and district level, and the use of the Social Security number as an identifier cannot be required for enrollment purposes. There are some program areas, like the KEES program, which do require a Social Security number.

Representative Meeks asked in what areas the confusion takes place.

Ms. Kay Kennedy said that the department provides training through data standards and start-of-year training to school districts. This training is uniform and standard across all the districts but turnover in school personnel responsible for enrollment data remains a problem. Training is now also available on the Web.

Representative Meeks asked for clarification on this process having already taken 6 months and the primary issue being the turnover of personnel collecting the data.

Ms. Kay Kennedy said, typically, training is done at the start of school year because that is when they have the biggest influx of new students into the system. With staff turnover during the year, other personnel step in to assume a role that they may not been trained for at the start of the year.

Senator McGaha asked whether the federal law prohibiting Social Security numbers as an identifier is specifically for elementary and secondary education.

Ms. Colleen Kennedy said the Supreme Court Case that mandates that education be provided for primary and secondary school, covers children. Once they leave secondary school and get into higher institutions, that Supreme Court ruling no longer applies.

Senator Seum said he assumes then since a Social Security number may not be used, that a birth certificate is required and not everybody may have one.

Ms. Hale said that federal law requires age and identity but there are other ways of showing identity besides a birth certificate.

Senator Seum asked what other ways could be used to show age and identity.

Ms. Hale gave as examples a page from a family bible and an immunization form with the birth date.

Senator Schickel said that there is a distinction between knowing which students are illegal residents for the purpose of knowing how many there are and how much they cost, and knowing which students are illegal residents for the purpose of denying education, which is not allowed under federal law.

Ms. Hale responded that federal law prohibits identifying the immigration status of students in primary and secondary education. Every student in Kentucky has a unique student identification number that is used to track children in the school system, but schools do not track if students are in the country legally or illegally. If an enrollment form asks for a Social Security number, the form has to state that it is not required in order to comply with the federal law.

Senator Schickel said there should be other ways to determine whether someone was illegal or not for the purpose of identifying who is in the public schools.

Ms. Hale said federal case laws and regulations do not allow schools to identify students' immigration status.

Senator Schickel said he would be interested in seeing the federal statutes that require this.

Senator Seum asked if the penalties for identifying unauthorized aliens are related to funding.

Ms. Hale said the Office for Civil Rights would be involved.

Senator Smith said federal laws push the Bible out of schools, but they will recognize a page of the Bible as an official document for one's age. He asked whether that is correct.

Ms. Hale said the federal law clearly states acceptable forms of identification of a student's age and identity. KDE's job is to clarify this with districts and schools.

The report Costs of Providing Services to Unauthorized Aliens Can Be Estimated for Some Programs but Overall Cost and Benefits Are Unknown was accepted upon motion by Representative Palumbo and seconded by Senator Smith, without objection by roll call vote.

Representative Meeks acknowledged Secretary J. Michael Brown of the Justice and Public Safety Cabinet

and asked him whether he had anything to share with the committee.

Secretary Brown said that he had been in contact with ICE officials at the Chicago regional office about illegal aliens. Under the prior federal administration, ICE officials were not very interested in coming to pick up identified illegal aliens unless they had committed what ICE considered to be a deportable felony, which in many cases is different from the cabinet's definition of a felony. He said under the current administration, it seems to be even less of an interest than before. He said he would not look for ICE to be particularly interested in coming to get many of the people that are identified as being illegal or unauthorized.

The meeting was adjourned at 11:45 am.

SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS

Minutes of the 1st Meeting of the 2009 Interim May 7, 2009

The 1st meeting of the Special Advisory Commission of Senior Citizens was held on Thursday, May 7, 2009, at 1:00 PM, at the Capital Plaza Hotel in Frankfort. Lillian Rice, Chair, called the meeting to order.

Present were:

Members: Lillian Rice, Chair; Frances Baccus, Rebecca Baird, Mary Barlow, Cluster Belcher, J. T. Boling, Ruth Bryant, Aaron Cardwell, Douglas Cole, Maxine Cummins, Bertha Daniels, Norietta Dickerson, Leon Dodge, Joe Doebler, Marsha Dufeck, Carole Dunn, Bob Elliott, Rowena Emerson, Carol Fausz, Verlin Flaherty, Ed Flanagan, Jane Fugate, Rufus Fugate, Larry Gatewood, Barbara Germain, Margaret Gilland, Dell Hall, Gloria Hall, Helen Hansford, Bill Harned, Edna Hawkins, Bobby Hazen, Don Helton, Faye Hensley, Jim Heth, Eleanor Holbrook, Carolyn Horn, James Huff, Argene Jones, Gayle King, Lee King, Ray Kremer, Gina Loxley, Pete McNeill, Denver Moore, Larry Morrow, Jerry Moser, Jack Niece, Vivian Niece, Elmer Olson, Kenneth Overhults, Norman Pallarito, Joy Payne, Mary Lou Perry, Jean Phelps, Opal Phillips, Nancy Purvis, Clarence Richardson, John Schreiber, Clayton Shannon, Dennis Shaw, Martha Shircliffe, Berton Sisk, Fred Smith, Martha Smith, Ted Smith, Donald Stethen, Pat Sutton, Ernest Taylor, Claude Tiller, Mary Trimble, Laurel True, Joan Veazey, Joe Wahlen, Joe Westerfield, Alban Wheeler, Lillian Wheeler, and Ken

Willis.

Guests: Senator Charles Borders, Co-Chair, Interim Joint Committee on Appropriations and Revenue; Representative John Will Stacy; Senator Julie Denton, Co-Chair, Interim Joint Committee on Health and Welfare; Representative Sannie Overly; Representative Derrick Graham; Representative Fred Nesler; Representative Mike Denham; Mary Lassiter, State Budget Director; Debbie Anderson, Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services; Todd Leatherman, Kentucky Attorney General's Office; Bill Cooper, Deputy Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services; Ann Marie Regan, Kentucky Equal Justice Center; Karen Hinkel; Patrick Jeffreys, Kentucky Voices for Health; Bill Nold, Director, Health Division, Department of Insurance, Public Protection Cabinet; D.J. Wasson, Department of Insurance, Public Protection Cabinet; David Sowder, Kentucky River Foot-hills Development Council; Captain Tim Lucas, Kentucky State Police; Barbara Gordon, KIPDA Area Development District; Nancy Addington, Lincoln Trail Area Development District; Ms. Vivian Craig, Green River Area Development District; and Ms. Betty Overly.

LRC Staff: Sheila Mason, Kenny Bishop, Katie Carney, Adanna Hydes, Miriam Fordham, Rhonda Franklin, Charlotte Quarles, Brandon White, Betsy Bailey, Cindy Smith, Jamie Griffin, Sheri Mahan, Linda Hughes, Janice Clark, Sally Everman, Rick Devers, Bruce Phillips, Karen Lile, and Richard Rigney.

Chairwoman Rice welcomed everyone to the Advisory Commission's first semiannual meeting for 2009 and introduced the head table. Chairwoman Rice informed members that the minutes from the Advisory Commission's November 6-7, 2008, meeting had been mailed earlier and were in their folders. She asked for any proposed additions or deletions. Chairwoman Rice asked for a motion to adopt the minutes as presented. A motion was made and seconded, and the minutes were adopted.

Chairwoman Rice informed the members of the passing of Commission member Gayle Lawson, and asked the members to review a resolution honoring Ms. Lawson's public service and accomplishments. Ms. Bertha Daniels moved to adopt the resolution. A second was made, and

the motion was passed. Chairwoman Rice then asked the members to observe a moment of silence in Ms. Lawson's memory and advised that Ms. Lawson's son would be presented with a formal copy of the resolution at the evening dinner session.

Chairwoman Rice advised that two new members had been appointed to the Advisory Commission since the November 2008 meeting. They are Ms. Helen Hansford, a legislative appointee from Somerset, and Opal Phillips a Bluegrass Area Development District appointee from Lawrenceburg.

Chairwoman Rice introduced Kentucky State Budget Director Mary Lassiter to discuss Kentucky's fiscal outlook in light of recent budget cuts, tax increases and anticipated federal stimulus dollars. Ms. Lassiter thanked the Advisory Commission for the opportunity to speak on the current economic condition of the state. She reviewed state revenue and spending patterns as they relate to the state's General Fund and Road Fund. She explained that transportation related expenses are paid out of the state's Road Fund which gets its revenue from taxes and fees separate from the General Fund.

In discussing Kentucky's economic outlook, Ms. Lassiter compared the state's economy with economic indicators nationally. She stated that Kentucky's economy is directly affected by the national economy, and current national high unemployment rates and budget deficits are being mirrored on the state level. She also noted that some national budget shortfall projections for the 2010 fiscal year rank Kentucky among the states expected to experience a higher than 10% shortfall. (The office of the state budget director maintains a web site that provides detailed information on the state's budget and receipts at www.osbd.ky.gov.)

Ms. Lassiter also briefly discussed the American Recovery and Reinvestment Act (ARRA) of 2009 that was enacted by Congress this year. She explained that the federal stimulus package is an attempt to invigorate the states' economies. She advised that Kentucky is anticipating approximately \$3 billion of the approximately \$246 billion in federal stimulus money going to states and that most of the funds are earmarked for specific uses. Among the areas expected to receive ARRA funding that impact Senior Citizens are one-time payments of \$250 to

certain retirees, disabled individuals and SSI recipients; one-time refundable tax credits of \$250 to certain government retirees; and funding for nutrition programs, community service employment and supplemental nutrition assistance program.

Chairwoman Rice recognized Ms. Sheila Mason for a few announcements. After the announcements Chairwoman Rice made a few concluding remarks and adjourned the opening general session to allow the Advisory Commission subcommittees to convene.

Chairwoman Rice convened the dinner session and welcomed everyone and their guests. She recognized Mr. Pete McNeill to give the invocation. Following the invocation, Chairwoman Rice introduced those seated at the head table.

After dinner, Chairwoman Rice recognized Ms. Mason for introduction of the legislative hosts for the evening. Ms. Mason recognized Representative John Will Stacy, Representative Derrick Graham, Representative Sannie Overly, Representative Mike Denham, and Representative Fred Nesler. Chairwoman Rice then recognized Senator Charles Borders, Co-Chair of the Interim Joint Committee on Appropriations and Revenue, to present the resolution honoring deceased member Gayle Lawson to her son, Bill Lawson.

Chairwoman Rice presented Senator Borders as the guest speaker for the evening and introduced his wife, Carol, to the members. Senator Borders explained how his early childhood, education, and professional life had prepared him for service as a state legislator and talked of some of the changes and opportunities he has experienced in his public service career. He stated that although Kentucky is rich in natural resources, it is facing the same challenges of insufficient funding for programs as the rest of the nation. He stated that the federal stimulus package will provide only a one-time infusion of funds into the state.

Chairwoman Rice thanked Senator Borders for his remarks and adjourned the dinner session with a few remarks and announcements.

Following the conclusion of the subcommittee meetings on Friday, May 8, 2009, Chairwoman Rice convened the closing general session at 10:30 a.m. Chairwoman Rice welcomed members and guests and introduced those seated at the head table. She then introduced Commis-

sioner Debbie Anderson to provide an update on the Department for Aging and Independent Living.

Commissioner Anderson thanked the Advisory Commission for the opportunity to speak and explained how the Department is dealing with the required reductions in funding and how anticipated federal stimulus funds may affect its services. She stated that the Department has instituted a variety of campaigns and initiatives to educate Kentuckians on issues related to the elderly. After her presentation, Commissioner Anderson took questions from the audience.

Chairwoman Rice thanked Commissioner Anderson for her remarks then introduced each of the subcommittee Chairs to present their subcommittee's report for adoption by the full membership. The Advisory Commission adopted the following subcommittee reports.

Subcommittee on Consumer Affairs

(Reported by Claude Tiller, Subcommittee Chair)

The Subcommittee on Consumer Affairs adopted the following recommendations:

(1) Urge the 2010 Kentucky General Assembly to provide adequate funding in the 2010-2012 biennial budgets to restore the budget cuts in the 2008, 2009, and 2010 fiscal years; and in addition increase the appropriations to AAA by at least 10% per year in the 2010-2012 biennial budgets.

(2) Urge the 2010 Kentucky General Assembly to direct the establishment of an early voting option for senior citizens and persons with disabilities.

(3) Urge the Kentucky General Assembly to enhance consumer protection measures in the current "pay day lending" statutes KRS Chapter 286 to include the following provisions:

Substitute the term "short-term" loan for deferred deposit transactions;

Limit interest on short-term loans to 36 annual percentage rate;

Limit borrowers to one short-term loan at a time, up to \$500;

Extend the minimum term of a short-term loan to 30 days;

Prohibit licensees from making short-term loans by telephone, mail, or internet; and prohibit licensees from accessing borrowers banking accounts electronically;

Provide for enforcement by the

Office of Financial Institutions or Attorney General, and allow borrowers to take legal action if loans violate the statute.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Subcommittee on Health and Human Services

(Reported by Ms. Edna Hawkins, Subcommittee Chair)

The Subcommittee on Health and Human Services adopted the following recommendations:

(1) Urge the 2010 General Assembly to increase funding by 20% to the Department for Aging and Independent Living to provide services to seniors and continue to look for additional revenue sources.

(2) Urge support of the Area Agencies on Aging and Independent Living in the development of non-traditional service delivery systems for meals and other services.

(3) Urge the 2010 General Assembly to support legislation to establish an adult abuse registry.

(4) Urge expansion of the Western Kentucky Veterans Nursing Home in Hanson, KY.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Subcommittee on Insurance

(Reported by Barbara Germain, Subcommittee Chair)

The Subcommittee on Insurance adopted the following recommendations:

(1) Use the General Assembly to provide continuation funding at the current level for Area Agencies on Aging to support Senior Programs due to the current economic climate, but urge the General Assembly to increase much needed funding to at least 5% when the economy improves.

(2) To require long-term care insurance carriers to submit rate increases to the Attorney General, as well as the Office of Insurance, to allow intervention by the Attorney General as needed.

(3) Urge the General Assembly to continue to address the state employee and other state supported retirement system funding including insurance benefits.

(4) Urge the General Assembly to address necessary assistance for seniors when enrolling in Medicare Part D, including appropriating federal stimulus money for technology

to the Senior Centers for access to Medicare.gov and staffing to assist seniors in selecting a prescription plan.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Subcommittee on Taxation

(Reported by James Huff, Subcommittee Chair)

The Subcommittee on Taxation adopted the following recommendations:

(1) That the General Assembly increase state funding for Area Agencies on Aging to support senior programs at least 20% by looking for new funding sources. For the upcoming November meeting, the subcommittee would like to determine the actual amount of funding needed to serve those persons who are currently being served and the amount of additional funding needed to serve those on waiting lists for fiscal years 2010-2011 and 2011-2012.

(2) That the General Assembly enact legislation to provide tax credits to an individual caregiver who cares for a chronically ill person in that person's home, or in the caregiver's home.

(3) That if the General Assembly imposes a sales tax on services or increases the general sales and use tax rate, a percentage of the increased tax receipts be earmarked for senior services.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Subcommittee on Transportation

(Reported by Fred Smith, Subcommittee Chair)

The Subcommittee on Transportation adopted the following recommendations:

(1) Strongly endorses the future statement from the full commission opposing any reductions in state funding for Area Agencies on Aging that supports Senior Programs.

(2) Strongly encourages the General Assembly to increase state funding for Area Agencies on Aging to support Senior Programs for each year of the 2008-10 biennium and beyond.

(3) Prohibit the use of hand-held communication devices with the exclusion of emergency personnel.

(4) Recommend that the General Assembly appropriate sufficient funds to ensure available federal

matching funds for use in the state's public transportation programs.

A motion to adopt the subcommittee's report and recommendations was made, seconded, and passed on a voice vote.

Chairwoman Rice made a few announcements and thanked all for taking the time to attend the May meeting. She announced that the next semiannual meeting was tentatively scheduled for November 5-6, 2009. There being no further business, the meeting was adjourned.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

May 6, 2009

The 3rd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, May 6, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dottie Sims, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Carroll Gibson, Co-Chair; Representative Dottie Sims, Co-Chair; Senators Charlie Borders, David E. Boswell, David Givens, and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Michael Judge, and Tim Hughes, Governor's Office of Agricultural Policy; Bill McCloskey, Kentucky Agricultural Finance Corporation; Tom Keene, University of Kentucky; Bruce Harper, Kentucky Department of Agriculture; Drew Graham, University of Kentucky College of Agriculture; Dave Maples, Kentucky Cattleman's Association; and Bob Rowland.

LRC Staff: Lowell Atchley, Stefan Kasacavage, and Kelly Blevins.

A motion to approve the April 15, 2009 minutes was made, seconded, and adopted.

Co-chair Sims invited the first speaker, Mr. Tom Keene, a University of Kentucky Agronomy Specialist, to brief the committee on a UK project, funded with tobacco settlement dollars, to grow test plots of switchgrass in northeast Kentucky. Some of the switchgrass produced under the UK demonstration was combined with coal to generate electricity at East Kentucky Power's Spurlock Station in Maysville.

After viewing two short film clips on the propagation of the grass on the test plots, and a project to use the grass as an alternative energy source for electricity production, the committee posed several questions about the grass and its potential. Responding to questions from Co-chairs Gibson and Sims, and Senator

Borders, the speaker explained some of the growth characteristics and yield of switchgrass, potential income for farmers, transportation requirements, and how the state compares with other states in production of the grass.

Mr. Keene responded to Senator Borders that 5, 10, perhaps 12 percent of switchgrass could be mixed with coal to generate electricity. The grass can be ground or pelletized, testimony showed. The senator referred to the emissions reductions that could be achieved through the use of a coal-switchgrass mix. Mr. Keene said it could help in terms of carbon reduction. Before coal is outlawed, the senator commented, perhaps some "will realize we're doing things to help our community and nation."

Mr. Keene responded to Representative Adams that they are working on the curing process for the grass. He noted the grass needs to be dry when it is mixed with coal for electricity production. He told the representative that the 70 tons used in the East Kentucky Power demonstration would have been a "blip on the screen" in emissions reduction.

Mr. Keene responded to Senator Boswell that UK has done some work with miscanthus grass, and is looking at the potential for other grasses, including sweet sorghum.

As discussion continued, Senator Pendleton indicated that consideration also should be given to propagating industrial hemp. He mentioned the 2000 legislation that allowed research to be conducted on the plant. The senator said certain federal regulations on propagating the plant have been eased. He noted that hemp was produced to make rope during World War II and hemp currently is being used in a variety of ways, including automobile parts production.

Next, Mr. Keene detailed the outcomes from some demonstration plots in northeast Kentucky in 2007 and 2008. He responded to another round of questions from committee members regarding nutrient applications and how well the grass competes against noxious grasses and weeds.

Responding to Senator Boswell, he said work related to the grass is being done at the Center for Applied Energy Research, in particular the area of converting cellulosic material to ethanol. Finding the enzyme that is a key to the conversion will represent a "gigantic leap for ethanol," he told the committee.

Representative McKee mentioned the potential income that could be earned from switchgrass. Farmers can readily produce the grass if the profit potential is evident, according to Representative McKee, who added that some of the research would need to be done around the

profit potential of the grass. Mr. Keene said that subsidies may become available if “green energies” are mandated.

Responding to Senator Givens, the speaker said some take-home messages from a multimillion-dollar Tennessee switchgrass project were that, with proper seeding, fertilization, adequate rainfall, weed control, the grass can be harvested in the first year. He also said they need to be judicious about how they go about touting the grass. Responding further to the senator, he said the worst thing would be to paint a picture that the grass is a panacea for farmers and industry.

Senator Givens discussed the possibility of incorporating the grass into the Conservation Reserve Enhancement Program (CREP) in his region. He said there are many acres CREP program that contain native grasses that will not be harvested. He mentioned the impact of the idle acres on farm production and on businesses that sell to farmers.

Responding to Senator Boswell, Mr. Keene said some plots have been planted on reclaimed strip mine land.

According to Mr. Keene, responding to Representative Hoffman, if utilities use the grass for electricity production, they would probably buy it under contract with specifications regarding quality.

Responding to Co-chair Sims about the future potential for switchgrass, Mr. Keene said they will submit another proposal to the Agricultural Development Board for funds to increase the size of the project and include more counties. But as of now, he said, the current program is full. On the other hand, people can raise the grass at this time and graze it or put it to other uses.

Senator Borders responded to Co-chair Sims about collective efforts on the issue. The senator indicated that perhaps Kentucky can join with other states on the switchgrass issue.

According to Senator Boswell, other energy issues have come and gone through the years, particularly as administrations change in Washington. He recalled the state and federal money put into synthetic fuels projects in the 1970s that never came to fruition.

Next, Co-chair Sims called on Mr. Roger Thomas, Executive Director, and Mr. Michael Judge, Director of Operations, and Mr. Joel Neaveill, Chief of Staff, Governor’s Office of Agricultural Policy (GOAP), to report on the projects considered by the Agricultural Development Board (ADB) during the April meeting.

Mr. Judge began by reviewing projects the ADB approved for funding. One project prompted some questions from the committee, the approval of \$300,000 in state funds

to pay for a feasibility study to analyze the effects of either renovating or replacing the Breathitt Veterinary Center in Hopkinsville.

Co-chair Gibson noted the importance of the facility. During discussion, he said its status comes up often at farm group meetings that he attends. The senator asked why the board decided to reduce the amount sought for the study from \$450,000 to \$300,000. According to Mr. Judge, a board committee reviewing the application felt that two deliverables could be deleted – provisions for a preliminary building design and a building site evaluation. Mr. Judge said Murray State officials indicated they could do some of that work.

Senator Pendleton said he agreed with Senator Gibson about the importance of the facility. He asked who would do the study. Mr. Judge responded that a request for proposals would be issued, with a timely turnaround anticipated. Senator Pendleton observed that, since it has been publicized that the board would commit \$300,000 for the study, RFP responses were apt to be close to that figure.

Senator Pendleton said he toured the building and found that a new building is needed there. He talked about the cramped conditions in the facility and its importance in testing for avian influenza and other maladies. “I’m for building the facility. I think we need to start looking at the design and getting ready for 2010,” the senator told the committee. The senator went on to talk about how recreational and residential areas have grown up around the facility since it was built some 40 years ago.

Mr. Judge told the committee that the study would look at what space needs would be required for the facility, and what the building would cost based on design and needs. He said a proposal presented to the Legislature earlier was an estimate.

Referring to the RFP, Mr. Thomas indicated funds to pay for the diagnostic center study had to be assured before the RFP was issued. According to Mr. Judge, the study could cost less than the amount committed.

Committee members also asked some questions about the board’s denial of funding to the Western Kentucky University Research Foundation, which requested \$125,535 to develop a pilot program in Owensboro for a food manufacturing laboratory. No county funds were committed to the project.

Responding to Co-chair Gibson, Mr. Neaveill and Mr. Thomas indicated that it is helpful if a project has a local commitment of funds. Mr. Neaveill went on to explain the process involved in reviewing project applications, from the initial review by a project analyst, GOAP’s general review, and an occasional board

committee scrutiny. Mr. Thomas noted that a board committee that reviewed the Breathitt Veterinary Center project also looked at the WKU Research Foundation project.

According to Mr. Neaveill, responding to Senator Boswell, Daviess County did not commit funds to the project, but he was not certain why. Senator Boswell said that was “baffling” and vowed to find out why since some major commodity processors are located in Owensboro.

A pending project generated some discussion, that of the Thoroughbred RC&D Council proposal to use \$883,400 in state funds and \$5,000 in Scott County funds to create a purchase of conservation easement program in Scott County.

According to Representative Hoffman, the Scott County conservation easement had its roots in the creation several years of the Lexington-Fayette County purchase of development rights program. That program led to the preservation of farmland, but had the effect of contributing to urban sprawl in adjacent counties, according to Representative Hoffman. If Scott is successful in its endeavor, according to the representative, other counties may go forward with similar programs. He asked how local governments could help facilitate the endeavor.

Mr. Thomas agreed that farmland preservation is important. But he pointed out that the 2008 biennial budget limited state Agricultural Development Fund appropriations to \$6 million each fiscal year. He said some, including the committee, would have questioned such a large commitment of funds to a project in one county. Mr. Thomas said a farmland preservation committee would be looking at the overall issue and reporting back to the Agricultural Development Board.

Representative Hoffman expressed his concern about the commitment of tobacco settlement funds to pay off water and sewer bonds issued through the Kentucky Infrastructure Authority. According to the representative, the extension of rural water service hastens the demise of farmland.

On other issues before the meeting ended, Mr. Thomas reported that some recent GOAP workshops in various counties had been “very positive.” He said an issue had emerged, that of labor being a non-cost share item for those seeking tobacco settlement funds.

Responding to Representative McKee, Mr. Neaveill said a new tobacco dependency policy had not been an issue in the meetings, once people understood it. They explained to Representative McKee that tobacco dependency receives priority on a new project scoring sheet. According to the witnesses, project scoring is done on a yearly basis and because

one does not receive funding in one year, that does not necessarily mean he or she will be in line for funding the following year.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately noon.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

June 3, 2009

The 4th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, June 3, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dottie Sims, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Dottie Sims, Co-Chair; Senators David E. Boswell, David Givens, Vernie McGaha, and Joey Pendleton; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, Tom McKee, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Tim Hughes Cyndi Hall, and Bill McCloskey, Governor’s Office of Agriculture Policy; Dr. Melissa Lipps; Steve Hornback; Dave Maples and Kelly Tucker, Kentucky Cattlemen’s Association; Annette Bridges, Dr. Ruth Anne Shepherd, and Robin Herring, Division of Early Childhood Development.

LRC Staff: Lowell Atchley, Biff Baker, Dane Bowles, and Kelly Blevins.

The May 6, 2009 minutes were approved, by voice vote and without objection, on a motion made by Senator Boswell, seconded by Senator Pendleton.

Before calling on the first speakers, Co-chair Sims recognized the newest member of the Committee, Senator McGaha.

The co-chair then asked Mr. Roger Thomas, Executive Director, and Mr. Joel Neaveill, Chief of Staff, Governor’s Office of Agricultural Policy (GOAP), to report on the projects considered by the Agricultural Development Board (ADB) during the May meeting. The speakers reviewed the County Agricultural Investment Program projects the board acted on, plus made note of counties approved for funding under the new Deceased Farm Animal Disposal Assistance Program.

In discussion regarding some recently completed GOAP workshops held to go over some policy changes, Senator Givens complimented Mr. Thomas and his staff on introducing the changes. The senator asked if other counties were applying for the funds under the animal disposal program. Mr. Neaveill said the agency continued to receive applications for

the funds.

As discussion progressed, the speakers responded to Senator Boswell, who asked how the deceased animal program is administered and who is eligible for funding. According to their testimony, the GOAP developed the program in consultation with the Kentucky Division of Conservation, which will be offering funds from the annual tobacco settlement allocation that it receives. County councils can devote up to \$7,500 to their program, plus other entities also can contribute.

They responded to Senator Boswell that the Office of State Veterinarian must approve a county's dead animal disposal method, which could include a burial procedure, pickup by a rendering company, or other disposal methods. Senator Boswell mentioned the value that can be added to carcass pickup by renderers.

Responding to Co-chair Sims, the speakers listed the companies currently available for dead animal removal. Mr. Thomas said farmers will sometimes transport dead livestock to the animal diagnostic facilities in Lexington and Hopkinsville to learn how the stock died.

In the next segment of the agenda, the chair called on three of five speakers appearing at the meeting to discuss new programs to offer financial assistance for large/food animal veterinarians. The speakers were: Mr. Bill McCloskey, Kentucky Agricultural Finance Corporation (KAFC), Dr. Melissa Lipps, a Shelby County veterinarian, and Mr. Steve Hornback, a Shelby County banker.

In his remarks, Mr. McCloskey explained the need for the program and described how it operates. The ADB allocated \$1 million to the KAFC to be used for low-interest financing for veterinarians who want to establish or expand large/food animal veterinary services. Dr. Lipps was approved for \$88,565 in KAFC financing as a participation loan with a Shelbyville bank, which also loaned some money. The veterinarian used the loan funds to buy out a remaining interest in a veterinary clinic.

Speaking next, Mr. Hornback indicated the program was a "seamless" one. He mentioned working with Mr. McCloskey through the years and said they had discussed the need for more large/food animal veterinarians. He said the program is a good one with which to work and was ideal for Dr. Lipps and her situation. She probably would have had to transition to small animal practice, had the loan not come to fruition, according to Mr. Hornback.

Next, Dr. Lipps explained the circumstances that led to her seeking loan funds to buy the clinic. She told the committee that business training is not a part of a veterinary school curriculum. Surveying the industry, she said food/large animal veterinar-

ians are graduating, but are finding practice areas difficult because of the current state of the beef and dairy industries.

In continuing discussion, Mr. McCloskey responded to Representative McKee that information about the program is on the KAFC Web site. He described the criteria to receive a loan, such as the value of a practice. The loan arrangement is a participation program with the application originating with local lenders. Funds can be used to construct, expand, equip, or buy into a practice, but cannot be used for refinancing, according to Mr. McCloskey.

In going over with Senator Givens the amount earmarked for the program and the maximum loan amount (\$100,000), Mr. McCloskey indicated a benefit of the program is that it is a revolving loan process with the funds ultimately coming back to the KAFC. According to Mr. McCloskey, committing funds to "under served areas" is recognition that funds may be limited and priority must be directed to areas with fewer numbers of veterinarians.

Senator Givens complimented Dr. Lipps for choosing the large/food animal career path and asked what legislators can do to elevate veterinarians' status. Dr. Lipps mentioned the rising costs associated with farming and suggested that legislators support farmers in any way they can. Mr. Hornback mentioned the decline in the farm population generally that is affecting large/food animal veterinarians. He complimented the state for setting aside the funds to establish the loan program.

Responding to Senator Givens, Dr. Lipps related that she had classmates who were interested in large/food animal veterinary medicine, but are not practicing in small animal settings.

Senator Boswell noted it should be recognized that large/food animal veterinary medicine is market driven.

The next speakers on the issue were Mr. Dave Maples and Kelly Tucker with the Kentucky Cattlemen's Association. The KCA Foundation received a \$1 million zero interest loan from the ADB and must match the funds with an additional \$1 million. The KCA Foundation will use revenues from interest on the funds to establish a veterinary incentive program whereby three large/food animal veterinarians or veterinarian technicians can receive an annual incentive of \$6,000 each for a maximum of three years. As the program matures, nine veterinarians and veterinarian technicians could receive incentives in a given year.

Mr. Maples told the committee the program is meant to help recent veterinarian and veterinarian technician graduates.

A requirement of the loan is that the Cattlemen's Foundation must

match the \$1 million with an additional \$1 million. Mr. Maples told the committee he had \$136,000 in matching funds committed so far. Later, Mr. Maples discussed in more detail with Senator Givens how the organization will go about raising the matching funds.

Ms. Tucker responded to Senator Givens that several other states have veterinarian incentive programs.

Asked by Senator McGaha about the number of veterinarian graduates who would be coming to Kentucky, primarily from Auburn University, Mr. Maples guessed 20.

Mr. Maples explained the incentive selection process to the senator, indicating the incentives would be awarded based on a community needs criteria which would be formulated by a selection committee. He reiterated that the program also is aimed at veterinarian technicians, in addition to veterinarians.

Mr. Maples responded to Representative Comer that the foundation selects its own directors. In continuing testimony, he described how an investment committee of the foundation went about finding a bank to hold the \$1 million in investment funds.

Following that discussion, Co-chair Sims next called on Annette Bridges, Division Director, Early Childhood Development, who was accompanied by Dr. Ruth Ann Shepherd, Division Director, Maternal and Child Health, Department for Public Health, and Robin Herring, Child Care Operations Manager, Department for Community Based Services. The speakers reported on the KIDS NOW Early Childhood Initiative, with Ms. Bridges discussing the mission of the program, Dr. Shepherd the maternal and child health, and family support aspects of the program, and Ms. Herring covering the early care and child care provider education segments of the program.

Asked by Co-Chair Sims about the need for fluoride varnish, offered under the oral health part of the program, Dr. Shepherd said fluoride prevents early decay of baby teeth and ultimately helps prevent bodily infections.

Responding to Senator Boswell, Ms. Bridges indicated she was aware of at least two states that had earmarked tobacco funds for early childhood development similar to Kentucky.

Dr. Shepherd responded to Senator Boswell that they interact with other non-state programs, such as the March of Dimes. As an example, she said they partner with the March of Dimes in the B vitamin folic acid campaign aimed at preventing neural tube defects.

According to Dr. Shepherd, they use non-agency funds to fill gaps in their budget. She next elaborated on the HANDS program, saying it was

meant to make babies healthier, thus saving funds for the state.

Following Ms. Herring's report, Co-chair Sims asked for clarification of the STARS for KIDS NOW child care facility rating system. Ms. Herring's testimony indicated staff members conduct on-site evaluations, with facilities ultimately receiving incentives and points based on quality of care offered.

Turning to the budget chart given to committee members, Ms. Bridges said many of their programs "pull down dollars" through collaborative grants.

As discussion progressed, Ms. Herring responded to Senator Givens about a chart showing that 42,000 children were enrolled in certified centers. Ms. Herring said the figure of 29 percent of eligible children enrolled in child care assistance facilities was close to the national average.

Responding to questions from Senator Givens about the HANDS program, Dr. Shepherd said parents agree to participate. She said various types of medical facilities screen prospective clients. According to the witness, the program is meant for over-burdened first-time parents who are at-risk. She said they serve about 11,000 children. She also indicated that almost all of the \$9.2 million budgeted for the program goes for front-line home staffing. That applies across all services, she said.

Senator McGaha asked a series of questions, some related to the budget. The senator sought clarification on a statement in a university evaluation which said that 73 percent of parents surveyed are strongly encouraged to participate in a child's education program.

Surveying a budget sheet the senator pointed out that, in some instances, high percentages of funds remained to be expended from some accounts. In many cases, billing agencies wait until near the end of the fiscal year to bill for services, Dr. Shepherd said. Senator McGaha noted that seemed unusual. Responding to Co-chair Sims, who asked about federal matching dollars, Dr. Shepherd mentioned that the HANDS program uses tobacco settlement money to match federal Medicaid funds, but in many cases, the funds cannot be leveraged with federal dollars.

Representative McKee lauded the report and noted how the Early Childhood Development effort grew out of a vision of former Governor Paul Patton and First Lady Judy Patton. As the meeting was ending, Ms. Bridges said she would provide Senator McGaha with agency fund totals appropriated to the division. Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 12:10 pm.



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