

# 2012 Interim LEGISLATIVE

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## RECORD

## General Assembly's 2012 Regular Session ends

by Rob Weber  
*LRC Public Information*

The Kentucky General Assembly's 2012 session came to a close near midnight on April 12, marking the end of a session in which lawmakers approved the state's next two-year budget and boosted efforts to stop the spread of methamphetamine labs.

April 12 was the 60<sup>th</sup> working day of the session and the final one allowed by the state constitution. The session started on January 3.

Most bills  
passed during  
the session  
will go into  
effect  
on July 12.

Approved bills will go into effect on July 12, except for general appropriation measures and those containing emergency or delayed effective date provisions.

Legislation approved during the 2012 session includes measures on the following topics:

**Blue Alert.** SB 32 will establish a statewide emergency alert system to catch those suspected of injuring a police officer. The "Blue Alert" system, which is modeled after the Amber Alert system, will use law enforcement communication systems, electronic highway signs and media to spread information to catch

perpetrators after an officer has been reported wounded or missing.

**Budget.** HB 265 will guide more than \$19 billion in state spending for the next two fiscal years and, in recognition of lean times, will impose 8.4 percent spending cuts on many state agencies and reduce state support for universities by 6.4 percent. Key areas such as Medicaid, Corrections, and base school funding are protected from the cuts. The budget includes \$21 million to hire additional social workers, \$4 million to enhance the state prescription monitoring KASPER system, and \$1 million for a colon cancer screening program.

**Coal mine safety.** HB 385 will enforce new rules for miners who fail drug or alcohol tests. Offenders will be ineligible to hold mining licenses or certificates for three years. Penalties are more severe for repeat offenders. The legislation also outlines an appeals process for suspended miners.

**Coal truck drivers.** HB 411 will designate the Monday of the fourth week in August as Coal Truck Driver Appreciation Day.

**Concealed deadly weapons.** HB 484 will allow Kentuckians to carry concealed weapons on their property or place of business, if they are the sole proprietors, without a license.

**Copper theft.** HB 390 will help curb theft of copper and other valuable metals by ensuring thieves don't get immediate cash for the stolen goods at recycling centers. Instead, after showing

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## \$19.2 billion state budget becomes law

by Rebecca Hanchett  
*LRC Public Information*

A \$19.2 billion two-year state budget that will reduce spending, restrict new bonded debt, and preserve funding in critical areas like Medicaid and base funding for public schools over the next biennium cleared the 2012 Regular Session of the Kentucky General Assembly and has become law.

HB 265, sponsored by House budget committee chair Rep. Rick Rand, D-Bedford, passed the Senate 36-1 and the House 81-7 on March 30.

The legislation contains the state Executive Branch budget, which will govern spending of most state agencies through Fiscal Year 2014.

Much of the budget, which was negotiated by the House and Senate in the final days of the 2012 Regular Session that concluded on April 12, is unchanged from the governor's budget proposal unveiled in January. It includes no state employee salary increases or state employee retiree cost of living increases, 8.4 percent cuts to most agency budgets (exempting Medicaid, Corrections, teachers' retirement, and a handful of other areas), lesser cuts of around 6 percent to state university budgets, and even smaller cuts of around 2 percent to the Kentucky State Police biennial budget.

The budget also includes limited additional spending proposed by the governor, including \$21 million to hire hundreds of state social workers, \$4.2 million to enhance the state prescription monitoring KASPER system, \$1 million for the state colon cancer screening program, and additional money for veterans programs and local prosecutors, with the latter receiving around \$1 million extra over the next two years.

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## Road Plan funding, "pill mill bill" approved in special session

by Rebecca Hanchett  
*LRC Public Information*

State lawmakers approved both funding for the next two-year state Road Plan and legislation that will crack down on so-called prescription "pill mills" during a brief special session in late April.

The funding bill, which is the operating budget for the state Transportation Cabinet found in House Bill 2, was signed into law by Gov. Steve Beshear on

May 2 and will take effect when the next fiscal year begins on July 1. The prescription drug abuse prevention bill, or HB 1, was signed into law on April 24 and will take effect on July 20.

The five-day session was called by Gov. Steve Beshear to convene on April 16 after agreement was not reached on funding for the \$4.5 billion 2012-2014 Road Plan or the prescription drug legislation

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# Anti-meth, synthetic drug bills become law

by Amy Rose Karr  
LRC Public Information

A bill aimed at curbing the rising number of meth labs in the state was signed into law by the governor on April 11 after being debated throughout the 2012 Regular Session of the Kentucky General Assembly. The legislation will become effective in July.

Senate Bill 3, sponsored by Senate Majority Floor Leader Robert Stivers, R-Manchester, decreases the monthly over-the-counter purchase limit of ephedrine and pseudoephedrine from nine grams to 7.2 grams, and implements a 24 gram yearly cap.

The drug is found in cold and allergy decongestants, like Sudafed, Claritin D and Mucinex DM, and is a required ingredient in meth-production.

The new limitation allows citizens to purchase an approximate 200-day supply of decongestant over-the-counter each year. A prescription is required to obtain more. Gel caps



Senate Judiciary Chair Tom Jensen, R-London, left, looks over drug legislation on the Senate floor with Sen. Ray Jones, D-Pikeville, while Sen. Brandon Smith, R-Hazard, observes.

and liquid medicines are exempt from the provisions of the bill because they are not typically used to produce methamphetamine.

Under the legislation, those convicted of meth-related crimes are not allowed to purchase medicines containing the drug for five years after being discharged or released from jail.

The measure also replaced the current paper-tracking system of the purchase of medicines containing ephedrine and pseudoephedrine with an electronic system that would allow better real-time purchase tracking.

Advocates say this will significantly reduce the number of dangerous meth labs in the state and help prevent ‘smurfing,’ which occurs

when a meth dealer hires several people to visit multiple pharmacies to buy large amounts of medicines containing pseudoephedrine.

Another anti-drug bill, House Bill 481, sponsored by Rep. John Tilley, D-Hopkinsville, and Rep. Jody Richards, D-Bowling Green, was also signed into law on April 11.

That bill widens the state’s current ban on unsafe synthetic drugs highlighted in recent media reports—like so-called “bath salts”, and synthetic marijuana—to include whole classes of the drugs. It’s an effort to prevent underground manufacturers from changing a few ingredients in a drug compound to keep it legal, as happened with the previous ban, sponsors say.

House Bill 481 makes selling synthetic drugs a felony for second and subsequent offenses and possession of the drugs a misdemeanor offense punishable by up to 30 days in jail. It included an emergency clause, making it effective immediately upon the governor’s signature.

## Budget, from page 1

Additionally, the budget holds down new state debt over the next biennium to less than half of the over \$900 million in new debt that was proposed by the governor. It had required the governor to come up with \$80 million in extra savings to help close the \$742 million gap between revenues and spending in the two year budget that will be partially bridged by spending cuts, but the governor vetoed that requirement.

Provisions in HB 265 that would have allowed the state to beef up its Budget Reserve Trust Fund, or “rainy day fund”, to nearly \$73 million at the end of the next biennium were also vetoed. The governor said in his veto message that allowing the provisions to become law would “result in the use of the (fund) as a checking account to pay for unbudgeted...needs,” when the fund “should be considered (a) savings account and used only as a last resort ...”

In all, the governor vetoed 45 provisions in HB 265. Most of the vetoes deal with the Budget Reserve Trust Fund and language that the governor felt limited his flexibility to handle budget and program management

matters.

Fund transfers, fund lapses and a tax amnesty program approved as part of HB 499--which would bring in approximately \$61 million in delinquent taxes during the biennium--will also help close the gap. HB 499 was signed into law by the governor on April 11 and took effect immediately.

The governor did sign into law both the Judicial Branch budget in HB 269 and the Legislative Branch budget in HB 268 without any vetoes during the 2012 Regular Session. Both of those budgets include 8.4 percent cuts to each branch’s operational budget over the biennium, mirroring the cuts made to most agencies in the Executive Branch under HB 265.

And, like HB 265, neither the Judicial or Legislative Branch budget include salary increases for employees or cost of living raises for retirees.

The provisions in HB 265, unless otherwise noted in the legislation itself, have already taken effect. Provisions in both HB 268 and 269, unless otherwise noted in the legislation, took effect when both bills were signed into law in April.



House Speaker Greg Stumbo, D-Prestonsburg, right, House Minority Floor Leader Jeff Hoover, R-Jamestown, left, and House Judiciary Chair Rep. John Tilley, D-Hopkinsville, center, discuss legislation in committee during the final days of the 2012 Regular Session.



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## Regular Session, from page 1

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proof of ownership, a check will be mailed to those selling certain metals to recycling centers. The legislation will also ensure that recycling centers receive reports on recently stolen metal items in the area so they can be on the lookout. The bill does not affect individuals recycling aluminum cans.

**Confederate pensions.** HB 85 will remove from the law books outdated language regarding pensions for Confederate soldiers.

**Consumer protection.** HB 421 will protect homeowners from being defrauded by providing a five-day grace period to cancel a signed roofing contract if the homeowner's insurance policy does not cover the repair work.

**Diplomas.** SB 43 will provide diplomas to students with disabilities who finish modified high school curriculums. The diploma will replace the certificate of completion the students currently receive.

**Election costs.** HB 293 will save money on election costs if only one candidate is running in a special election. The legislation is named the "Dewayne Bunch Act" in honor of a former state legislator who was seriously injured last year while breaking up a fight among students at the school where he taught.

**Emergency room safety.** SB 58 will allow officers to make arrests for misdemeanor assault with probable cause if the crime occurs in a hospital emergency room. Under current law, emergency rooms aren't exempt from the requirement that an officer must witness a misdemeanor assault in order to make an arrest.

**Ethics.** HB 402 will allow the Executive Branch Ethics Commission to share evidence with the state

Personnel Board or the Auditor of Public Accounts if the information is needed for the agencies' investigations.

**For-profit postsecondary schools.** HB 308 will establish a new panel to regulate private for-profit colleges and universities in Kentucky. The legislation will replace the Kentucky Board for Proprietary Education with the Kentucky Commission on Proprietary Education and will limit the schools' membership to four seats. The legislation also calls for the creation of a compensation fund (paid for by the industry) for grievances of eligible Kentucky students and a revised student complaint review process.

**Horse-drawn buggies.** SB 75 will allow drivers of horse-drawn buggies and other motorless vehicles to substitute reflective tape for the traditional orange safety emblem typically affixed to the back of those vehicles. The bill was filed in response to legal action taken against a group of Amish men in far west Kentucky who were arrested for refusing to use the orange emblem, citing religious concerns with the emblem's shape and bright color.

**Judicial budget.** HB 269 will guide judicial branch spending for the next two fiscal years. Like much of the executive branch budget, it will impose 8.4 percent spending cuts.

**Juvenile offenders.** House Concurrent Resolution 129 will establish a task force to study the state's juvenile code. The task force will look at issues relating to status offenders – those who commit acts that don't rise to the level of crime such as skipping school – and the feasibility of establishing an age

of criminal responsibility, as well as other issues. The task force will submit a report on its work to lawmakers by Jan. 7, 2013.

**Legislative budget.** HB 268 will guide legislative branch spending for the next two fiscal years. Like much of the executive branch budget, it will impose 8.4 percent spending cuts.

**Meth labs.** SB 3 will boost efforts to stop production of methamphetamines by tightening rules on the purchase of certain cold and allergy medicines that contain an ingredient needed to make meth. The legislation will decrease the current monthly over-the-counter purchase limit of ephedrine and pseudoephedrine in pill or tablet forms from 9 grams to 7.2 grams and impose a 24 gram yearly limit. The measure will also replace the paper-tracking system currently in place for the purchase of medicines containing ephedrine and pseudoephedrine with a mandatory electronic system that will allow more real-time tracking.

**National Guard Assistance Program.** HB 224 will make Kentucky National Guard members eligible for financial assistance to help pay child adoption costs.

**Personal-care homes.** SB 115 will require a medical examination that includes a medical history, physical examination and diagnosis prior to admission to a personal-care home.

**POW/MIA flags.** HB 121 will require Prisoner of War and Missing in Action flags purchased or displayed by public institutions to be made in the United States.

**School athletics.** HB 281 will require interscholastic coaches to complete training on recognizing and treating head injuries, including

concussions. The bill also outlines actions required before an athlete with a head injury may return to play.

**School facilities.** SB 110 will make it easier for school districts to allow community access to school facilities for recreational use during non-school hours by protecting the schools from liability in cases where an injury occurs.

**Seat belts.** SB 89 will expand Kentucky's seat belt law to include 15-person passenger vans. The bill was filed in response to a 2010 crash on I-65 near Munfordville that killed 11 people, most of whom weren't wearing seat belts. Current state law only requires seat belt use in vehicles designed to carry ten or fewer passengers.

**Speed limits.** HB 439 will allow the Transportation Cabinet to increase the speed limit on I-69 in Western Kentucky to 70 miles per hour.

**Students.** SB 24 requires children to be five years old by August 1 rather than October 1 to enter public school kindergarten classes and six years old by the same date to start first grade. The new requirements take effect in the 2017-2018 school year.

**Synthetic drugs.** HB 481 will widen the current state ban on synthetic drugs, including those sold as bath salts by some convenience stores. The legislation expands the state's ban by including whole classes of the drugs rather than specific ingredients so that manufacturers can't get around the ban by changing a single ingredient.

**Tax amnesty.** HB 499 will establish a tax amnesty program to be held during the 2012-2013 fiscal year to help collect unpaid taxes.

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**Continued on page 4**

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## Special Session, from page 1

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during the regular session that concluded on April 12.

HB 2 will provide for around \$1 billion in state supported highway construction, over \$1 billion in federally supported highway construction and maintenance, around \$250 million in federal funds for bridge replacement (including bridge work on small remote roads), about \$200 million for improvements to I-65,

and funds to complete bond improvements at Fort Knox through the Base Realignment and Closure (BRAC) program, federal funding for the Ohio River bridges project, and other needs.

HB 1 will require physicians and pharmacists to register with the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system and report patient data to KASPER

before prescribing and within 24 hours of dispensing Schedule II or Schedule III controlled substances. Interstate sharing of KASPER data will be allowed.

Plans to move KASPER to the Attorney General's Office were nixed during the special session. Instead, the system will remain under control of the Cabinet for Health and Family Services.

HB 1 will also require that pain management clinics be operated and owned by a physician licensed to practice in Kentucky, although existing facilities not physician-owned can remain open unless they violate state law or regulation.

Drug overdose and drug addiction claims three Kentucky lives each day, officials testified during session hearings on the issue.



## Regular Session, from page 3

**Veterans' licenses.** HB 221 will allow veterans to have their service designated on driver's licenses and state identification cards. The designations will make it easier for veterans to show proof of service needed for various discounts and special services available to them.

**War memorial.** HB 256 will establish a committee responsible for oversight of construction and upkeep of an Iraq/Afghanistan War Memorial.

**Wild hogs.** HB 344 will impose stiffer penalties on those who release feral hogs into the wild. The state's growing feral pig population is a threat to farmland, natural habitats and human health, experts say.

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# Veterans to benefit from new legislation

by Rebecca Hanchett  
LRC Public Information

Laws that serve and honor our nation's military veterans—from legislation allowing proof of military service on driver's licenses, to a law that will make all Kentucky National Guard members eligible for special financial assistance for child adoption—were passed during the 2012 Regular Session.

Starting on July 12, a veteran who was honorably discharged from any branch of military service can have proof of their military service placed on their Kentucky driver's license or state identification card, for no additional fee.

Supporters of the legislation, found in House Bill 221 sponsored by Rep. Rick Nelson, D-Middlesboro, and House Veterans, Military Affairs and Public Safety Chairman Tanya Pullin, D-South Shore, say it will help veterans receive special discounts or services available only to those who served in the U.S. Armed Forces.

Child adoption assistance will be made available to all Kentucky National Guard members with the passage of HB 224, also sponsored by Rep. Pullin. This legislation will provide any National Guard member with up to \$5,000 to cover the cost of adopting a child with special needs, or up to \$3,000 to cover the cost of another child adoption.

The adoption assistance in HB 224 will come from the state's military family assistance trust fund, which now provides adoption aid to regular military, National Guard members or Reservists called to federal active duty, and state employees. The funds can be used to pay unreimbursed costs related to adoption, including fees charged by a licensed adoption agency, legal fees, and other costs.

A new special license plate to honor all veterans will be offered starting this summer to all Kentucky drivers, regardless of military service, with the passage of Senate Bill 160, sponsored by Senate Transportation Chairman Ernie Harris, R-Crestwood.

The "I Support Veterans" special license plate will be available for purchase for an initial fee of \$25 and a \$20 renewal fee. Part of the proceeds from sale of the plate will support programs and services of the Kentucky Department of Veterans' Affairs.

Provisions regarding the "I



House Veterans, Military Affairs and Public Safety Chair Tanya Pullin, D-South Shore, speaks at a bill signing for veterans legislation that she sponsored during the 2012 Regular Session.

Support Veterans" plate were originally found in HB 197, sponsored by Rep. Pullin, but added to SB 160 late in the session.

The plate was statutorily created by the 2011 Kentucky General Assembly with the passage of legislation sponsored by Rep. Pullin.

A special committee will be set up to plan construction of a state war memorial honoring all 110 Kentuckians killed in U.S. military operations in Iraq and Afghanistan over the past three decades under another new law.

HB 256, sponsored by Rep. Tom McKee, D-Cynthiana, and Rep. Mike Denham, D-Maysville, assigns planning of an Iraq/Afghanistan War Memorial to a committee led by the governor, or his designee. The committee has until Oct. 1 to choose a design and location for the memorial, and report on its work to the governor, Tourism, Arts and Heritage Cabinet and leaders of the Kentucky General Assembly.

The memorial will feature the names of the 104 Kentuckians who died as a result of Operation Iraqi Freedom and Operation Enduring Freedom and six Kentuckians who gave their lives in Operation Desert Storm.

Another new law effective in July is HB 121, sponsored by Rep.

Fitz Steele, D-Hazard, and Rep. Tom Riner, D-Louisville, that honors U.S. Prisoners of War and Missing in Action. The law will require that any Prisoner of War and Missing in Action flag purchased or displayed by a public institution in the Commonwealth be manufactured in the U.S.

At least two resolutions supporting veterans made it through their respective chambers during the regular session.

House Resolution 201, sponsored by Rep. Addia Wuchner, R-Burlington, encourages all hospitals in the state to provide a way for patients who are veterans to opt for visits by members of veteran service organization. After being approved by the Kentucky House of Representatives, the simple was forwarded to the Kentucky Hospital Association.

A Senate resolution urging President Obama to remove any increase in health care fees for military families from his budget proposal was approved by the Kentucky Senate in March. Senate Resolution 220 was then forwarded to The White House.

According to SR 220, sponsored by Sen. Mike Wilson, R-Bowling Green, the President's 2013 Budget Proposal will increase pharmacy co-pays for all TRICARE beneficiaries and phase in additional fee increases.





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# Committee Meetings

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### INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 7th Meeting  
of the 2011 Interim  
December 12, 2011

#### Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Education was held on Monday, December 12, 2011, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Carl Rollins II, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

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

Guests: Wayne Young, Kentucky Association of School Administrators; Dale Winkler, Office of Career and Technical Education and Kentucky Department of Education; Chris Smith, Office of the Blind; Shirley LaFavers, Kentucky Association of School Administrators; Clyde Caudill, Kentucky Association of School Administrators and Accrediting Council for Independent Colleges and Schools; Sue Cain, Council on Postsecondary Education; Allison Jessee, Office of the Blind; Patrick Shirley, Office of the Blind; Crystal Dempsey-Gillum, Kentucky Higher Education Assistance Authority and Kentucky Higher Education Student Loan Corporation; Jim Thompson, Education and Workforce Development Cabinet; Robin Chandler, Kentucky Department of Education.

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

#### Approval of the November 14, 2011, minutes

Representative Collins moved to approve the minutes of the November 14, 2011, meeting and Representative Mayfield seconded the motion. The minutes were approved by voice vote.

#### Kentucky Facilities Inventory and Classification System (KFICS) Report

Hiren Desai, Office of Administration and Support, Kentucky Department of Education, said the General Assembly in SB 132 directed the Department of Education to contract with a third party vendor to conduct a study of school facilities. He asked that all members consider whether or not the KFICS system is the classification system that they would want implemented

long-term. Mr. Desai explained that historically the Commonwealth has used a system of categorizing school district buildings as categories one through five, with one being the best and five being the worst. This local categorization process has worked very well. The Department of Education welcomes direction from the General Assembly and school districts on which system would be better.

Kay Kennedy, Division of District Support, discussed the process used in conducting the KFICS system survey. Ms. Kennedy said the KDE and their partners, Parsons and MGT, developed checklists based on Kentucky regulations and standards that can be used as on-site assessments. She said Parsons and MGT trained the assessment teams which consisted of engineers, architects, superintendents, and principals. The assessors examined the facility condition, education suitability, technology readiness, and enrollment projections, capacity, and utilization. These components contribute to the score assigned to each of the buildings in the assessment. The assessors started with the buildings that were classified either as a three or a four as of September, 2010, since the General Assembly had addressed the category five schools in the 11 RS session with some funding incentives for the local districts. The presentation materials and charts are located in the meeting folder in the Legislative Research Commission library.

After the Condition assessor and Educational suitability assessor evaluated the school, the Assessment Team recorded their results in the KFICS database and school level reports were produced. Parsons and MGT then analyzed the schools' data and developed draft school reports and scores. Three components (condition, suitability, and technology) were considered in assigning the Kentucky school score. Ms. Kennedy said the KFICS deliverables included a state report, which has a ranked list of schools in Kentucky by school score, an annual report which includes the executive summary, and an individual school report for each facility assessed. These materials are located in the meeting folder in the LRC library.

Ms. Kennedy explained that the department's 2012-2014 biennial budget request of \$2.7 million would allow for an additional assessment of approximately 400 category two school buildings. The department will add additional software to allow it to include a construction planning component.

In response to Chairmen Rollins' question about why Woodford County High School was not on the Facilities Inventory and Classification System Report, Ms. Kennedy said that Woodford County did not have any schools in category three or four.

In response to Representative Webb-Edgington questions regarding children who attend schools in trailers, Ms. Kennedy stated that temporary buildings were not assessed in this survey.

In response to Representative Waide's question about the meaning of the 50.11 percent dealing with the Kentucky facility index, Ms. Kennedy said there is a national standard called the facility condition index (FCI). She said there is a Kentucky FCI that includes the Commonwealth's standards in addition to the national standards, and both were factored into the condition score. The condition score is only one component of the final score.

In response to Representative Farmer's question about how the five category system compares to the KFICS system, Mr. Desai said the old system was good but only looked at one component of what it takes to have a good facility. He said the new system is better because it takes into account the instructional programs and the needs of the classroom.

Responding to Representative Stone's questions, Mr. Desai said 1,400 buildings had been assessed, and about nine hundred remain. Five hundred of the buildings in the state are category one. Ms. Kennedy stated that the KFICS system has triggers to identify when a system ages out.

Responding to Representative Nelson's question about how the suitability and technology score can affect a schools facility, Ms. Kennedy said the vendor recommended replacing the system in which condition represented 100 percent of the score with the following weights: 75 percent condition, 20 percent suitability, 5 percent technology.

Chairman Rollins mentioned that the top five or eight schools on the report have the lowest condition scores. He said it appears that condition will still be the driver more so than suitability and technology.

In response to questions, Ms. Kennedy said schools may deteriorate due to lack of funding for maintenance, and Mr. Desai indicated that the total cost of the consultants' contract was two million dollars.

Senator Winters commented that many school facilities built in the 1970s were patterned after the Nova open space classroom concept. Some schools built in the 1970s would have had bad scores a few years after they were built, and that is why some older schools have better scores now compared to those schools built in the 1970s.

Bob Tarvin, Executive Director of School Facilities Construction Commission, explained that some systems begin to fail after 15-30 years of use, including plumbing, HVAC, and roofs. With renovations, the systems acquire additional longevity.

Representative Miller commented on his experience on a committee of people who assessed schools facilities five to ten years ago. He stated that they did not use the same system that is used now, but the assessment committee membership was similar.

In response to Representative Palumbo's questions about a newer school



not meeting the suitability criteria and the definition of Area Technical Center (ATC) 999, Ms. Kennedy said suitability refers to how the district is currently utilizing that space. She said that without going back to that specific schools report she could not address specifics, but she would get Representative Palumbo an answer as soon as possible. Ms. Kennedy also said that ATC 999 schools are district owned facilities but are run by the state.

Representative Graham stated that having the KFICS system provides a better format for districts to follow. He said the old system had a lot of politics involved in how the schools were ranked, and the new system will help establish a consistent pattern.

#### **Teaching, Empowering, Leading, and Learning (TELL) survey**

Ann Maddock, New Teacher Center, said teacher attitudes about teaching conditions are not about salary and not about morale. She said attitudes about teaching conditions are about the supports that research has shown are necessary for teachers and administrators to do their jobs well.

Michael Dailey, Kentucky Department of Education, said the intent for the TELL survey is for school improvement and to insure the teachers and leaders have the necessary supports in place to improve student learning. Mr. Dailey said the Coalition of Partners and its Memorandum of Understanding clearly indicates that the coalition of partners believe that the teaching conditions in the state of Kentucky are important to support student learning.

Ms. Maddock said Kentucky set a brand new national record for statewide administration of the TELL survey. She said over 42,000 Kentucky educators were surveyed. About 89 percent of Kentucky schools met the minimum threshold to have their data viewed publically. This says a lot about the coalition of partners and how they all work well together. Anyone can view the schools individual data at [www.tellkentucky.org](http://www.tellkentucky.org). One can also view district results, state results, and information on how to use the data.

Ms. Maddock said the key preliminary findings from the survey are that the educators in Kentucky are very positive. They are more positive than other states in a few key areas. One of the challenges teachers in Kentucky and other states face is the issue of time. Time requires a big financial investment from the state. During bad economic times, investment in time usually suffers. About 59 percent of Kentucky educators agree that teachers have reasonable class sizes.

Ms. Maddock noted that administrative surveys were given in addition to teacher surveys. As in every other state, teachers and the principals see things differently.

Mr. Dailey said the Coalition has focused on recognition of schools that are showing high student achievement and high working conditions. An advisory team representing the coalition has worked through a rubric and a process to identify schools across the state. There were 49 schools that met the criteria and received honorable mention. The ten highest ranking schools were identified in a press release and recognized at the 17<sup>th</sup> annual

Safe Schools Conference in Louisville.

Ms. Maddock said that, after the passage of 2010 RS HB 176, persistently low achieving schools were immediately able to start utilizing survey data for improvement. The commissioner had just received the district 180 priority school report and noted that all 22 of the first 22 schools identified have data to work from now.

Mr. Dailey said Kentucky would include in its biennial budget request \$175,000 to continue the TELL survey.

In response to Chairman Rollins' questions, Mr. Dailey explained that there have been a couple of webinars with superintendents to make sure they understood how the data is going to be reported and how to use the data. He said schools and districts have been provided training and guides for data use.

Responding to Representative Palumbo's question regarding student conduct on page 13 of the handout, Ms. Maddock said the issues are not only whether staff perceive students as following the rules of conduct but whether the faculty clearly communicated the expectations to students.

#### **Report from Career and Technical Education Task Force**

Dale Winkler, Executive Director, The Office of Career and Technical Education (CTE), said CTE provides students a work ethic and problem solving ability. He said CTE programs also provide students with numerous choices regarding postsecondary education and future employment. The Commonwealth needs to provide a strong CTE curriculum that integrates core academics, aligns the needs of business and industry, and assists teachers and administrators in preparing students for productive futures. In the 2010-2011 academic year, there were 153,727 secondary students enrolled in at least one CTE course. CTE programs can be found in 163 out of the 174 school districts in the state of Kentucky. About 75 percent of all Kentucky high school students are enrolled in CTE programs. Those students can choose from 14 career clusters to prepare them to pursue various career pathways. The largest program in CTE is business administration with over 61,000 participants. There are five performance measures that are reported annually to the U.S. Department of Education, and these performance measures are required by the Carl D. Perkins Career and Technical Education Act Amendments of 2006. The measures report the percent of CTE students that are proficient or distinguished in reading and math, and they also indicate the percentage of CTE concentrators that complete CTE programs of study and graduate from high school. The final performance measure focuses on the percentage of CTE concentrators that successfully transition to postsecondary education, the workforce, or military services.

Mr. Winkler said there are three reasons why CTE plays such an important role in a student's educational experience at the middle and high school levels. There are numerous studies that demonstrate the holding power of CTE as part of the high school experience. There is a strong body of evidence that

shows that participation in high school CTE increases the likelihood of students completing high school. There is extensive experimental research conducted by the National Research Center for Career and Technical Education and also applied research that has been conducted by the Southern Region Education Board that shows that, if one carefully implements curriculum integration strategies in the areas of Career and Technical Education, one can significantly improve math and literacy skills. He said that there is an emerging body of evidence that shows that students who concentrate in career and technical education are more likely than other students to attend college.

Mr. Winkler stated that in 2009 Governor Beshear created a task force on Transforming Education in Kentucky (TEK). The task force met ten times and hosted a statewide community forum in which more than 1,500 Kentuckians shared their views on improving education in Kentucky. In February of this year, the TEK task force released its final report, "Breaking New Ground." The report contained 35 recommendations for transforming education in Kentucky. One of the recommendations called for the Secretary of Education and Workforce Development Cabinet and the Commissioner of Education to establish a Steering Committee to develop a comprehensive statewide plan to implement a new model of secondary career and technical education. This plan would emphasize innovation, integrating core academics, twenty first century skills, project based learning, and full time CTE programs. The plan was offered for consideration by the 2012 General Assembly.

Mr. Winkler said on November 29, 2011, the CTE Steering Committee approved the amended recommendations of the various workgroups. Six guiding principles were adopted to guide the work of the redesign of CTE in Kentucky. Information on the six guiding principles is located in the committee meeting folder in the LRC library.

Mr. Winkler explained the benefits of merging CTE entities. Some of the immediate benefits include administrative cost savings, improved alignment of resources, establishment of a common philosophical approach, a more understandable secondary CTE system, and a better integration of core content and academic requirements in the CTE curriculum.

In response to a question from Chairman Rollins, Mr. Winkler said that once final edits are made to the report, the final copies will be given to all the legislators.

Representative Richards stated that the names of two superintendents in the Steering Committee are reversed. Jim Flynn is Superintendent in Simpson County and James Neihof is Superintendent in Shelby County.

Responding to Senator Given's questions about administrative cost savings and the state budget office listening, Mr. Winkler said the administration has begun work on projecting cost savings and has looked at comparisons with previous biennium budgets.

Responding to Representative

Stone's questions regarding human services and independent ACT scores, Mr. Winkler said that Family and Consumer Science is included in Human Services along with Health Science Programs. He stated that the information on ACT scores is not available, but it is information that the Office would like to examine.

Responding to Senator McGaha's questions about a common philosophical approach and curriculum, Mr. Winkler said Kentucky has two different curriculums for Career and Technical Education. The Department of Education requires a program of study and an implementation manual that includes course descriptions and competencies listed for certain courses. The Office of Career and Technical Education's curriculum follows the Kentucky Community and Technical College System course curriculum.

#### **Review of Administrative Regulations**

Chris Smith, Executive Director, Office of the Blind, Patrick Shurley Council for Office of the Blind, and Allison Jessee, Director of Consumer Services, Office of the Blind were available to speak on Administrative Regulations 782 KAR 1:020, 782 KAR 1:030, 782 KAR 1:040, and 782 KAR 1:070. Most of the regulations addressed minor grammatical and technical changes.

The definition section of 782 KAR 1:020 has been changed to align with federal regulations, specifically the definition of significant disability and non significant disability.

782 KAR 1:030 reduced the number of agency funded round trips for clients between home and postsecondary education institutions from six to two because of budgetary restraints.

Representative Stone made a motion to accept the amendments to the Administrative Regulations, and Representative Richards seconded that motion. A voice vote approved the motion.

With no further business before the committee, the meeting adjourned at 3:08 p.m.

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

Minutes of the 6th Meeting of the 2011 Interim  
December 19, 2011

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

The sixth meeting of the Interim Joint Committee on Health and Welfare was held on Monday, December 19, 2011, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 1:04 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Tom Burch, Co-Chair; Senators Joe Bowen, Tom Buford, Perry B. Clark, David Givens, Denise Harper Angel, Alice Forgy Kerr, Dennis Parrett, Joey Pendleton, Katie Kratz Stine, and Jack Westwood; Representatives Julie Raque Adams, Bob M. DeWeese, Jim Glenn, Brent Housman, Joni L. Jenkins, Darryl T. Owens, Ruth Ann Palumbo, Susan Westrom, and Addia Wuchner.

Guest Legislators: Senator Jimmy Higdon; and Representatives Dennis Horlander, Martha Jane King, and Jimmie Lee.

Guests: Patricia Wilson, Commissioner, and Teresa James, Deputy Secretary, Department for Community Based Services, and Christina Heavrin, Legal Counsel, Cabinet for Health and Family Services; Marsha Hockensmith, Director, Kentucky Protection and Advocacy; Debbie Lanham, former resident of a Personal Care Home; Kathy R. Dobbins, LCSW, Executive Director, Wellspring; Terry Brooks, Executive Director, Andrea Plummer, and Amy Swann, Kentucky Youth Advocates; Kevin Kavanagh, MD, MS, FACS, Board Chairman, Health Watch USA; Jill Seyfred, Prevent Child Abuse Kentucky; Kathy Adams, Children's Alliance; Gene Eckert and Ralph Risimimi, St. Joseph Children's Home; Alex Blevins, Kentucky CASA; Vickie Arrowood, court-appointed parent attorney; Therese Sirles, Kosair Children's Hospital; Eric T. Clark, Kentucky Association of Health Care Facilities; Patty Dempsey, The Arc of Kentucky; Nancy Dematra; Chandra Venetozzi, Office of Health Policy, Cabinet for Health and Family Services; Deon Hunter; Connie Marshall; Michael Tuleh; Donna Crawford; LeeEtta Cummings and IJ Eneje, Division of Behavioral Health, Cabinet for Health and Family Services; Troy Johnson, Nursing Home Ombudsman; Carol Peters; and Marty White, Kentucky Spirit Health Plan.

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

#### **Update on Hospital Acquired Infections**

Kevin Kavanagh, MD, MS, FACS, Board Chairman, Health Watch USA, stated that one in twenty patients in the United States develops a healthcare acquired infection (HAI). Out of approximately 1.7 million infections in the United States, nearly 100,000 individuals will die. In Kentucky, approximately \$400 million dollars will be spent on HAIs. Healthcare acquired infections cause as many deaths as motor vehicle traffic accidents, breast cancer, and HIV/AIDS combined. State initiatives on public reporting of HIAs play an important role in the federal effort to prevent HIAs. There are approximately 1,200 Centers for Disease Control and Prevention (CDC) practices to control HAIs. Public reporting produces more of a behavior change in providers than patients. Methicillin-resistant Staphylococcus aureus (MRSA) infection is caused by a strain of staph bacteria that has become resistant to the antibiotics commonly used to treat ordinary staph infections. HIAs comprise 86 percent of all MRSA infections.

#### **Child Fatality and Near Fatality: Transparency**

Patricia Wilson, MSW, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, stated the DCBS centralized intake unit receives approximately 80,000 calls per year, but not all of them are allegations of abuse or neglect. The calls that allege abuse and neglect have to meet the criteria

for acceptance that are promulgated in administrative regulations. States create criteria that meet the statutory definition of abuse and neglect. The federal government encouraged states to create multiple response systems for states that have a registry of individuals who have been substantiated for abusing and neglecting children. Placement on the registry can impact employment for seven years. A case that has prior history with the cabinet means that there has been contact in the form of a report with the department at any point in an individual's lifetime. 922 KAR 1:330 states a caretaker is a person who is responsible for the supervision and well-being of a child. Substantiation means (a) An admission of abuse, neglect, or dependency; (b) A judicial finding of child abuse, neglect, or dependency; or (3) A preponderance of evidence exists that abuse, neglect, or dependency was committed by the person alleged to be responsible. The cabinet is prohibited from undertaking an investigation or family-in-need services assessment for a report of abuse or neglect allegedly perpetrated by a noncaretaker but shall refer the matter in compliance with KRS 620.030(1). Calls about alleged abuse or neglect by a noncaretaker are referred to law enforcement because the department does not have statutory to intervene in these cases. Kentucky's response timeframes for investigations of alleged serious injury and imminent harm is within an hour, physical abuse within 24 hours, and neglect within 48 hours. Of the approximately 80,000 calls received by the department in 2011, 32,835 were allegations of abuse or neglect that met the criteria of caretaker and risk of safety and harm of the child. The department substantiated 29 percent of investigations. The national average for substantiation of allegations is 27 percent. Of the 32,835 allegations, 69 were substantiated fatality or near fatality cases, and 35 of those had a prior history with the cabinet. In the cases with history with the department during 2011, the child victims were all under ten years of age and 64 percent died as a result of abusive head trauma. In 82 percent of the cases, the prior report involved neglect while the incident that caused the fatality or near fatality was physical abuse. Only one case had the same victim and perpetrator pairing in the fatality or near fatality as the previous report.

The cabinet supports being open and accountable, but has to weigh the impact of the victimization of others involved in a case. The department's records are very comprehensive and need to be open only if it does not victimize families further. Also, some people who give information want to remain confidential. There has to be a balance between what information is released with the safety of individuals. The cabinet also worries about the safety of the DCBS staff.

Christina Heavrin, Legal Counsel, Cabinet for Health and Family Services, stated that the cabinet has offered to give information about cases, but only if it is not confidential. Social security numbers, sealed family and juvenile court records, medical records, records of financial assistance programs are protected under the open records act. Siblings, individuals named in the records that have no

connection to the fatality or near fatality, and children who survive near fatalities have the right to privacy. Information can be obtained from the cabinet without revealing confidential information. The cabinet will release information in 180 cases from 2009 and 2010.

In response to questions by Representative Adams, Commissioner Wilson stated that the training of frontline workers at the academy covers all facets of the work done at DCBS. The cabinet makes every effort to involve as many individuals into current training who do not routinely conduct investigations but who may be called upon to conduct investigations.

In response to questions by Senator Pendleton, Commissioner Wilson stated that to be counted as a death as a result of child abuse or neglect as defined by statute, the act that resulted in the death of the child has to be perpetrated by the caregiver. The Department for Public Health has a report with statistics and aggregate data of all child deaths in Kentucky based upon information provided on death certificates.

In response to questions by Senator Parrett, Commissioner Wilson stated that if the name of an individual who reported the abuse or neglect is not protected, there is a possibility that the number of reports of fatalities or near fatalities may decrease. The testimony of individuals is recorded in the case report, so even if the name is not revealed, there is a possibility that the individual's identity will be known to the person accused of the abuse or neglect based upon the testimony provided. Ms. Heavrin stated that the cabinet follows established protocols about releasing records.

In response to questions by Representative Westrom, Commissioner Wilson stated that both she and the deputy commissioner review cases constantly. In January 2010, the nine regional administrators were assigned to review all fatality or near fatality investigations in their regions for the past two years. After review from the regional administrators, frontline worker protocol was changed in February 2011 for physical abuse of children four years of age and younger. The federal government has added more rules and expectations that affect finances and workloads.

In response to questions by Representative Owens, Commissioner Wilson stated that in November 2011 there were 1,557 frontline workers and 253 supervisors for a total of 1,810 frontline staff. In November 2009, there were 1,583 frontline workers and 262 supervisors for a total of 1,842 frontline staff. In 2007 there were 1,708 frontline workers and 279 supervisors for a total of 1,987. The Child Welfare League of America recommends that workers have no more than 17 on-going service cases and 12 investigative cases. The Council on Accreditation recommends the caseloads should be manageable which may not be the same in different locations and different situations. In 2011, DCBS workers had 19.8 combined investigative and on-going service caseloads. Substance abuse is driving up caseloads of the Protection and Permanency workers, and lack of resources for treatment is a huge

problem.

In response to questions by Representative Jenkins, Commissioner Wilson stated that because the annual mandated fatality and near fatality report is to be sent to the Legislative Research Commission by September 1, so it is difficult to include 12 months of comprehensive data because of pending cases. A December 1 deadline would be more conducive to provide a comprehensive report.

In response to questions by Senator Givens, Commissioner Wilson stated that the cabinet did not violate any policies and practices in the Amy Dye case. The cabinet tries to find ways to prevent any child's death. DCBS supports an external review panel to review cases. Of the approximately 1,800 social workers, 99.9 percent do an exemplary job. The department takes disciplinary action against anyone who has operated outside the department's policies outlined in the standards of practice manual. A corrective plan is instituted. Approximately 40 percent of the employees that the department institutes major disciplinary action against result in them leaving the cabinet.

In response to questions by Representative Palumbo, Commissioner Wilson stated that the family composition is different than in the past. Parents normally do not intentionally hurt a child because they have an emotional investment in the child. Abuse is usually done by someone who is not emotionally invested in the child. Children under the age of four are abused more because they are more demanding. Substance abuse makes a situation more volatile.

In response to questions by Representative King, Commissioner Wilson stated that there is room for better communication between the department and schools.

In response to questions by Senator Buford, Commissioner Wilson stated that in several counties staff is asked to provide supervised visitation in custody cases because the court believes someone needs to supervise the visits between the parents. Staff supervising these visits cannot be making home visits to child protective cases or adult protective services cases.

In response to questions by Representative Wuchner, Commissioner Wilson stated that a worker that prepares a report to the court really prepares the report based upon a petition that is before the court and that petition alleges certain events about a particular child. Inside the court hearing, a worker is able enter testimony about what is known about any prior history the alleged abuser may have had with the cabinet if no one objects to the testimony. There is a fine line that separates what a worker might know about an individual from a prior relationship and how that information will transfer into a current situation. When the cabinet receives a report of a child who is in imminent danger, an investigation has to be started within one hour, physical abuse 24 hours, and anything else is 48 hours. Investigations are tracked for timeliness of investigations.

Michael D. Kenner, Superintendent, Todd County Schools, stated that the system failed Amy Dye. There needs to be a



better communication system between the cabinet and the school system. Personnel at schools are trained to report abuse and comply with the cabinet when asked for confidential information about the student. Schools give an intake worker suspected abuse information, but they are not kept informed about the progress of the case. Schools need a follow-up from the cabinet on the progress of the case. It is neglect of caregivers if sibling-on-sibling abuse is not reported. The cabinet should not be able to hide behind confidentiality. Teachers are hesitant to report abuse because their confidentiality is not protected. Families should not know who reports the abuse. In Amy Dye’s case, the school believed that she had been removed from the home because of abuse that had been reported. Amy was not attending school, and the school was not aware that Amy was still living in the home.

Camille Dillingham, Principal, South Todd Elementary School, stated that educators are professionals, and their main job is to protect and educate children. Family structure is very different now. Educators know what is normal and when a child is being abused. The definition of a caretaker needs to be changed. Caretakers should be held accountable for neglect that results in sibling abuse.

Vicki Myers, Assistant Superintendent, Todd County Schools stated that there needs to be checks and balances in the cabinet.

In response to questions by Senator Denton, Commissioner Wilson stated that the school contacted the cabinet approximately six times with the last contact in the spring of 2007 about suspected abuse of Amy Dye, but no one at the school was interviewed regarding the abuse.

In response to questions by Representative King, Ms. Meyer stated that all intake calls to the cabinet are treated the same. Mr. Kenner stated that the cabinets want to be able to call someone locally because local offices know the families better. Communication is the key between schools and the cabinet.

In response to questions by Senator Westwood, Mr. Kenner stated that it is helpful to know the action taken by the cabinet after a school reports abuse or neglect of a child.

**Minutes**

A motion to approve the minutes of the November 16, 2011 meeting was made by Senator Pendleton, seconded by Representative Palumbo, and approved by voice vote.

**Consideration of Referred Administrative Regulations**

The following administrative regulations were referred to the committee for consideration: 201 KAR 23:050 – establishes the requirements for license renewal by the Kentucky Board of Social Work; 201 KAR 23:075 – delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses by the Kentucky Board of Social Work; 900 KAR 6:075 – establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need (CON) Program;

902 KAR 100:142 – provides radiation safety requirements for persons using sources of radiation for wire line service operations including radioactive markers, mineral exploration, and subsurface tracer studies; and 908 KAR 1:310 – establishes certification requirements and minimum standards for an individual or other entity operating a DUI program. A motion to accept the referred administrative regulations was made by Senator Pendleton, seconded by Representative Palumbo, and accepted by voice vote.

**Subcommittee Report**

Senator Denton stated that the Health Issues and Aging Subcommittee had met that morning and heard testimony from Amy Head, family member of someone with a brain injury, Mary Hass, Advocacy Director, Brain Injury Alliance of Kentucky, Neville Wise, Acting Commissioner, and Karen Martin, Department for Medicaid Services, Cabinet for Health and Family Services, about issues related to the Acquired Brain Injury Medicaid waiver program. Ms. Head provided an update on her efforts to get services for her brain-injured husband, Martin Head. Ms. Hass discussed the difficulties in obtaining services for individuals with stroke-related brain injuries under the current waiver program. The Cabinet for Health and Family Services is working on an enhanced ABI waiver which will provide a larger array of services. The committee heard testimony from providers, clients, and family members about the IMPACT Plus program, and their ongoing concerns expressed about procedural issues and due process in the termination of providers. Susan Campbell Turner, a former IMPACT Plus provider, updated the committee on her termination case. Family members and clients highlighted the problems they have encountered in obtaining services since IMPACT Plus providers in their area have been terminated from the program. Mark Hamm, Phoenix Comprehensive Care, an IMPACT Plus provider, testified about the difficulty in obtaining reimbursement from the new Medicaid managed care organizations.

**Need for Supports and Services for Individuals with Mental Illness**

Marsha Hockensmith, Director, Kentucky Protection and Advocacy, stated that in May 1995 a suit was filed in the United States District Court in Georgia against state officials, including the head of the Department of Human Resources, Tommy Olmstead. The plaintiffs were two women with dual diagnoses of mental illness and mental retardation, who had a history of institutionalization. Both women qualified for community-based treatment, but remained hospitalized. The lawsuit challenged that their continued confinement violated Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. In June 1999, the Supreme Court issued its opinion stating that continued confinement did violate the ADA, and states shall, when deemed appropriate, make every effort to accommodate the needs of individuals with disabilities in the community. The ruling stated that it also violated Section 504 of the Rehabilitation Act that states, “A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the

needs of the qualified individuals with disabilities.”

Long term care facilities are defined in Kentucky Revised States 216B.510 and regulated in 902 KAR 20:036. Personal care homes (PCHs) are licensed and regulated by the Office of the Inspector General (OIG). There are 6,490 personal care home beds statewide, and 4,479 are free-standing beds and not part of a nursing facility. The average overall occupancy is 79.88 percent. Some services provided are room accommodations, housekeeping and laundry, maintenance services, three meals per day and snacks, soap, clean towels, wash cloths, and linens, planned individual and group activities, recreational room and space, and reading materials, radios, games, and television sets. Some of the rights of individuals in PCHs include the right to be safe, to be treated with respect and dignity, to privacy, to receive and send unopened mail, to access a telephone for making and receiving calls, to participate in social, religious, and community groups of choice, and to keep and wear their own clothing. The population of the PCHs are individuals who are predominantly 18 years of age and older with mental illness, individuals with intellectual and developmental disabilities, individuals with brain injuries, individuals released from jail or prison. The majority of individuals living in the PCHs receive \$674 per month in Supplemental Security Income (SSI). The state supplementation program is required by federal law to pay an amount from state general funds to supplement the SSI payment for persons living in PCHs. Currently the cost to stay at a PCH is \$1,194 per month, \$520 from state funds and \$674 from SSI monies. The PCH must allow the person to retain \$60 per month as a personal needs allowance. PCHs who meet the requirements in the regulation who serve populations of persons with mental illness, or intellectual or developmental disabilities that exceed 35 percent receive an additional 50 cents per day. In 2009, P&A staff provided training on Long Term Care Rights, information about guardianship and employment to individuals living at 20 PCHs; and in 2010, training was provided to 24 PCHs. Future plans must ensure integrated housing for persons with mental illness, ensure access to other needed services and supports to persons with mental illness, and re-evaluate utilization of current resources.

Debbie Lanham, former resident of a Personal Care Home, stated that people should be allowed to live as independently as possible. There are not enough daily activities or staff at personal care homes to help teach a resident how to become independent. Individuals should have the right to make their own choices about where they want to live.

Kathy R. Dobbins, LCSW, Executive Director, WellSpring, stated that Well Spring was founded in 1982 and serve approximately 600 clients per year. Well Spring receives state and federal monies. Supportive services should be flexible. People with mental illness can recover and live productive lives.

In response to questions by Senator Denton, Ms. Dobbins stated that the average monthly cost to stay in a PCH is \$1,194. WellSpring has different types of living arrangements. The average cost to

stay at Wellsprings varies from \$1,000 to \$3,000 monthly depending on the level of services provided.

In response to questions by Senator Higdon, Ms. Dobbins stated that the state funding for PCHs has not changed since the 1980s. It is hard to compare Wellsprings to a PCH.

Nancy Dematra, teacher and advocate, stated that the following areas need to be addressed by the General Assembly: 1) provide complete public oversight and transparency of the Cabinet for Health and Family Services as well as coordinated services and welfare departments across the state; 2) complete regular audits of all phases of the Cabinet for Health and Family Services, coordinated services, and welfare departments; 3) prohibit illegally seized children for adoptions and foster care; 4) require reporting to an independent agency all sexual and physical abuse in foster care homes and foster care facilities. All homes and facilities must be closed to foster children; 5) institute treatment of abused children; 6) require a degree in social work; and 7) conduct external reviews.

Donna Crawford stated that even though there was an unsubstantiated claim against her, the cabinet took her daughter away from her anyway. She is concerned how DCBS conducts business.

Deon Hunter stated that she has three children in foster care even though she did everything the cabinet asked of her. She has no visitation rights with her children.

In response to questions by Senator Denton, Ms. Hunter stated that her children are 18, 14, and 16 but the cabinet took them her when they were younger. Her parental rights have been terminated.

**Adjournment**

There being no further business, the meeting was adjourned at 5:00 p.m.

**INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE**

Subcommittee on Health Issues and Aging  
Minutes of the 3rd Meeting  
of the 2011 Interim  
December 19, 2011

**Call to Order and Roll Call**

The third meeting of the Subcommittee on Health Issues and Aging of the Interim Joint Committee on Health and Welfare was held on Monday, December 19, 2011, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order at 10:25 a.m., and the secretary called the roll.

Present were:

**Members:** Senator Julie Denton, Co-Chair; Senators Denise Harper Angel, Dennis Parrett, and Jack Westwood; and Representative Bob M. DeWeese.

**Guest Legislators:** Senator Jimmy Higdon and Representative Jimmie Lee.

**Guests:** Amy Head, family member; Mary Hass, Advocacy Director, Brain Injury Alliance of Kentucky; Susan Campbell Turner, IMPACT Plus provider; Neville Wise and Karen Wise, Department for Medicaid Services, Cabinet for Health and Family Services; Darla Bailey, President, Kaleidoscope, Inc.; Mark Hamm, Phoenix Preferred Care; Marty



White and Patricia Drieci, Kentucky Spirit Health Plan; Catherine York, Cabinet for Health and Family Services; and Ellen Kershaw, Alzheimer's Association.

LRC Staff: Miriam Fordham, Jonathan Scott, and Gina Rigsby.

#### **Discussion of Medicaid Waiver Programs**

Amy Head provided an update on her efforts to get services for her brain-injured husband, Martin Head. Mary Hass, Advocacy Director, Brain Injury Alliance of Kentucky, discussed the difficulties in obtaining services for individuals with stroke-related brain injuries under the current waiver program. The Cabinet for Health and Family Services is working on an enhanced ABI waiver which will provide a larger array of services.

In response to questions by Senator Denton, Mr. Wise stated that the cabinet would work with Ms. Head to look at options available for her husband and try to have a decision by the end of January 2012. In response to questions by Senator Denton, Karen Martin stated that the initial submission of the enhanced Medicaid waiver would be in January after the language is agreed upon. The application process would take 90 days after the complete application is submitted.

#### **Discussion of IMPACT Plus Procedural Concerns**

Susan Campbell Turner, a former IMPACT Plus provider, updated the committee on her termination case. Providers, clients, and family members testified about the IMPACT Plus program, and the ongoing concerns expressed about procedural issues and due process in the termination of providers. The family members and clients highlighted the problems they have encountered in obtaining services since IMPACT Plus providers in their area were terminated from the program. Mark Hamm, Phoenix Comprehensive Care, an IMPACT Plus provider, testified about the difficulty in obtaining reimbursement from the new Medicaid managed care organizations.

Senator Higdon stated that the IMPACT Plus program should be eliminated to allow providers to contract with the new Medicaid managed care organizations where due process would be provided.

Senator Denton stated that untimely payment to providers is a violation of the MCO contract, and appeals need to be addressed in a timely manner. The contract states if a claim is not paid on time, the MCO would have to add interest on the unpaid amount. Representative Lee stated that the MCOs need to make sure providers understand how to submit a clean claim in order to be reimbursed.

#### **Discussion of Services for the Disabled**

Darla Bailey, President, Kaleidoscope, Inc., provided testimony about services for the disabled. Ms. Bailey discussed the inability of disabled individuals who have reached age 21 and "aged out" of eligibility for various programs to continue to receive services and the failure to implement past legislative action on related to self-determination in the delivery of services for the disabled.

#### **Adjournment**

There being no further business, the meeting was adjourned at 11:53 a.m.

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

Minutes of the 11th Meeting of the 2012 Interim  
December 20, 2011

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

The 11th meeting of the Capital Projects and Bond Oversight Committee was held on Tuesday, December 20, 2011, at 11:00 AM, in Room 169 of the Capitol Annex. Representative Jim Glenn, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Scott Aubrey, Director, Division of Real Properties; John Brawner, Cabinet for Health and Family Services Leasing Branch; John Hicks, Deputy Director, Governor's Office for Policy and Management; Tom Howard, Executive Director, Office of Financial Management; Richard McQuady, Chief Executive Officer, Kentucky Housing Corporation; Sandy Williams, Kentucky Infrastructure Authority.

LRC Staff: Kristi Culpepper and Christine Robertson.

#### **Approval of Minutes**

Representative Rudy made a motion to approve the minutes of the November 15, 2011, meeting. The motion was seconded by Senator Leeper and approved by voice vote.

#### **Correspondence**

Kristi Culpepper, Committee Staff Administrator, said there was one correspondence item available for members to review. In October 2009, the committee approved the Kentucky Housing Corporation (KHC) taking the necessary steps to participate in a new federal program, called the New Issue Bond Program (NIBP). One of the conditions of the committee's approval was that KHC provide periodic updates as the corporation goes to market with new debt issues under this program. Richard McQuady, Chief Executive Officer, KHC, said the corporation was using the final \$30 million of NIBP funds and \$20 million of regular program bonds to offer 30-year fixed-rate mortgages at or below 3.5 percent.

#### **Information Items**

Ms. Culpepper presented six information items for members to review. The first item was a draft of the committee's report to the 2012 General Assembly, which summarizes the committee's activities over the past year.

The second was a notice of advertisement for leased space for the Cabinet for Health and Family Services in Fayette County. In response to a question from Senator Buford, Scott Aubrey, Assistant Director, Division of Real Properties, said that the two properties being consolidated were in the Gainesway area and on Creative Drive. In response to another question from Senator Buford, John Brawner, Cabinet for Health and Family Services Leasing Branch, said

that 13 bids had been received and they were in the process of being evaluated. In response to a question from Representative Damron, Mr. Brawner said that proximity to the client base would be a priority.

The third item was an energy savings performance contract (ESPC) for the Department of Fish and Wildlife Resources. Ms. Culpepper said that unlike the other ESPCs that have been reported to the committee, which use lease or bond financing, this project will be paid 75 percent from federal funds for Wildlife and Sport Restoration and 25 percent in State Game and Fish Funds. The total cost of the project is \$204,903 and is expected to generate \$231,531 in savings over 13 years. In response to a question from Senator Leeper, Ms. Culpepper said that even though the project is self-funded, the contractor still has the same requirements and penalties should it not meet the guaranteed energy savings.

The fourth item was a report of tax-exempt property in the Commonwealth by county, which committee members requested at the November 2011 committee meeting during a discussion of the state's recent property acquisition for the Department of Fish and Wildlife.

Ms. Culpepper also said that members' folders included a copy of an article for the *Lexington Herald Leader* which stated that a recent land purchase in Scott County for Fish and Wildlife brought the seller a profit of \$254,694. This land acquisition was on the committee's October 2011 agenda. In response to a question from Representative Glenn, Scott Aubrey, Director of the Division of Real Properties said that the land had been paid for by federal funds, and by Fees-in-Lieu-of (FILO) wetlands stream mitigation funds. In response to another question from Representative Glenn, Mr. Aubrey said that the state received two independent appraisals and a review appraisal. The appraisals came back valuing the land at \$2,600 per acre, and the state paid \$2,500 per acre. In response to a question from Senator Carroll, John Hicks, Deputy Director, Governor's Office for Policy Management, said that the funds had been appropriated. In response to a question from Representative Wayne, Scott Aubrey said that there were wetlands on the property, but that he did not know their exact size and nature. In response to a question from Representative Damron, Mr. Hicks said that he did not think FILO funds could be used to develop sewer systems. Representative Damron asked Mr. Hicks to look into it.

The fifth item was a report from the Auditor of Public Accounts stating that the selection of underwriters and bond counsels for state debt-issuing authorities observed the applicable provisions in statute.

The sixth item was the final report issued by Parsons Commercial Technology and MGT of America, which conducted a statewide assessment of school facilities pursuant to 2010 Senate Bill 132. The report ranks school facilities according to facility condition, educational suitability, and technology readiness.

#### **Lease reports submitted by the Finance and Administration Cabinet**

Representative Glenn asked Scott Aubrey, Assistant Director of the Division

of Real Properties, to present four lease renewals. The first was for the United Prosecutorial System in Jefferson County at a total annual cost of \$313,838. The second lease was for the Cabinet for Health and Family Services in Kenton County at a total annual rent cost of \$319,339. The third lease was for the Cabinet for Health and Family Services in Letcher County at an annual cost of \$178,579. The fourth lease was for the Department of Workers Claims in Fayette County at an annual rental cost of \$141,465.

In response to a question from Representative Wayne, Mr. Aubrey replied that the cost per square foot for the Jefferson County lease was probably higher than the average cost per square foot in Jefferson County due to the location of the property, which would have to be close to the courthouse and in an urban location. In response to another question from Representative Wayne, Mr. Aubrey replied that he would look into what other downtown properties the state was leasing.

Representative Rudy made a motion to approve the lease renewals. The motion was seconded by Senator Carroll, and it passed by roll call vote with seven members voting "yes" and one member voting "no."

#### **Project report from the Finance and Administration Cabinet**

Representative Glenn asked John Hicks, Deputy Director, Governor's Office for Policy and Management, to present one new unbudgeted capital project. Mr. Hicks said that project is a system integrity enhancement to the unemployment insurance system for the Education and Workforce Development Cabinet, Office of Employment and Training, and is 100 percent federally funded. The purpose of the \$1,550,000 grant is to improve integrity enhancement functions. Senator Carroll made a motion to approve the project. The motion was seconded by Representative Rudy, and it passed unanimously by roll call vote.

#### **Kentucky Infrastructure Authority (KIA) Fund A Loans**

Representative Glenn asked Sandy Williams to present several items, beginning with Fund A loans. The first request was for a \$1,000,000 loan to the City of Burkesville in Cumberland County to make improvements to the sewer system. The loan term is 20 years with an interest rate of one percent.

The second request was for a \$418,000 loan to the City of Harrodsburg in Mercer County to clean the interceptor sewer and to inspect, replace, and repair collector lines and manholes. The loan term is 20 years with an interest rate of one percent. In response to a question from Representative Glenn, Ms. Williams said that over time, ingredients built up and restricted the flow in the pipes which needed to be cleaned out.

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

#### **KIA Fund B Loan Increase**

Representative Glenn asked Ms. Williams to present the third item, a Fund B Loan increase. This request was for the City of Carrollton in Carroll County and was an increase of \$150,000 to a loan



originally approved by the committee on August 19, 2008. The new loan amount is \$900,000 and retains the original loan term of 20 years and rate of 1.07 percent. The increase was due to a failing culvert and the repairs needed to maintain the integrity of the sewer. Representative Wayne made a motion to approve the Fund B loan increase. The motion was seconded by Senator Leeper, and it passed unanimously by roll call vote.

#### **KIA Fund F Loan Increase and Fund F Loans**

Ms. Williams presented the fourth request, a Fund F loan increase to the City of Hopkinsville in Christian County, for the benefit of the Hopkinsville Water Environment Authority, in the amount of \$800,000 for a total loan amount of \$8,800,000. The original loan was approved by the committee in March 2008, and the loan retains its original terms of 20 years at an interest rate of one percent. The loan increase is being requested to upgrade and expand the water treatment plant.

Ms. Williams said the fifth request was a Fund F loan in the amount of \$1,545,000 to the East Casey Water District in Casey County to install waterline, upgrade a pump station, construct a pump station, and construct a water storage tank. The loan term is 20 years at a rate of 1 percent.

Ms. Williams said the sixth request was a Fund F loan for the Jessamine South-Elkhorn Water District in Jessamine County. The loan amount was \$3,025,300 at a rate of 3 percent over twenty years. The funds will be used for the Northwest Water Main replacement and Hydraulics and for the Dixon Town Replacement project.

Ms. Williams said the seventh request was for the City of Nicholasville in Jessamine County. The loan amount was \$4,000,000 with an interest rate of 2 percent over 20 years. The funds will be used to install ductile iron pipe and a storage tank and booster station.

Ms. Williams said the eighth request was for the City of Carrollton in Carroll County. The loan amount was \$1,850,270 with an interest rate of 1 percent over 30 years. The funds will be used to address source water, water treatment, and distribution needs.

Ms. Williams said the ninth request was for the City of Bowling Green for the benefit of Bowling Green Municipal Utilities in Warren County. The loan amount was \$1,316,378 with an interest rate of 2 percent over 20 years. The funds will be used to replace failing water lines.

Ms. Williams said the tenth request was for the City of Harrodsburg in Mercer County. The loan amount was \$438,000 with an interest rate of 1 percent over 20 years. The funds will be used to upgrade water lines.

In response to a question from Senator Carroll, Ms. Williams said that the engineers for the projects were selected by competitive bidding. In response to another question from Senator Carroll, Ms. Williams said that KIA borrowers were encouraged to use a fee scale promulgated by the US Department of Agriculture's Rural Development when negotiating engineering costs for projects. She also explained that certain services are being

included as engineering fees that are not related to design or inspection. In response to another question from Senator Carroll, Ms. Williams said that some engineering contracts are evaluated by engineers at the Division of Water and some are evaluated at KIA, but costs are expected to be in line with Rural Development's fee scale.

In response to a question from Representative Damron regarding the seventh request [Fund F, City of Nicholasville], Ms. Williams said that a rate increase was not required as a condition of the loan. In response to another question from Representative Damron, Ms. Williams said that part of the loan application included a resolution from the city council of Nicholasville authorizing the submittal of the loan application and that the project was listed on an intended use plan that was put out for a thirty day public comment period by KIA.

Senator Carroll made a motion to motion to accept all fund F loans and loan increases except the loan to the City of Nicholasville. Senator Buford seconded the motion, and it passed unanimously by roll call vote.

Senator Carroll made a motion to table the City of Nicholasville Fund F loan until the January 2012 committee meeting and requested that the city provide information on the fee structure. Representative Wayne seconded the motion, and it passed unanimously by roll call vote.

#### **Follow-up Reports for Previously Approved Bond Issues**

Representative Glenn asked Brett Antle, Deputy Executive Director, Office of Financial Management, to present four items. Mr. Antle said the first item was a follow-up report for \$73,905,000 of State Property and Buildings Commission Revenue Refunding bonds, Project Number 101. Proceeds from this bond issue will be used will refund \$76.4 million of outstanding debt to provide \$7.2 million in net present value savings for the General Fund. The transaction priced on November 2 and closed on November 15, 2011. The all-in true interest cost was 2.273 percent. The bonds were sold on a negotiated basis and Morgan Stanley served as the underwriter. Peck, Shaffer, and Williams served as bond counsel and Bank of New York Mellon is the trustee.

The second item was a follow-up report for \$43,700,000 of State Property and Buildings Commission Road Fund Revenue Refunding Bonds, Project Number 73. This bond issue will advance refund \$43.7 million of outstanding bonds to provide \$2.8 million in net present value savings for the Road Fund. The transaction priced on November 2 and closed on November 15, 2011. The all-in true interest cost was 3.420 percent. The bonds were sold on a negotiated basis and Morgan Stanley served as senior underwriter. Peck, Shaffer, and Williams served as bond counsel and US Bank is the trustee.

The third item was a follow-up report for \$6,905,000 of Western Kentucky University General Receipts Refunding Bonds, 2011 Series A. This bond issue will refund the university's outstanding Consolidated Education Buildings Revenue Bonds, Series P. This transaction priced on October 26 and

closed on November 15, 2011. The all-in true interest cost was 2.525 percent. The bonds were sold on a competitive basis and were purchased by Hutchinson, Shockey, Erley, and Company. Peck, Shaffer, and Williams served as bond counsel and US Bank is the trustee.

The fourth item was a follow-up report for \$158,155,000 of Kentucky Economic Development Finance Authority Revenue Bonds (Catholic Health Initiatives), Series 2011 B. Proceeds will be used to finance and refinance certain costs of acquisition, construction, installation, and renovation of equipment facilities and retire a portion of outstanding commercial paper notes. This transaction priced on November 8 and closed on November 10, 2011. The term is 35 years with a variable interest rate. JP Morgan served as senior underwriter and Wells Fargo is the trustee. No committee action was required on these items.

#### **New School Bond Issues with School Facilities Construction Commission Debt Service Participation**

Mr. Antle said there were four new school bond issues for members to consider. Senator Carroll made a motion to approve the school bond issues. The motion was seconded by Representative Rudy, and it passed unanimously by roll call vote.

#### **New Local School Bond Issues with 100 Percent Locally Funded Debt Service**

Ms. Culpepper said there was one local school bond issue reported to the committee this month. The bond issue is 100 percent locally funded and did not involve a tax increase. No committee action was required.

With there being no further business, the meeting adjourned at 12:10 p.m.

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

Minutes of the 1st Meeting of 2012  
January 19, 2012

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

The 1st meeting of the Capital Projects and Bond Oversight Committee was held on Thursday, January 19, 2012, at 8:00 AM, in Room 149 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests testifying before the committee: Scott Aubrey, Division of Real Properties, Finance and Administration Cabinet; Kevin Bradley, Kentucky Housing Corporation; Robin Brewer, Office of Financial Management; John Hicks, Governor's Office for Policy and Management; and Sandy Williams, Kentucky Infrastructure Authority.

LRC Staff: Kristi Culpepper, Josh Nacey, and Christine Robertson.

#### **Approval of Minutes**

Representative Glenn made a motion to approve the minutes of the December 20, 2011, meeting. The motion was seconded by Senator Carroll and approved by voice vote.

#### **Information items**

Kristi Culpepper, Committee Staff Administrator, said six information items were included in members' folders. The information items included a list of proposed legislation related to the Capital Projects and Bond Oversight Committee; information from the Finance and Administration Cabinet on leases discussed at the December 20, 2011, meeting; correspondence from Kentucky State University indicating its intent to establish a new capital project; and quarterly reports from the Administrative Office of the Courts, the Commonwealth Office of Technology, the Finance and Administration Cabinet, and universities that manage their own construction programs.

#### **Project Reports - University of Kentucky and the University of Louisville**

Two universities, UK and UL, reported the purchase several items of medical and scientific equipment in excess of \$200,000. These purchases were reported in accordance with KRS 45.760(5), which requires that purchases of major items of equipment to be used for medical, scientific, or research purposes, be reported to the Capital Projects and Bond Oversight Committee within 30 days.

#### **Lease reports submitted by the Finance and Administration Cabinet**

Scott Aubrey, Director of the Division of Real Properties, presented eight lease renewal reports for contracts exceeding \$100,000. Lease renewal reports were presented for the Cabinet for Health and Family Services in Montgomery County, \$130,356; Department of Corrections in Fayette County, \$116,908; Energy and Environment Cabinet in Franklin County, \$480,240; Council on Postsecondary Education in Franklin County, \$322,245; Department of Insurance in Franklin County, \$136,416; Cabinet for Health and Family Services in Fayette County, \$444,461; Department of Juvenile Justice in Franklin County, \$180,079; Department of Housing, Buildings, and Construction in Franklin County, \$300,898.

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

In response to a question from Senator Carroll, Mr. Aubrey said the Division of Real Properties will advise the committee by letter about its study of future utility costs and the impact on state budget leases.

A lease renewal / modification report was presented for the Cabinet for Health and Family Services in Scott County at a total annual cost of \$154,811. The property owner requested a rate increase, and this lease is being temporarily renewed while the advertising process is completed. No action was required on this item.

A lease modification report for the Board of Dentistry in Jefferson County was discussed. The Board desires to construct a private office for legal staff. Estimates for the work were received from Jefferson Development Group (\$8,230) and from Kaelin Home Improvement Inc. (\$9,150). The low bid from Jefferson Development Group was accepted.



Senator Carpenter made a motion to approve the lease modification report. The motion was seconded by Representative Glenn and passed unanimously by roll call vote.

The final item presented was a report of seven lease modifications of less than \$50,000. These reports did not require committee action.

#### **Project reports from the Finance and Administration Cabinet**

John Hicks, Deputy Director, Governor's Office for Policy and Management, discussed two project reports submitted by the Finance and Administration Cabinet. The Department of Parks initiated a new unbudgeted capital project known as the Cabin Creek Covered Bridge project. The scope of work includes repair of a historic covered bridge in Lewis County damaged by flooding in 2008. The project scope is \$1,244,000 (\$994,740 federal funds and \$249,260 restricted funds.)

In response to a question from Senator Carroll, Mr. Hicks said the restricted funds are derived from insurance money from the state fire and tornado insurance program.

Senator Carpenter made a motion to approve the project. The motion was seconded by Representative Glenn and passed unanimously by roll call vote.

A \$5.8 million scope increase was reported for the Department of Military Affairs Expand State Emergency Operations Center-Frankfort project. The scope increase will be funded with \$5,200,000 in federal funds and \$600,000 in restricted funds. This project was initially authorized in the 2010 Extraordinary Session HB 1 (2010-12 Budget) for \$4 million in federal funds.

The original scope of work was pared back based on a conservative assessment of available federal funds. The additional funds will restore the scope of work to its prior level - a 26,000 square foot addition to the existing Emergency Operations Center at Boone National Guard Center in Frankfort. The revised project scope is \$9.8 million.

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

#### **Kentucky Infrastructure Authority (KIA) Fund A Loans**

Sandy Williams presented three Fund A loans for approval. The projects included an Oldham County Environmental Authority Fund A loan increase for the Orchard Grass Willow Creek Wastewater Treatment Plant Elimination project, \$2,123,000; City of West Liberty in Morgan County, \$3,937,950; and Grant County Sanitary Sewer District, \$1,226,700.

In response to questions from Senator Leeper, Ms. Williams explained that some loan recipients had experienced technical defaults, but not payment defaults. KIA has a policy that all defaults must be satisfied prior to the release of any agency funds. KIA will make a conditional loan approval if prior mistakes can be addressed. In response to another question from Senator Leeper, Ms. Williams said she would share an upcoming report on borrowers' debt service ratios with the committee once it was completed.

In response to a question from

Representative Glenn, Ms. Williams said an example of a technical default would be if the borrower did not submit audited financial statements within a specific time frame as agreed in the loan.

In response to a question from Senator Carroll, Ms. Williams said KIA uses the US Rural Development fee scale and questions any overages to that fee scale. In response to another question from Senator Carroll, Ms. Williams said the engineering fees on the Oldham County loan request were high because the project had to be redesigned. The plan originally included the Oldham County flows going through the Louisville Metropolitan Sewer District (MSD), but because an agreement could not be reached with MSD, the project had to be redesigned.

In response to a question from Senator Carpenter, Ms. Williams said KIA has experienced no borrower defaults with the 1:1 debt service coverage ratio in 20 years and, because of this, the agency had no plans to increase the ratio requirement.

Senator Carroll made a motion to approve the Fund A loans. The motion was seconded by Representative Glenn and passed unanimously by roll call vote.

Ms. Williams presented a \$3,050,300 Fund F loan request for the City of West Liberty in Morgan County to complete four water improvement projects. Senator Carroll made a motion to approve the Fund F loan. The motion was seconded by Senator Carpenter and passed unanimously by roll call vote.

The last item presented was a \$350,000 line-item grant for the City of Eminence in Henry County. The grant will be used to expand the city's wastewater treatment plant. No committee action was required.

#### **Follow up reports for previously approved bond issues**

Robin Brewer, Financial Analyst, Office of Financial Management, presented three follow-up reports for previously approved bonds. The projects included: Eastern Kentucky University General Receipts Bonds, 2011 Series A, \$21,480,000; Kentucky Economic Development Finance Authority Hospital Revenue Bonds, Series 2011 (Baptist Healthcare System Obligated Group), \$140,000,000; and Kentucky Housing Corporation Housing Revenue Bonds, 2011 Series B (Non-AMT) and 2009 Series C, Subseries C-4 (Non-AMT), \$50,000,000. These bond issues were approved at a previous committee meeting, and no further action was required.

#### **New School Facilities Construction Commission (SFCC) Bond Issues**

Ms. Brewer reported 43 new SFCC bond issues (40 refundings and three new money items.) The total estimated par amount of the bonds is \$153,567,000, state estimated annual debt service is \$4,279,214 and the local estimated annual debt service is \$10,372,824. No local tax increases were anticipated to finance these projects. Representative Rudy made a motion to approve the school bond issues. The motion was seconded by Senator Carpenter and passed unanimously by roll call vote.

#### **New local school bond issues with 100 percent locally funded debt service**

Ms. Culpepper reported 16 new

local school bond issues with 100 percent locally funded debt service (15 refundings and one for energy improvements.) No committee action was required.

With there being no further business, a motion was made to adjourn the meeting. The motion was seconded by Representative Glenn, and the meeting adjourned at 8:50 AM.

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

### **Minutes of the 2nd Meeting of the 2012 Interim**

February 23, 2012

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

The 2nd meeting of the Capital Projects and Bond Oversight Committee was held on Thursday, February 23, 2012, at 8:00 AM, in Room 149 of the Capitol Annex. Representative Jim Glenn, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Jim Glenn, Co-Chair; Senator Jared Carpenter; and Representatives Robert R. Damron and Jim Wayne.

Guests testifying before the Committee: Bob Wiseman, Vice President of Facilities, University of Kentucky; Larry Owsley, Vice President for Business Affairs, University of Louisville; Scott Aubrey, Director, Division of Real Properties; John Hicks, Deputy Director, Governor's Office for Policy and Management; Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; Brett Antle, Office of Financial Management; Laurie Dudgeon, Director, Administrative Office of the Courts; Carole Henderson, Budget Director, Administrative Office of the Courts; and Marc Theriault, General Counsel, Administrative Office of the Courts.

LRC Staff: Shawn Bowen, Josh Nacey, and Christine Robertson.

#### **Approval of Minutes**

Representative Damron made a motion to approve the minutes of the January 19, 2012, meeting. The motion was seconded by Representative Wayne and approved by voice vote.

#### **Information Items**

Shawn Bowen, Committee Staff Administrator for the Capital Planning Advisory Board, said four information items were included in members' folders. The information items included correspondence from the Department of Fish and Wildlife Resources addressing members' questions regarding a recent Scott County land purchase; a Standard and Poor's research report regarding a revised outlook for the Louisville Arena bonds; a list of proposed legislation related to the Capital Projects and Bond Oversight Committee; and information regarding the recent purchase of the vacant Home Depot building by the Administrative Office of the Courts (AOC).

Ms. Dudgeon presented background information on the lease-purchase of the Home Depot building. On January 30, 2012, AOC announced that it had entered into a lease-to-purchase agreement to acquire the vacant Home Depot building in Frankfort. The sales price is \$5.9 million

and payments are structured as a series of quarterly installments of \$211,250 (\$845,000 annually) over a seven-year period. AOC plans to pay off the lease in less than seven years to reduce the purchase price. AOC's planned renovations will include conversion of 62,000 square feet of the building's 94,900 square feet into office space, with the remaining square footage to be used for warehouse space. At the conclusion of the lease-purchase, AOC will save \$1.1 million per year.

In response to a question from Representative Damron, Ms. Dudgeon said that AOC originally approached the General Assembly in 2010 for authority to purchase the building as a capital project. When the General Assembly did not authorize the capital project, AOC notified the House and Senate that it intended to lease-purchase the Home Depot building using the money currently appropriated for leasing facilities at Mill Creek Park.

In response to a comment from Representative Damron, Ms. Dudgeon replied that AOC believes it has the constitutional authority to proceed with the transaction. She also said that AOC did not raise fees to fund the lease-purchase, but that an increase in hiring in the state led to an increase in background check revenues for AOC.

In response to questions from Representative Damron, Ms. Dudgeon replied that AOC anticipates having \$22 million in restricted funds at the end of the current budgetary cycle. It will provide to the committee the estimates, projections, and restricted fund totals for 2010-2014. AOC did a feasibility study for the Home Depot lease-purchase, and there are no extra pots of money to fund the project. The court system is structurally imbalanced and the restricted funds have kept the court system going. Restricted funds are reported to the General Assembly, and all funds are statutorily authorized funds, except for the records fund.

In response to a question from Representative Damron, Ms. Dudgeon said that the General Assembly makes the ultimate decision for spending for each branch, and AOC respects the separation of powers of the three branches of government.

In response to a question from Senator Carpenter, Ms. Dudgeon responded that money for the lease-purchase comes from a line item in the budget for leased space. The annual lease payment will be \$845,000 for the Home Depot building. AOC currently pays \$1.1 million annually in leasing costs. AOC intends to occupy the Home Depot building in late spring 2013, and there will be a lease overlap at both properties of approximately six months.

In response to a question from Representative Wayne, Ms. Dudgeon said AOC currently leases 139,000 square feet at Mill Creek, including office space, conference space, warehouse space, and storage space. The Home Depot building will have 95,000 total square feet. Representative Wayne asked about the cost per square foot after renovations. Ms. Dudgeon replied that she would provide this information to members.

In response to a question from Representative Glenn, Ms. Dudgeon replied that the lease-purchase was presented

to the Budget Review Subcommittee on Justice and Judiciary and did not receive a negative response.

In response to a question from Representative Damron, Ms. Dudgeon replied that this project will be subject to open records and will go through the appropriate contract review process.

#### **Project Reports from the University of Kentucky**

Mr. Wiseman presented two new unbudgeted capital projects: the Renovate/Upgrade Softball Complex project, a \$7.5 million privately-funded project, and the Construct UK/Nicholasville Road Flood Mitigation project, an \$8,015,463 federal and privately funded project. Both projects were approved by the UK Board of Trustees at its December 13, 2011 meeting and by the Council on Postsecondary Education at its February 10, 2012 meeting.

In response to a question from Representative Wayne, Mr. Wiseman said the University has private money for the projects. Prevailing wage and state wage rates will apply. For the flood mitigation project, the federal Davis-Bacon wage rates will apply. Representative Damron made a motion to approve the projects. The motion was seconded by Senator Leeper, and it passed unanimously by roll call vote.

#### **Lease Report-University of Louisville**

Mr. Owsley reported a new lease of 40,000 square feet at \$18.65 a square foot, for medical and office space in the MedCenter building. The space will be utilized by the Department of Medicine, Division of Infectious Diseases. Senator Leeper made a motion to approve the lease. Representative Wayne seconded the motion, and it passed unanimously by roll call vote.

#### **Lease Report from the Finance and Administration Cabinet**

Ms. Aubrey presented one lease renewal in the amount of \$439,028 for the Cabinet for Health and Family Services in Fayette County. Representative Wayne made a motion to approve the lease renewal. The motion was seconded by Senator Leeper, but it did not pass due to the lack of a quorum. [As an advisory member of Employment Solutions, Representative Damron abstained from the vote.]

#### **Project Report from the Finance and Administration Cabinet**

Mr. Hicks reported a \$300,000 federally funded scope increase for the Enhance Kentucky Statewide Longitudinal Data System project. The funds will be used to expand the pre-kindergarten data within the database from one year of data to three years of data. Representative Wayne made a motion to approve the project scope increase. Representative Damron seconded the motion, and it passed unanimously by roll call vote. The revised project scope is \$3,469,400.

#### **Kentucky Infrastructure Authority (KIA) Fund A loans**

Ms. Williams presented seven Fund A loans: the City of Hodgenville in Larue County, \$1,635,000; two loans to Sanitation District 1 in Kenton County, \$851,857 and \$959,000; the City of Jamestown in Russell County, \$2,500,000; the City of Winchester in Clark County, \$1,000,000;

the City of Harrodsburg in Mercer County, \$706,000; and the Paducah-McCracken Joint Sewer Agency, \$8,000,000.

In response to a question from Senator Leeper, Ms. Williams said KIA does take into consideration the percentage of fees being paid for engineering fees and KIA encourages borrowers to follow US Rural Development guidelines, an industry standard for construction of water and sewer projects. Engineering fees include not only design fees, but also inspection costs while the project is being constructed. In response to another question from Senator Leeper, Ms. Williams said the smaller projects have a higher percentage of engineering costs.

Senator Leeper made a motion to approve the Fund A loans. The motion was seconded by Representative Damron and passed unanimously by voice vote.

#### **KIA Fund C Loans**

Ms. Williams presented one Fund C loan in the amount of \$3,173,049 for the MuniNet Fiber Agency in McCracken County for the Fiber Optic Cable Build #2 project. The project entails construction and acquisition of 144 count fiber that will extend from Paducah to the TVA Paradise Fossil Plant. It will also include the acquisition of Indefeasible Rights to Use from member utilities which include Hopkinsville, Glasgow, Russellville and Princeton to connect and expand their networks.

In response to questions from Senator Leeper, Ms. Williams said that the debt service for this loan will be paid with user charges and that MuniNet will not compete with other Internet service providers.

In response to a question from Representative Wayne, Ms. Williams explained that Paducah is a member of MuniNet and the other owners are also government entities. MuniNet Fiber Agency was formed as a joint agency pursuant to Section 65.210 to 65.300 of the Kentucky Revised Statutes, as amended, known as the Interlocal Cooperation Act. An Interlocal Agreement dated October 25, 2010 was executed between the Electric Plant Board of the City of Paducah and Electric Plant Board of the City of Murray to form the agency. MuniNet is governed by a Board of Directors composed of two Directors designated by each member of the Agency (one designee must be the Chief Executive Officer). Since its formation, the cities of Glasgow, Hopkinsville, Mayfield, Princeton and Russellville have joined as members of MuniNet.

In response to another question from Senator Leeper, Ms. Williams said that no one came forward at KIA meetings to oppose the loan to MuniNet. Representative Wayne made a motion to approve the Fund C loan. The motion was seconded by Senator Leeper, and it passed unanimously by roll call vote.

#### **KIA Fund F loans**

Ms. Williams presented two Fund F loans: the Adair County Water District, \$1,500,000; and the City of Hodgenville in Larue County, \$774,183. Representative Damron made a motion to approve the loans. The motion was seconded by Representative Wayne, and it passed unanimously by roll call vote.

Ms. Williams then presented a Fund

F loan for the City of Nicholasville that was first presented to the Committee at the November 2011 meeting. At that meeting, members voted to table the loan until more information could be obtained for members regarding potential rate increases. Representative Damron commented that he and Senator Buford had met with the city director and mayor who assured them that rates would not be raised to fund this loan.

Representative Damron expressed a concern that some municipalities have reached out into the rural areas of the counties to run water and sewer lines and that city residents subsidize those. The people in those expanded service areas have no vote to keep rates under control, and municipalities have no regulatory oversight by the Public Service Commission.

Representative Damron made a motion to approve the Nicholasville Fund F loan. The motion was seconded by Representative Wayne, and it passed unanimously by roll call vote.

Representative Damron requested that KIA provide to the Committee an accounting of how much money is available in each loan fund, to which Ms. Williams responded that she would.

Ms. Williams said KIA expects the federal capitalization grant amount to be reduced for 2013 and 2014. KIA offered additional funds to local governments by leveraging repayment funds and using some of the interest earned to supplement a bond issue. This bond issue does not contribute to state's debt level and is instead an agency supported bond issue that is fully supported by the loans. In each of the past two years, there were \$50 million in Fund A loans, and \$12.5 million in Fund F loans that would not have been awarded if KIA did not receive leveraging authority. Ms. Williams agreed with Representative Damron that these bond issues are not a part of the state's bonded indebtedness and are exempt from the percentage cap proposed in 2012 RS Senate Bill 1.

In response to a question from Representative Wayne, Ms. Williams stated that the KIA does not use a reserve fund model, but rather a hybrid of a cash flow model and reserve fund model. She said it had 1.8 times coverage available.

Ms. Williams presented four line item grants appropriated in previous sessions of the General Assembly. No action was required on those items. She then presented information regarding amendments to previously approved Fund A loans for the Oldham County Environmental Authority.

#### **Economic Development Bond (EDB) Pool Project**

Katie Smith presented information on a second amendment to a previously approved EDB grant for the City of Madisonville to benefit Land O' Frost. In exchange for a \$450,000 grant, the company agreed to create a minimum of 300 full-time jobs at certain anniversary dates of the grant. Due to a reduction in orders, the downturn in the economy, and record raw material prices, the company has not met the 2011 jobs requirement goal of 220 jobs. The Kentucky Economic Development Finance Authority (KEDFA) approved the request for a second

extension and indicated that this would be the final extension. The company will be required to have 220 new, full-time jobs for Kentucky residents by November 5, 2012.

In response to a question from Representative Glenn, if the job requirements are not met, KEDFA will request repayment of the grant funds from the company. If the company does not repay, KEDFA will call the letter of credit for the amount due. In response to a question from Representative Wayne, Ms. Smith said there is a wage requirement and that she would provide wage information to committee staff.

#### **New bond issues-Office of Financial Management**

Brett Antle presented one new bond issue: University of Louisville General Receipts Revenue Refunding Bonds, 2012 Series A, \$17.5 million. This bond issue will refund Series N and Series O Consolidated Educational Building Revenue Bonds in the amounts of \$12,523,744 and \$4,976,255, respectively. Senator Leeper made a motion to approve the bond issue. Representative Damron seconded the motion, and it passed unanimously by roll call vote.

Mr. Antle presented a bond issue for the Turnpike Authority of Kentucky. The purpose of this issue is to permanently finance the remaining balance of \$200 million in Road Fund-supported projects authorized by the 2009 General Assembly in House Bill 536 and \$56 million in Base Realignment and Closure (BRAC) projects approved by the 2010 General Assembly. This bond issue also includes an advance refunding of approximately \$86.6 million of the Authority's Economic Development Road Revenue bonds (Revitalization Projects), 2005 Series B bonds. No action was required on this item. [KRS 45.810 exempts the Kentucky Turnpike Authority from the requirement for state agencies to submit proposed bond issues to the Committee for its determination prior to the issuance of the bonds. However, KRS 45.816 requires agencies, including the Kentucky Turnpike Authority, to provide the Committee with a listing of all costs associated with the issuance of revenue bonds, prior to the issuance of the bonds.]

In response to a question from Senator Leeper, Mr. Antle said that Kentucky's pension liability is the biggest concern of rating agencies in making rating determinations. In response to a question from Representative Damron, Mr. Antle said that there is a very small percentage of defaults in the municipal bond community, and those are generally special revenue types of transactions. In response to a question from Representative Damron, Mr. Antle said in regard to advance refundings, present value savings should be at least 3 percent. He added that the agency is sensitive to the amount of negative carry in the escrow and, if negative arbitrage is more than 50 percent of the present value savings, it takes a very close look at it.

Mr. Antle said there were 23 new school bond issues with SFCC debt service participation. Representative Damron made a motion to approve the bond issues. The motion was seconded by Representative Wayne, and it passed unanimously by roll call.



Ms. Bowen said there were 18 new local school bond issues with 100 percent locally-funded debt service. All disclosure information has been submitted, and no further action was required.

There being no further business, Senator Leeper made a motion to adjourn. Representative Damron seconded the motion, and the meeting adjourned at 9:30 AM.

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

Minutes of the 3rd Meeting  
of the 2012 Interim  
March 28, 2012

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

The 3rd meeting of the Capital Projects and Bond Oversight Committee was held on Wednesday, March 28, 2012, at 8:30 AM, in Room 111 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Scott Aubrey, Real Properties; Elizabeth Baker, University of Kentucky; Bill Harris, University of Kentucky; John Hicks, Governor's Office for Policy and Management; Bob Jackson, Murray State University; Tim Lucas, Kentucky Department of Education; Kim Oatman Chief Facilities Officer, Murray State University; Katie Smith, Cabinet for Economic Development; Bob Tarvin, School Facilities Construction Commission; Sandy Williams, Kentucky Infrastructure Authority.

LRC Staff: Shawn Bowen, Josh Nacey, and Christine Robertson.

### **Approval of Minutes**

Representative Glenn made a motion to approve the minutes of the February 23, 2012, meeting. The motion was seconded by Representative Rudy and approved by voice vote.

### **Information Items**

Shawn Bowen, Committee Staff Administrator for the Capital Planning Advisory Board, said five information items were included in members' folders. The items included information from the Cabinet for Economic Development in response to members' questions during a previous meeting on the Land O' Frost Economic Development Bond; correspondence from the Division of Real Properties outlining energy efficiency measures in state-leased properties; a list of proposed legislation related to the Capital Projects and Bond Oversight Committee; and two items from the Administrative Office of the Courts (AOC). One item, sent in response to members' questions during a previous meeting, included details on AOC's restricted funds, and the second item was press release from AOC regarding recent damage to the Morgan County courthouse. Senator Leeper also brought to the members' attention a packet of information on tornado damage to schools that was compiled by the Kentucky Department of Education (KDE).

### **Project reports from Murray State University (MuSU)**

Mr. Jackson and Mr. Oatman presented two new items. The first was a request for a \$600,000 (15 percent) restricted funds scope increase to construct a multipurpose practice facility for the men's and women's basketball programs. Representative Rudy made a motion to approve the scope increase. The motion was seconded by Representative Damron, and passed unanimously by roll call vote.

The second item was a reduction in scope on a project authorized in the 2010 Extraordinary Session House Bill 1: Complete Business and Research Center Tenant Space. The original authorization was for \$1,948,000. After two revisions, MuSU reports that the scope is now \$1,500,000. In response to a question from Rep. Rudy, Mr. Jackson responded that student fees would not be used to pay for the project; funds from a private donor would be used. No action was required on this item.

### **Project report from the University of Kentucky**

Mr. Harris presented two items. The first was a report of purchase of medical equipment in excess of \$200,000 funded by clinical revenues. No action was required. The second item was a report of lease over \$200,000 and square footage modification for data center floor space with Windstream Communications. In response to a question from Senator Leeper, Mr. Harris said that the University currently houses for data storage in several locations, mostly in McVey Hall. Hospital data storage was built in as part of the new patient center, and as far as he knew this was the only space outside of those two locations where data was stored. In response to a question from Representative Glenn, Harris said the data systems, though house separately, shared the same "backbone." In response to a question from Senator Buford, Mr. Harris said that the University's lease at Coldstream had been terminated for the lessor's failure to perform. Representative Damron made a motion to approve the lease. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

### **Reports submitted by the Finance and Administration Cabinet**

Scott Aubrey presented two lease amortization reports. The first was for the Cabinet for Health and Family Services in Boone County in order to install keypad lock devices on three staff entrances. The lower bid of \$2,787 was selected and the cost will be amortized through the term of the lease. The second lease amortization presented was for the Department of Public Advocacy in Laurel County in order to install electrical outlets, a reception door key pad, and a panic button. The lower of two bids was accepted, and the cost will be amortized through the term of the lease. No action was required on either item.

John Hicks presented one new project from the Finance and Administration Cabinet, a \$2,000,000 interior renovation of the Atwood Research Building at Kentucky State University. This project, to replace the HVAC system and repair and renovate interior spaces, will be paid for entirely through federal funds from the U.S. Department of Agriculture 1890 Land

Grant Program. Representative Damron made a motion to approve the project. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

### **New Kentucky Infrastructure Authority (KIA) Fund A Loans**

Ms. Williams presented eight Fund A loans: three for the Regional Water Resource Agency in Daviess County, \$4,005,000, \$1,586,875, and \$357,335; two for the Grant County Sanitary Sewer District, \$913,300 and \$433,178; one for the City of Ashland in Boyd County, \$4,500,000; one for the City of Murray in Calloway County, \$46,000,000; and one for the Lexington-Fayette Urban County Government, \$1,930,000.

In response to a question from Representative Glenn, Ms. Williams said that to her knowledge, all agencies receiving loans held public meetings on the above loans.

In response to a question from Senator Leeper, Ms. Williams said that the attorneys for the LFUCG attorneys do not feel that they have to go through the Public Service Commission. In response to another question, Ms. Williams said that since the loan approval, LFUCG has executed a contract with an engineering firm. In response to another question, Ms. Williams said that the hiring of an engineering firm should not alter the terms of the loan. An estimate of engineering fees was used for the purposes of the loan, and the loan approval was not contingent upon the engineering contract. Only the estimated fees approved by the Division of Water could be spent from the loan. In response to a question from Representative Damron, Williams said that municipalities do not go through the Public Service Commission. In response to another question from Representative Damron, Ms. Williams said that the Regional Water Resource Agency (RWRA) in Daviess County would use certified engineers they have on staff, but would also hire outside engineering firms to perform some of the work. None of the loan proceeds would be reimbursed to RWRA for use of their own staff engineers' time, and the projects are not 100 percent KIA financed.

Representative Damron made a motion to approve the Fund A loans. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

### **KIA Fund B Loan**

Ms. Williams presented one Fund B load in the amount of \$505,000 for the City of Olive Hill in Carter County. The City is under an Agreed Order that requires they make the improvements included in this project. Senator Carroll made a motion to approve the project. The motion was seconded by Senator Carpenter and passed unanimously by roll call vote.

### **KIA Fund F Loans**

Ms. Williams presented two Fund F loans: the City of Campbellsville in Taylor County for \$1,875,000 and the City of Centertown in Ohio County for \$922,850. In response to a question from Representative Damron, Ms. Williams said that many of their borrowers do not have bond ratings, and their borrowers would probably pay more for loans on the open market than they do through KIA. Representative Damron made a motion to approve the loans. The motion was

seconded by Representative Glenn and passed unanimously by roll call vote.

### **Cabinet for Economic Development Reports**

Katie Smith presented an Economic Development Bond (EDB) grant in the amount of \$500,000 to the City of Florence for the benefit of HealthWarehouse.com. The company, an on-line pharmacy, will be required to create 224 new, full-time jobs for Kentucky residents. Senator Carpenter made a motion to approve the project. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

Ms. Smith also reported an amendment to an EDB grant to the Louisville/Jefferson Metro Government for the benefit of BAE Systems Land and Armaments LLP. The amendment will increase the company's jobs baseline from 78 to 98 and will extend the compliance date to June 30, 2013. The company will still be required to add 58 new, full-time jobs for Kentucky residents. No action was required on this item.

### **New Bond Issue Report**

Tom Howard reported a new bond issue: Kentucky Infrastructure Authority Wastewater and Drinking Water Revolving Revenue Bonds, Series 2012A. The bonds were sold on March 26, 2012, and will leverage the loan repayments KIA receives under its Fund A and Fund F loan programs as authorized in the 2010-1012 budget. This bond sale was scheduled to be brought before the committee on the originally scheduled meeting date of March 22, but due to potential lack of quorum, the meeting was moved to March 28.

Mr. Howard said there was a copy of the Semi-Annual Report of the Kentucky Asset-Liability Commission report in members' folders. No action was required on this item.

### **New School Bond Issues**

Mr. Howard said there were five new school bond issues with School Facilities Construction Commission participation this month. Representative Damron made a motion to approve the bond issues. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

Bob Tarvin from SFCC, and Tim Lucas from KDE were present to answer members' questions regarding damages to school facilities during the March 2 tornado outbreak.

Ms. Bowen said there were two new local school bond issues with 100 percent locally-funded debt service. All disclosure information has been submitted, and no further action was required.

There being no further business, Senator Leeper made a motion to adjourn. Representative Glenn seconded the motion, and the meeting adjourned at 9:30 AM.

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

Minutes of the 4th Meeting  
of the 2012 Interim  
April 12, 2012

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

The 4th meeting of the Capital Projects and Bond Oversight Committee was held on Thursday, April 12, 2012,

at 9:00 AM, in Room 169 of the Capitol Annex. Representative Jim Glenn, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Tom Denton, Vice President of Finance, Murray State University; Mark Rawlings, Hilliard-Lyons; John Hicks, Deputy State Budget Director, Governor’s Office for Policy and Management; Scott Aubrey, Director of the Division of Real Properties; Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority; and Brett Antle, and Tom Howard, Office of Financial Management.

LRC Staff: Shawn Bowen, Josh Nacey, and Christine Robertson.

**Approval of Minutes**

Representative Rudy made a motion to approve the minutes of the March 28, 2012, meeting. The motion was seconded by Senator Leeper and approved by voice vote.

**Information Items**

Shawn Bowen, Committee Staff Administrator for the Capital Planning Advisory Board, said four information items were included in members’ folders. The information items included a list of proposed legislation related to the Capital Projects and Bond Oversight Committee and quarterly reports from the Administrative Office of the Courts, the Commonwealth Office of Technology, the Finance and Administration Cabinet, and universities that manage their own construction programs.

**Project Report from Murray State University**

Mr. Denton presented an amendment to a Memorandum of Agreement (MOA) between Murray State University (MuSU) and the City of Murray. In November 2002, the University reported to the committee plans to use an alternative funding mechanism for the Recreation/Wellness Center project authorized in the FY 2003 Governor’s Spending Plan at a scope of \$10 million restricted funds.

Under the terms of the MOA, the City of Murray agreed to issue \$10 million in general obligation bonds for a term of 30 years to fund the project and MuSU would commit to assessing the Student Recreation and Wellness Center fee in amounts sufficient to cover the City’s required debt service associated with the issue.

Mr. Denton said the city has refunded the bonds, resulting in debt service savings to the University of about \$2,130,000 over a 21-year period. The MOA has been amended to reflect this savings. No action was required.

**Project Report from the Finance and Administration Cabinet**

Mr. Hicks reported a \$430,000 scope increase (8.7 percent) for the Morehead State University East Mignon Hall Renovation project. This \$4.9 million bond-funded project was authorized in the 2010-12 Executive Budget. The scope increase will be used to correct unforeseen problems with the building’s shelf angles

and will be funded with unexpended Housing and Dining System Revenue Bond proceeds. The revised project scope is \$5,378,000. Senator Carroll made a motion to approve the scope increase. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

**Lease reports from the Finance and Administration Cabinet**

Mr. Aubrey reported two emergency leases in Morgan County for the Department for Workforce Investment (DWI) and the Cabinet for Health and Family Services (CHFS). Both leases were necessitated by recent tornadoes and are temporary, pending repair to their leased facilities or the acquisition of new leased space.

Representative Wayne noted that the square footage cost for both leases, \$14.97 and \$9.19 respectively, was above the average square footage costs for leased space in Morgan County (\$6.38). Mr. Aubrey said he did not believe the lessors were engaging in price gouging with regard to these leases. DWI intends to return to its previously occupied space once it is repaired; however, the space rented by the CHFS is damaged beyond repair and they are seeking other permanent housing. No action was required on these items.

Mr. Aubrey presented three lease modification reports: Department of Corrections, Henderson County; Department of Probation and Parole, McCracken County; and Cabinet for Health and Family Services, Greenup County. No action is required for lease modifications less than \$50,000.

A lease modification was presented for the Transportation Cabinet. The Cabinet plans to add 50,000 square feet of space to the facility they lease at 1841 Taylor Avenue in Jefferson County. The additional space is needed for the storage of approximately 70,000 tons of road salt. The new space will be leased at a cost of \$1.97 per square foot, and the annual cost of the lease will increase from \$99,528 to \$198,028. Senator Carroll made a motion to approve the lease modification. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Mr. Aubrey then presented a lease renewal report for the Cabinet for Health and Family Services in Fayette County. The annual cost of the lease, \$439,028, will remain the same. Representative Rudy made a motion to approve the lease renewal. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

**New Kentucky Infrastructure Authority (KIA) Fund A Loans**

Ms. Williams presented two Fund A loans. The first was for the City of Flemingsburg in the amount of \$500,000. Representative Wayne made a motion to approve the loan. Representative Rudy seconded the motion and it passed unanimously by roll call vote.

The second Fund A loan was for the City of Russell Springs in the amount of \$719,000. Senator Carroll made a motion to approve the loan. Representative Rudy seconded the motion and it passed unanimously by roll call vote.

**KIA Fund F Loan**

Ms. Williams presented one Fund F

loan for the City of Mount Vernon in the amount of \$2,600,000. Senator Carroll made a motion to approve the loan. Representative Rudy seconded the motion and it passed unanimously by roll call vote.

[The committee normally reviews KIA projects after the KIA Board has approved them. However, in March the committee met prior to the KIA Board holding its monthly meeting. The three KIA loans were all approved contingent upon approval by the KIA Board at its April 12, 2012, meeting.]

**KIA 2020 Grants**

Ms. Williams presented six 2020 grants. These projects were funded with bond proceeds that went unused in previously approved projects. The grants were made to the Barkley Lake Water District, Bracken County Water District, the City of Albany, the City of Crab Orchard, Mayfield Electric and Water Systems, and Mt. Sterling Water and Sewer. Senator Leeper made a motion to approve the grants, contingent upon KIA approval. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

Ms. Williams also reported one line-item grant to the City of Berea in the amount of \$500,000. This grant was authorized by the General Assembly in 2006, and no further action was required on this item.

**New bond Issue-Turnpike Authority of Kentucky**

Mr. Howard reported the issuance of 2012 Series A Economic Development Road Revenue Bonds in the amount of \$218,000,000. Proceeds from this issue will be used to pay the cost of additions and improvements to the Kentucky Economic Development Road System. These projects represent the remaining balance of \$56 million in Economic Development Road Bonds authorized by the 2010 Extraordinary Session of the General Assembly. No action was required.

**New School Bond Issues**

Mr. Howard reported six new school bond issues with School Facilities Construction Commission participation this month. Representative Wayne made a motion to approve the bond issues. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

There being no further business, Senator Leeper made a motion to adjourn the meeting. Representative Glenn seconded the motion and the meeting adjourned at 9:30 A.M.

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

Minutes of the December Meeting  
December 6, 2011

**Call to Order and Roll Call**

The December meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 6, 2011, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Johnny Bell, Co-Chair; Senators David Givens, and Joey

Pendleton; Representatives Robert R. Damron, and Jimmie Lee.

Guests: Sue Cain, Travis Powell, Council on Postsecondary Education; Tim Bennett, Rob Carter, DeVon Hankins, Doug Hendrix, Jeff Mosley, Department of Revenue; Mike Burleson, Board of Pharmacy; Harold Brantley, Larry Disney, Jim Grawe, Real Estate Appraisers Board; Margaret Everson, Karen Waldrop, Mark Mangeot, Department of Fish and Wildlife Resources; Michael Mullins, Billy A. Ratliff; Department for Natural Resources; John Cummings, Verman Winburn, Parole Board; Graham Gray, Heather Wagers, Kentucky State Police; Vickie Bourne, Ann D’Angelo, Jeremy Thompson, Alice Wilson, Jeff Wolfe, Transportation Cabinet; Bill Clark, Russell Cory, Blanche Minor, DJ Wasson, Cecilia Webber, Department of Insurance; Virginia Carrington, Elizabeth Caywood, Cabinet for Health and Family Services; Brent King, KYTC Office of Audit; Roy Cornett, Marvin Dever, Ky Association of Real Estate Appraisers; Peter Stephatch, Campbell Transportation Company.

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

The Administrative Regulation Review Subcommittee met on Tuesday, December 6, 2011, and submits this report:

The Subcommittee determined that the following administrative regulation did not comply with statutory requirements and was deficient:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Office of Property Valuation: Ad Valorem Tax; State Assessment

103 KAR 8:010. Watercraft allocation. Doug Hendrix, staff attorney, and Jeff Mosley, general counsel, represented the office. Peter Stephatch, CEO, Campbell Transportation Company, and Mark Summers, counsel, appeared in support of this administrative regulation.

Mr. Stephatch stated the he was the CEO of Campbell Transportation Company, whose home office was in Pittsburg. He was also chair of the American Waterways trade association, whose home office was in Washington, D.C., and he was a member of another national association of barge companies. He stated that he supported this administrative regulation, which would make exports from Kentucky more competitive with exports from other states. He said that Mark Summers, an attorney, was available if needed for legal inquiries from the members.

Mr. Hendrix stated that this administrative regulation was first promulgated in 1975. The authorizing statutes for that 1975 version were repealed, effective 2008, and replaced with new provisions. Some taxpayers claimed that those provisions violated the Commerce Clause of the United States Constitution.

Mr. Mosley stated that potential litigation concerning this administrative regulation was expected; therefore, the office’s testimony may be limited.

In response to a question by Co-Chair Bowen, Mr. Mosley stated that the office respectfully declined to defer consideration



of this administrative regulation or to withdraw it from consideration.

In response to questions by Senator Givens, Mr. Hendrix stated that the original authorizing statutes had been repealed and replaced. The current statute established a formula for determining the tax amount based on a route miles calculation. This administrative regulation established an alternative method of determining the tax amount. There was concern that the department did not have constitutional authority to process the apportionment calculations as established by statute. KRS 13A.120 allowed for promulgation of an administrative regulation pursuant to a federal mandate. Mr. Mosley stated that a federal mandate was in place if the administrative regulation was unconstitutional, even if state law provided otherwise. Mr. Mosley stated that the legislative process was also a vehicle to achieve the same end; however, making the amendment to the administrative regulation benefitted the department by avoiding legal challenges and by interpreting the statutes in accordance with the United States Constitution.

In response to questions by Co-Chair Bell, Mr. Stephatch stated that this administrative regulation would make Kentucky more competitive because more barge companies would choose to use Kentucky waterways for transportation; therefore, the overall cost to import and export goods into and out of Kentucky would be lowered. Mr. Hendrix stated that the constitutionality of the underlying statute depended on the type of business using the apportionment formula. Mr. Mosley stated that the department's legal opinion was that the authorizing statute, as applied, may be unconstitutional. If so, the statute was void.

Co-Chair Bell stated that the question of constitutionality was a matter for the court system, not a subcommittee of the legislature. Amending an administrative regulation to correct a statutory problem bypassed the legislative process and violated the separation of powers, which would also be unconstitutional.

In response to questions by Co-Chair Bowen, Mr. Mosley stated that, although the 2012 legislative process began in less than thirty (30) days and offered another vehicle for making the needed correction, the agency respectfully declined to defer consideration of this administrative regulation or to withdraw the amendment. The agency believed it was on firm legal ground by making the correction via an administrative regulation.

Co-Chair Bowen stated that it was inappropriate to bypass the legislative process by attempting to correct a statutory problem with an amendment to an administrative regulation. He stated that he had a consistent record of being "pro business" and was an advocate for competition; however, it was necessary to make this change through the proper legal process.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 2 to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; (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 Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Co-Chair Bowen made a motion, seconded by Representative Damron, to find 103 KAR 8:010, as amended, deficient. On a roll-call vote, the administrative regulation was found deficient with Co-Chair Bowen, Senator Givens, Senator Pendleton, Co-Chair Bell, Representative Damron, and Representative Lee voting in favor of the finding of deficiency.

Administrative Regulations Reviewed by the Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

13 KAR 2:020. Guidelines for admission to the state-supported postsecondary education institutions in Kentucky. Sue Cain, coordinator, college readiness and developmental education, and Travis Powell, general counsel, represented the council.

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

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Office of Sales and Excise Taxes: Forms

103 KAR 3:020. Sales and Telecommunications Forms Manual. Tim Bennett, assistant director, and Robert Carter, revenue tax policy research consultant, represented the office.

In response to questions by Senator Givens, Mr. Bennett stated that this administrative regulation was amended to make administrative and technical changes and to revise definitions. This administrative regulation facilitated efforts to consolidate, minimize, and reduce forms. For example, farmers would only have two (2) forms to complete after this administrative regulation became effective. Mr. Carter stated that many of the forms were exemption requests that went directly to vendors rather than to the department. Mr. Bennett stated that some forms were available on line, but on-line availability was not an option for the forms that went directly to the individual vendors.

In response to a question by Representative Lee, Mr. Bennett stated that Congress held a hearing on the proposed compact to streamline sales taxes nationwide. The idea of the compact seemed well received. The compact standardized definitions, but each state would still have its own sales tax rate.

A motion was made and seconded to approve the following amendment: to amend Section 3 to correct the edition date of one (1) form incorporated by reference. Without objection, and with agreement of the agency, the amendment was approved.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:170. Computerized recordkeeping. Mike Bursleson, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by with agency; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board  
201 KAR 30:310 & E. Fees for registration of appraisal management companies. Harold Brantley, board member; Larry Disney, executive director; and Jim Grawe, assistant attorney general, represented the board. Marvin Dever, past president, Kentucky Association of Real Estate Appraisers, and current appraiser, appeared in support of this administrative regulation.

Co-Chair Bowen and Representative Damron thanked the board for working to amend these administrative regulations.

Mr. Dever stated that he supported these administrative regulations, as amended, and thanked the board and Representative Damron for working on these provisions.

A motion was made and seconded to approve the following amendments: to amend Section 1 to lower the registration fee from \$3,500 to \$2,000. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:320 & E. Surety bond.  
A motion was made and seconded to approve the following amendments: (1) to amend Section 1 and the material incorporated by reference to reduce the amount of the required surety bond from \$500,000 to \$25,000; and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs, Sections 1 and 2, and the material incorporated by reference to update citations 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.

201 KAR 30:330 & E. Application for registration.

A motion was made and seconded to approve the following amendments: (1) to amend the material incorporated by reference to reduce the amount of the registration fee from \$3,500 to \$2,000; (2) to amend Section 1 and the material incorporated by reference to clarify application procedures and to comply with the application requirements of KRS 324A.152; and (3) to amend the RELATES TO paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:360. Operation of an appraisal management company.

A motion was made and seconded to approve the following amendments: (1)

to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to update citations; (2) to delete provisions in Section 1 that repeated statutory provisions in violation of KRS 13A.120; and (3) to amend Section 1 to clarify which types of indemnification agreements are prohibited. 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 2:142. Spring wild turkey hunting. Margaret Everson, assistant general counsel; Mark Mangeot, legislative liaison; and Karen Waldrop, director, Wildlife Division, represented the department.

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

301 KAR 2:221 & E. Waterfowl seasons and limits.

301 KAR 2:222 & E. Waterfowl hunting requirements on public lands.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Reclamation and Enforcement: Surface Effects of Noncoal Mining

405 KAR 5:085. Enforcement. Michael Mullins, regulation coordinator, and Billy A. Ratliff, director, Mine Reclamation and Enforcement, represented the division.

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

405 KAR 5:095. Administrative hearings, informal settlement conferences, and general practice provisions.

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

General Provisions  
405 KAR 7:091. General practice provisions.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to add specific language; (2) to amend the RELATES TO paragraph,

to correct statutory citations; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 through 7 and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Inspection and Enforcement  
405 KAR 12:020. Enforcement.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to add specific language; (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 7 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY  
CABINET: Department of Corrections: Parole Board: Board

501 KAR 1:080. Parole Board policies and procedure. John Cummings, staff attorney, and Verman Winburn, chairman, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 and the material incorporated by reference to clarify provisions and make technical corrections; and (3) to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments were approved.

Department of State Police:  
Concealed Deadly Weapons

502 KAR 11:020. Applicant photograph requirements for license to carry concealed deadly weapon. John Cummings, staff attorney, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET:  
Office of the Secretary: Office of Audits: Professional Engineering and Related Services

600 KAR 6:080. Financial records and audit or other engagement of firms. Brent R. King, assistant director, Ann D'Angelo, assistant general counsel; and Alice Wilson, executive director, represented the office.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 and 6 to

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

Department of Highways: Traffic  
603 KAR 5:050. Uniform traffic control devices. Vickie Bourne, executive director; Ann D'Angelo, assistant general counsel; Jeremy Thompson, branch manager; and Jeff Wolfe, director, represented the department.

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 the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1, 2, and 3 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments were approved.

Office of Transportation Delivery:  
Mass Transportation

603 KAR 7:080. Human service transportation delivery.

Representative Lee thanked the department for working with patient advocates to make changes to nonemergency medical transportation provisions. Vickie Bourne, executive director; Ann D'Angelo, assistant general counsel; Jeremy Thompson, branch manager; and Jeff Wolfe, director, represented the department.

In response to a question by Senator Givens, Subcommittee staff stated that the amendment specified the counties for each region to comply with statutory requirements.

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 the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 8, 10 through 19, and 21 through 26 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; (b) clarify provisions; and (c) make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; (3) to amend Section 2 to: (a) specify the counties in each of the established regions; and (b) require that if a company is awarded more than one (1) region and those regions geographically touch, the regions shall be administratively combined; and (4) to amend Section 26 to incorporate by reference the required forms. Without objection, and with agreement of the agency, the amendments were approved.

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

806 KAR 3:190. Risk-based capital

for insurers. Russell Coy, attorney, and DJ Wasson, staff assistant, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1 through 7, and 10 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Family Support: Food Stamp Program

921 KAR 3:030. Application process. Virginia Carrington, branch manager, and Elizabeth Caywood, internal policy analyst, represented the division.

The following administrative regulations were deferred to the January 9, 2012, meeting of the Subcommittee:

GENERAL GOVERNMENT  
CABINET: Board of Licensed Professional Counselors: Board

201 KAR 36:060. Qualifying experience under supervision.

201 KAR 36:070. Education and examination requirements.

The Subcommittee adjourned at 2 p.m. until January 9, 2012.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January Meeting  
January 9, 2012

### Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 9, 2012, at 1:00 PM, in Room 149 Annex of the Capitol. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Melissa Bell, Travis Powell, Council on Postsecondary Education; Maryellen Allen, State Board of Elections; Janice Campbell, Karen Greenwell, Amanda McCord, Frances Simpson, Janet Simpson, Hartsel Stovall, Board of Barbering; Nathan Goldman, Board of Nursing; Margaret Everson, Karen Waldrop, Kentucky Fish and Wildlife; Nancy Albright, Ann D'Angelo, Cass Napier, Donald L. Smith, Transportation Cabinet; Pamela Holloway, Virginia Moore, Commission on the Deaf and Hard of Hearing; Stuart Benson, Stuart Owen, Kevin Mudd, Ray Peters, Cabinet for Health and Family Services; Ted Burgin, Kosair Shriners; and David A. James, Louisville Metro Council.

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

The Administrative Regulation

Review Subcommittee met on Monday, January 9, 2012, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

13 KAR 2:110. Advanced practice doctoral degree programs at comprehensive universities. Melissa Bell, director of student services, and Travis Powell, general counsel, represented the council.

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

KENTUCKY STATE BOARD OF ELECTIONS: Statewide Voter Registration

31 KAR 3:020. Designated Disability Services Agencies. Maryellen Allen, interim acting executive director, represented the board.

In response to a question by Co-Chair Bell, Ms. Allen stated that accommodations for disabled persons voting in Kentucky have already been made. The purpose of this administrative regulation was to comply with federal requirements to specifically designate voter registration for disabled persons in an administrative regulation.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Section 2 to make technical corrections and for clarification. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT  
CABINET: Board of Barbering: Board

201 KAR 14:180. License fees, examination fees, renewal fees, and expiration fees. Karen Greenwell, administrator; Francis L. Simpson, board member; and Hartsel Stovall, chairman, represented the board.

In response to questions by Representative Lee, Ms. Greenwell stated that, without the fee increases, the board forecast a carryover into 2013 of only \$2,345, which would put the board in the red before the end of Fiscal Year 2012 – 2013. The fee increases would provide approximately \$57,000. All licensees had been notified, and the board did not receive public comments during the public comment period. The largest financial need the board had was for part-time barber shop inspectors in order to protect public health and safety.

In response to questions by Co-Chair Bowen, Ms. Greenwell stated that the board's financial problem resulted from board funds being swept in addition to rising costs. The board's funds had been swept three times in recent memory. She said that all five board members were in attendance at this meeting to demonstrate the board's solidarity supporting the need for the fee increases.

Board of Nursing: Board

201 KAR 20:085. Licensure periods and miscellaneous requirements. Nathan Goldman, general counsel, represented the board.

In response to a question by Co-



Chair Bowen, Mr. Goldman stated that the board made name changes almost instantaneously upon submission of a notice from a nurse licensee.

In response to a question by Senator Givens, Mr. Goldman stated that the board had experienced some situations of license falsification, but this administrative regulation was primarily for name changes pertaining to marital status.

In response to questions by Co-Chair Bell, Mr. Goldman stated that this administrative regulation did not include a penalty for not submitting a name change, and that there was nothing that needed to be added to these requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add 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; and (3) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:260. Organization and administration standards for prelicensure programs of nursing.

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

201 KAR 20:340. Students in prelicensure registered nurse and practical nurse programs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; and (2) to amend Section 1 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:410. Expungement of records.

A motion was made and seconded to approve the following amendments: to amend Section 3 to comply with the drafting 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 2:082. Transportation and holding of exotic wildlife. Margaret Everson, assistant attorney general, and Karen Waldrop, director, Division of Wildlife, represented the department. Stuart Benson, councilman, District 20, Louisville Metro Council; Ted Burgin, circus chairman, Kosair Shriners; and David A. James, councilman, District 6, Louisville Metro Council, appeared in support of this administrative regulation.

In response to a question by Co-Chair Bell, Subcommittee staff stated that the amended after comments version of this administrative regulation added criteria the commissioner would use to determine if a permit shall be issued.

In response to questions by Representative Lee, Ms. Waldrop stated

that elephant rides were permitted only at circus events. An expert was available to testify regarding safety precautions and the mechanics of an elephant ride.

Mr. Burgin stated that elephant rides took place within a double-caged ring. The rider walked up a ramp to mount the elephant. The elephant made three trips around the ring. He had been providing elephant rides as a Kosair Shriner for approximately 35 years. The price for an elephant ride was ten dollars per rider for three trips around the ring.

In response to a question by Representative Lee, Mr. Burgin stated that he had not experienced an accident or dangerous situation involving an elephant ride.

In response to questions by Co-Chair Bowen, Ms. Everson stated that elephant rides had been prohibited for the past few years because this administrative regulation did not make an exception for them. Ms. Waldrop stated that a Kentucky statute authorized local governments to regulate the holding of wildlife. To receive a permit for elephant rides, a circus was required to be in an area with a local ordinance that allowed elephant rides. Additionally, the circus was required to comply with the safety standards established in this administrative regulation. Mr. Burgin stated there were approximately three cities with a local ordinance to allow elephant rides. Ms. Waldrop stated that Kentucky requirements regarding elephant rides were fairly stringent in comparison with other states.

Representative Damron stated that his membership as an Oleika Shriner did not influence his actions regarding this administrative regulation. He stated that this was not an issue between Oleika and Kosair Shriners, but the issue was public safety.

In response to questions by Representative Damron, Mr. Burgin stated that only Asian elephants were used in elephant rides. African elephants tended to be unpredictable, but Asian elephants were very docile and easily trainable.

Representative Damron stated that elephant rides were stopped in Louisville in 1994 after a person was gored and severely injured. Millions of dollars in damages were awarded. The Louisville Zoo no longer allows elephant rides. There were recently 43 incidents of persons being killed or injured in relation to elephants. In 2005, there were two separate Shriner Circus elephant-related incidents that resulted in the death of members of the public. The Shriner's mission is to help children. Injuring a child could cause damages to both the Shriner's image and mission. The elephant rides were too financially risky from a liability standpoint to outweigh the revenue from the rides.

In response to a question by Representative Lee, Mr. Burgin stated that parents and riders were not required to sign a waiver or disclaimer prior to participating in an elephant ride.

Mr. James stated that in the incident described by Representative Damron, a contractor for the Louisville Zoo had inadvertently left the elephant's fence gate open. The elephant, which was not an elephant trained to provide rides, escaped through the open gate. An untrained person tried to capture the elephant and was subsequently injured. This

administrative regulation had stringent safety requirements, including prohibiting elephant rides from an elephant that had had a safety incident in the past five years. Tranquilizers and firearms were required to be on the premises. The circus was required to have an emergency plan.

Mr. Benson stated that experts in public safety assisted Louisville Metro Council in the drafting of the local ordinance regarding elephant rides.

In response to a question by Representative Damron, Mr. James stated that the Louisville Metro Council's local ordinance regarding elephant rides provided a financial liability requirement of \$500,000. The ordinance limited elephant rides to Asian elephants that were not altered, that were not in heat, and that did not have a calf. Additionally, the Shriner Circus had its own financial liability of \$5,000,000.

In response to questions by Co-Chair Bell, Mr. Burgin stated that a typical elephant weighs approximately eight tons. Ms. Waldrop stated that elephants were tested for tuberculosis, and an elephant that tested positive was quarantined.

Co-Chair Bell stated that wild animals are unpredictable, and the required financial liability would not be enough if a young professional, for example, were killed or disabled as a result of an elephant ride.

Mr. Benson stated that he was the sponsor of the Louisville Metro Council's local ordinance regarding elephant rides. African elephants were known to be unpredictable, but Asian elephants were very docile and easy to train. The Asian elephant was one of the first species of animals domesticated by man. Statistics show numerous injuries to people by horses, but horseback riding was not prohibited. Elephant rides are valuable events that raise revenue for the Shriner's mission to help children.

Mr. Burgin related a story about one of the largest elephants in the world, Bo. Mr. Burgin told of sharing fruit with Bo, who responded with audible joy. Bo was a gentle Asian elephant, very different from unpredictable African elephants.

A motion was made and seconded to approve the following amendment: to amend Section 3 to raise the required liability insurance from \$500,000 to \$3,000,000. Without objection, with agreement of the agency, and with a roll-call vote, the amendment was approved by a unanimous vote of the members.

TRANSPORTATION CABINET: Department of Highways: Division of Maintenance: Right-of-Way

603 KAR 4:035. Logo signs; placement along fully controlled and partially controlled access highways. Ann D'Angelo, assistant general counsel, and Cass T. Napier, office project delivery, represented the division.

In response to questions by Co-Chair Bell, Mr. Napier stated that the tier classification system was created because federal requirements for logo signs had become less stringent. Federal requirements reduced standards for logo signs to a facility that served at least two meals per day, even if the hours of operation were limited. Industry requested the tier classification system so that the traveling public would be provided logo options other than just fast food options. Tier

one facilities were given priority because they were other than fast food. The requirements were not intended to limit opportunities for facilities to advertise on logo signs, but to give priority to provide a balance of facilities listed on the signs. If a business met the standards in this administrative regulation, that facility would get tier one priority for placement on a logo sign. If the business did not meet the standards, it would be placed in the tier two classification but could still be placed on a logo sign if there was room. The classification system would not affect those facilities already on logo signs. Those facilities would remain on the logo sign unless the business no longer complied with this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 4, 5, 7, 8, and 9 to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; (2) to amend Section 4 to: (a) establish that tier one (1) businesses shall have priority over tier two (2) businesses if logo signs are full; and (b) clarify that the tier classification system is for urban areas; and (3) to amend Sections 4 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Commission on the Deaf and Hard of Hearing: Telecommunication Device for the Deaf

735 KAR 1:010. 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, executive director, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 2 and 4 to conform with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2(2) for clarification. Without objection, and with agreement of the agency, the amendments were approved.

735 KAR 1:020. 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: to amend Section 1 to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Administration and Financial Management: Medicaid Services

907 KAR 1:018 & E. Reimbursement for drugs. Stuart Owen, regulation coordinator, represented the division.

In response to questions by Representative Lee, Mr. Owen stated that medication reimbursement was

approved or denied within 24 hours. The patient's care provider provided the prescription, but the pharmacist submitted the reimbursement request. The pharmacist was not liable if medication was dispensed after the reimbursement request was submitted, even if the request was later denied; therefore, the patient should not have to wait for disbursement of medication.

In response to a question by Co-Chair Bowen, Mr. Owen stated that the cabinet exempted certain populations from being included in the managed care part of the system.

In response to questions by Senator Givens, Mr. Owen stated that a separate administrative regulation included scope standards for reimbursement for managed care recipients. This administrative regulation did not include provisions for managed care recipients, but for that population exempt from the managed care part of the system. The cabinet was not authorized to establish pricing reimbursement for the population in the managed care part of the system. Approximately 20 percent of Medicaid recipients were exempt from participation in the managed care part of the system. This administrative regulation was filed on October 3, 2011 as an emergency and an ordinary administrative regulation. The organization previously responsible for establishing the average wholesale price used to calculate reimbursements was found guilty of collusion to elevate the average wholesale price. As a result, the average wholesale price index was no longer available. The cabinet had to find a new price index for calculating reimbursement and switched to using the wholesale acquisition cost, which required a different formula in order to calculate the reimbursement commensurate with the reimbursement established under the average wholesale price index. The change to this administrative regulation was revenue neutral because the reimbursement rate itself did not change, just the algorithm used in calculating the rate now that the average wholesale price index was no longer available. The cabinet was aware of concerns expressed recently by the House and Senate Standing Committees on Health and Welfare.

In response to questions by Co-Chair Bell, Mr. Owen stated that the cabinet's only hesitancy to agree to a request to defer consideration of this administrative regulation to the February 13 meeting of the Subcommittee was that the emergency administrative regulation would expire before the ordinary administrative regulation could become effective, causing the cabinet to return to the old reimbursement rate system, which is based on a price index that is no longer available.

Representative Lee stated that he was unaware of a need to defer consideration of this administrative regulation to the February 13 meeting. Co-Chair Bell retracted the deferral request.

In response to a question by Co-Chair Bowen, Mr. Owen stated that there was a 14 percent difference between the average wholesale price index and the wholesale acquisition cost; therefore, the reimbursement calculation algorithm needed to be revised so that the rate was

commensurate with the old pricing index and revenue neutral. Reimbursements themselves would not change.

In response to a question by Senator Givens, Mr. Owen stated that pharmacists knew how to calculate the formula but did not know the price and did not have to calculate the reimbursements.

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 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the February 13, 2012, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:102. Classified leave administrative regulations.

101 KAR 2:140. Workers' Compensation Fund and Program.

Personnel Cabinet, Unclassified

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

GENERAL GOVERNMENT CABINET: Kentucky Boxing and Wrestling Authority: Athletic Commission

201 KAR 27:011. General requirements for boxing and kickboxing shows.

201 KAR 27:017. Requirements for elimination events.

201 KAR 27:035. Seconds.

201 KAR 27:055. Physicians.

Board of Licensed Professional Counselors: Board

201 KAR 36:060. Qualifying experience under supervision.

201 KAR 36:070. Education and examination requirements.

Department of Agriculture: Office of State Veterinarian: Division of Animal Health: Livestock Sanitation

302 KAR 20:052 & E. Animal Carcass Composting.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Data Reporting and Public Use Data Sets

900 KAR 7:030 & E. Data reporting by health care providers.

Department for Mental Health and Mental Retardation Services: Division of Administration and Financial Management: Institutional Care

908 KAR 3:050. Per diem rates. Kevin Mudd, director, and Ray Peters, program administrator, represented the division.

Co-Chair Bell stated that he was adamantly opposed to this administrative regulation because the cost per patient for institutional care was alarming. Rates increased constantly, but reimbursement for home care had been lowered. Mr. Peters stated that the agency agreed to defer; however, he was under the assumption that today's consideration was limited to typographical errors and technical changes. Subcommittee staff stated that the typographical and technical changes were approved when the suggested amendments were approved, but the Subcommittee's scope of consideration included the initial amendment filed by the agency. The initial amendment included substantive matters,

including reimbursement rate adjustments.

In response to questions by Representative Lee, Mr. Peters stated that this administrative regulation was revenue neutral because the cabinet was not changing the base appropriation, but was reorganizing how the base appropriation was allocated. The cabinet's general goal was to reduce the number of patients institutionalized and promote home care as possible and appropriate. The reimbursement rate was usually different from the actual cost and was the amount that was received by the provider. The Oakwood population decrease resulted in a daily rate per-patient increase.

Representative Lee stated that the commissioner needed to address the House and Senate Standing Committees on Appropriations and Revenue in order to explain cost reconciliation at facilities such as Oakwood. Mr. Mudd stated that fixed costs were involved, and the cabinet's goal was transitioning to home care as possible and appropriate.

Co-Chair Bell stated that it should not cost \$500,000 per year per patient for care. He stated that it appeared that an entity was making a lot of money while home care providers were having funding cut. Co-Chair Bell emphasized that this was his opinion and did not necessarily reflect the opinions of other Subcommittee members.

In response to questions by Senator Givens, Mr. Peters stated that the agency would revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct responses pertaining to third-party payments. He added that most payments were from Medicaid, but a small percentage came from independent insurers.

Subcommittee staff directed the agency to follow up with explanations regarding this administrative regulation that staff would forward to Subcommittee members.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1(1)'s table to make CONFORMING AMENDMENTS to correct the rates being deleted for four (4) facilities to reflect the rates established in the amendments approved at the January 2011 ARRS meeting; and (2) to amend Section 1 to comply with the formatting requirements of KRS 13A.220. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to request deferral of consideration of this administrative regulation as amended to the February 13 Subcommittee meeting. Without objection, and with agreement of the agency, this administrative regulation as amended was deferred.

The Subcommittee adjourned at 3:30 p.m. until February 13, 2012.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February Meeting  
February 13, 2012

### Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 13, 2012, at 1:00 PM, in Room

149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Robert Brown, Gary Stephens, Dr. Kim Walters-Parker, Education Professional Standards Board; Bob Brooks, DeVon Hankins, Mark Johnson, Finance and Administration Cabinet; Nathan Goldman, Board of Nursing; Harold Brantley, Becky Klusch, Board of Physical Therapy; Larry Disney, Jim Grawe, Real Estate Appraiser's Board; Angela Evans, Sandra L. Miller, Board of Licensure for Marriage and Family Therapists; Jim Grawe, Martin Wesley, Board of Licensed Professional Counselors; Mike Fields, David Hise, Mark Mangeot, Department of Fish and Wildlife Resources; Clint Quarles, Dr. Robert Stout, Department of Agriculture; Carrie S. Ditterline, Steve Lynn, Joan Meadows, Department of Criminal Justice Training; Godwin Onodu, Todd Shipp, Transportation Cabinet; Richard Nesbitt, Patrick Shirley, Office for the Blind; Christopher Smith, Education and Workforce Development Cabinet; Marc A. Guilfoil, Horse Racing Commission; Glenn Bryan, Allison Lile, Beth Jurek, Kevin Mudd, Ray Peters, Chandra Venetozzi, Cabinet for Health and Family Services; and Marvin Dever, Appraiser.

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

The Administrative Regulation Review Subcommittee met on Monday February 13, 2012, and submits this report:

Administrative Regulations  
Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Educator Preparation

16 KAR 5:020. Standards for admission to educator preparation. Robert Brown, division director; Gary Stephens, staff attorney; and Dr. Kim Walters-Parker, educator preparation director, represented the board.

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 clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 and 2 to conform with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Office of Income Taxation: Forms

103 KAR 3:040 & E. Income Tax Forms Manual. Bob Brooks, executive director, corporate and independent income taxation, and Mark Johnson, tax policy and research consultant, represented the office.

A motion was made and seconded to



approve the following amendments: (1) to amend Section 3 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation; and (2) to amend Sections 1, 2, and 3 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 Nursing: Board

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

A motion was made and seconded to approve the following amendments: (1) to amend Section 5 to correct form titles; (2) to amend the RELATES TO paragraph to correct a statutory citation; (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 Sections 2, 3, and 5 to conform with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to correct form titles; (2) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 9 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy: Board

201 KAR 22:020. Eligibility and credentialing procedure. Becky Klusch, executive director, represented the board.

In response to a question by Co-Chair Bowen, Ms. Klusch stated that the board previously deleted the temporary licensure program because it was not applicable as testing was available each day. Licensure examinations were now fixed to four (4) specific dates each year; therefore, temporary licensure was again necessary.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4, 5, and 7 to conform with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 22:070. Requirements for foreign-educated physical therapists.

In response to a question by Senator Pendleton, Ms. Klusch stated that requirements for foreign-educated physical therapists were not substantively different from domestic-educated physical therapists. Foreign-educated physical therapists were not eligible for temporary

licensure until successful completion of the required examination.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) conform with the drafting and formatting requirements of KRS Chapter 13A; and (2) make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Real Estate Appraisers Board: Board

201 KAR 30:375. Appraisal procedures for appraisal management companies. Sam Blackburn, vice-chair; Harold Brantley, chair; and Larry Disney, executive director, represented the board. Marvin Dever, real estate appraiser and past board president, appeared in support of this administrative regulation.

In response to questions by Representative Damron, Mr. Disney stated that the purpose of this administrative regulation was to help real estate appraisers recoup payments from out-of-state payors. There would not be immediate punitive action for failure to meet the payment deadline; however, a letter would be sent prior to the commencement of enforcement and, if necessary, the KRS Chapter 13B hearing process would be used.

Mr. Dever stated that out-of-state payors owed Kentucky real estate appraisers thousands of dollars. Some companies had ceased operating and were not meeting payment obligations. This administrative regulation would assist appraisers with getting paid appropriately, and Mr. Dever supported this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to make conforming amendments to the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct inconsistencies between the administrative regulation as originally filed by the agency and the administrative regulation as amended after comments; (2) to amend the RELATES TO paragraph to correct a statutory citation; and (3) to amend Section 1 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Marriage and Family Therapists: Board

201 KAR 32:010. Definitions for 201 KAR Chapter 32. Angela Evans, assistant attorney general, and Sandra L. Miller, board chair and family therapist, represented the board.

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

201 KAR 32:020. Equivalent course of study.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 32:025. Marriage and family therapist associate.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3 and 4 to change “supervisor of record” to “approved supervisor”; and (2) to amend Section 4 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 32:035. Supervision of marriage and family therapist associates.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 32:045. Examination.

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

201 KAR 32:050. Code of ethics.

201 KAR 32:060. Continuing education requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Professional Counselors: Board

201 KAR 36:060. Qualifying experience under supervision. Jim Grawe, assistant attorney general, and Martin Wesley, assistant professor and vice-chair, represented the board.

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

201 KAR 36:070. Education and examination requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to use consistent terminology; and (2) to amend the RELATES TO paragraph and Sections 1 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 6:040. Zoning or marking of waterways. Captain Mike Fields, boating law administrator; David Hise, counsel; and Mark Mangeot, director, legislative affairs, represented the department.

In response to a question by Co-Chair Bowen, Captain Fields stated that

several incidents on waterways throughout the Commonwealth precipitated this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 5 to correct minor drafting errors. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of State Veterinarian: Division of Animal Health: Livestock Sanitation

302 KAR 20:052 & E. Animal Carcass Composting. Clint Quarles, staff attorney, and Dr. Robert Stout, state veterinarian, represented the division.

In response to a question by Senator Givens, Dr. Stout stated that only commercial animal carcass composting facilities were required to register, and registration could occur via telephone, field officer, or online.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 2 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Criminal Justice Training: General Training Provision

503 KAR 3:040. Telecommunications (Public Safety Dispatch) Academy trainee requirements; misconduct; penalties; discipline procedures. Carrie S. Ditterline, instructor; Steve Lynn, assistant general counsel; and Joan Meadows, instructor, represented the department.

In response to a question by Co-Chair Bowen, Mr. Lynn stated that the dress code requirements were developed so that all academy trainees would have the same standard uniform in order to eliminate discrepancies between larger and smaller districts.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete an unnecessary citation; (2) to amend Sections 1, 6, 7, 8, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 8 to make a conforming amendment to correct an inconsistency between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendments were approved.

503 KAR 3:050. Telecommunications (Public Safety Dispatch) Academy-CJIS graduation requirements; records.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) include an additional relevant definition. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Vehicle Licensing: Motor Vehicle Tax

601 KAR 9:160. Surrender or

reactivation of vehicle title. Godwin Onodu, assistant director, and Todd Shipp, attorney, represented the division.

In response to questions by Representative Lee, Mr. Onodu stated that, if a vehicle purchaser failed to remove the seller's name from the title by the statutory deadline, the seller had the authority to remove the name by petitioning the county clerk. Mr. Shipp stated that he was uncertain but believed that, if the title was signed and notarized but paperwork was incomplete, the title was still recognized as changed for purposes of liability but not for purposes of taxation. The seller would still get a tax bill, which may serve to alert the seller that the paperwork on the title transfer was incomplete. The seller may then file an affidavit to be processed by the county clerk to alleviate the tax burden.

In response to a question by Representative Ford, Mr. Shipp stated that he was uncertain but believed that the Kentucky Supreme Court had previously determined that a signature and notarization of the title without complete paperwork relieved the seller of liability but not taxation. This administrative regulation would relieve the seller from the tax burden as well as the legal liability.

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 make technical corrections; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to make CONFORMING AMENDMENTS to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; (3) to amend Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to revise the FISCAL NOTE ON STATE OR LOCAL GOVERNMENT to correct a typographical error referencing an incorrect administrative regulation number. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office for the Blind: Department of the Blind

782 KAR 1:010. Kentucky business enterprises. Richard Nesbitt, director; Patrick Shirley, staff attorney; and Christopher Smith, executive director, represented the department.

In response to a question by Co-Chair Bowen, Mr. Nesbitt stated that the set aside was used to pay health insurance costs.

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 Sections 1, 2, 3, 5, 6, 8, 9, 10, and 12 to conform with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Sections 2 and 9 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement

of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:014. Weights. Marc A. Guilfoil, deputy executive director, represented the commission.

A motion was made and seconded to approve the following amendment: to amend Section 1 to correct an inconsistency between the currently effective administrative regulation and the proposed administrative regulation filed by the agency. Without objection, and with agreement of the agency, the amendment was approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Data Reporting and Public Use Data Sets

900 KAR 7:030 & E. Data reporting by health care providers. Allison Lile, health data administrator, and Chandra Venettozzi, health data administrator, represented the office.

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; Beth Jurek, executive director; and Kevin Mudd, division director, represented the division.

In response to a question by Representative Lee, Ms. Jurek stated that reimbursement rates were established for each facility separately from Medicaid and private insurer rates. These rates were the amounts a patient with sufficient funds and without Medicaid or private insurance would pay for services. This administrative regulation applied to approximately ten patients at any given time. This administrative regulation did not affect Medicaid and did not have requirements pertaining to negotiated rates of reimbursement.

In response to questions by Senator Givens, Ms. Jurek stated that this administrative regulation was revised annually, and the reimbursement rates were based on the actual costs to each facility. Mr. Bryant stated that these rates approximated those paid by Medicaid and private insurers for similar services. These rates fluctuated significantly because these facilities were more like hospital settings, with a much higher rate of patient changes than home and community settings. Ms. Jurek stated that community setting payments were funded almost exclusively by Medicaid. The division had received more waivers to home or community settings recently. Approximately 69 percent of dollars was spent on the home or community settings, rather than hospital-like institutions. Five years ago, for example, the facility of Oakwood had approximately 400 patients; now, there are 100 patients. Those patients still remaining in hospital-like institutional facilities tended to have more service-intensive needs, which caused the cost per patient to rise. Oakwood costs especially rose after federal intervention removed accreditation and forced Oakwood to revise its care plan to include additional and more intensive services to its clients. The long-term plan was to transition many of these facilities to

outpatient support centers where patients in home or community settings could get short-term supportive and interventional care and services. The patient populations at these facilities had been gradually declining. Ten years ago there were approximately 1,500 patients in hospital-like institutional settings. The division predicted approximately 800 to 900 patients in these facilities in the next five years. Mr. Mudd stated that the average length of stays was also declining.

In response to a question by Representative Ford, Ms. Jurek stated that Medicaid and private insurance reimbursement rates for similar services were comparable with these reimbursement rates for patients with sufficient personal funding. When Oakwood was at its highest patient population, costs were approximately \$250 per patient per day. The current rate was \$1,100 per patient per day. This rate had increased although patient population had decreased because the remaining patients tended to have more intensive care needs. Additionally, the federally mandated services that resulted after the loss of accreditation of the facility significantly increased care costs.

Representative Lee stated that, before the economy began to enter the current recession state, a plan was in place to create a facility in each region to assist patients with home or community placement. The recession significantly reduced the ability to initiate this plan to create the necessary support facilities. These support facilities were the goal toward which Kentucky needed to be striving.

In response to a question by Co-Chair Bowen, Mr. Bryant stated that the reimbursement rates were established basically by taking the total cost and dividing that by the number of patients. There was no subjectivity in creating the rates. The amounts were reviewed and audited on a regular basis.

Staff Note: At the January 2012 meeting of the Administrative Regulation Review Subcommittee, an amendment was made to this administrative regulation to: (1) amend Section 1(1)'s table to make CONFORMING AMENDMENTS to correct the rates being deleted for four (4) facilities to reflect the rates established in the amendments approved at the January 2011 ARRS meeting; and (2) amend Section 1 to comply with the formatting requirements of KRS 13A.220.

The following administrative regulations were deferred to the March 12, 2012, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:102. Classified leave administrative regulations.

101 KAR 2:140. Workers' Compensation Fund and Program.

Personnel Cabinet, Unclassified  
101 KAR 3:015. Leave administrative regulations for the unclassified service.

GENERAL GOVERNMENT CABINET: Kentucky Boxing and Wrestling Authority: Athletic Commission

201 KAR 27:011. General requirements for boxing and kickboxing shows.

201 KAR 27:017. Requirements for elimination events.

201 KAR 27:035. Seconds.

201 KAR 27:055. Physicians.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carriers: Division  
601 KAR 1:019. Overweight or overdimensional farm equipment.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Kindergartens and Nursery Schools

704 KAR 5:070. Common Kindergarten entry screener.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:125. Certificate of Need annual surveys, and registration requirements for new Magnetic Resonance Imaging units.

The Subcommittee adjourned at 2 p.m. until March 12, 2012.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the March Meeting  
March 12, 2012

### Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 12, 2012, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Robert Brown, Alicia Sneed Education Professional Standards Board; Gilda Hill, Dennis Shepherd, Kentucky Department of Military Affairs; Dinah Bevington, Mary Elizabeth Harrod, Personnel Cabinet; Becky Klusch, Board of Physical Therapy; Peter Ervin, Angela Robertson, Michael West, Kentucky Boxing and Wrestling Authority; Larry Disney, Jim Grawe, Real Estate Appraisers Board; Ron Brooks, David Hise, Benjy Kinman, Mark Mangeot, Department of Fish and Wildlife; Amy Barker, J. Todd Henning; Justice and Public Safety Cabinet; Wayne Onkst, Barbara Teague, Kentucky Department of Libraries and Archives; Elizabeth Caywood, Michelle DeJohn, Robin Herring, Marybeth Jackson, Stuart Owen, Chandra Venettozzi, and Neville Wise, Cabinet for Health and Family Services.

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

The Administrative Regulation Review Subcommittee met on Monday, March 12, 2012, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Assessment

16 KAR 6:010. Examination prerequisites for teacher certification. Robert Brown, director, Professional Learning and Assessment, and Alicia A. Sneed, director of legal services, represented the board.

A motion was made and seconded to approve the following amendments:



to amend Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

OFFICE OF THE GOVERNOR: Department of Veterans' Affairs: State Veterans' Nursing Homes

17 KAR 3:020. Maximum charge for room and care at state veterans' nursing homes. Gilda Hill, executive director, and Dennis W. Shepherd, staff attorney, represented the department.

In response to a question by Co-Chair Bell, Ms. Hill stated that veterans were charged based on their ability to pay. A veteran would not be denied care because the veteran could not pay.

In response to a question by Representative Damron, Ms. Hill stated that calculations regarding ability to pay took into consideration financial assets and liabilities, including the financial needs of a spouse or family.

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:180 & E. Employee performance evaluation system. Dinah Bevington, general counsel, and Mary Elizabeth Harrod, director, Division of Employee Management, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Physical Therapy: Board

201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants. Becky Klusch, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Boxing and Wrestling Authority: Athletic Commission

201 KAR 27:011. General requirements for boxing and kickboxing shows. Peter Ervin, cabinet general counsel and acting executive director of the authority, and Michael West, assistant attorney general, represented the authority.

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; (3) to amend Sections 1 through 8, 10, 11, 13, 15, 17 through 21, 23, 25 through 38, 40, 42 through 45, 47, and 49 through 52 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to amend Section 53 to revise material incorporated by reference; and (5) to

amend Section 20 to raise the maximum limit of the health insurance deductible for competitors from \$300 to \$1,000. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:012. Wrestling show requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the administrative regulation as amended after comments; and (2) to amend Section 4 for clarification. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:016. General requirements for mixed martial arts matches, shows, or exhibitions.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 37 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the administrative regulation as amended after comments; and (2) to amend Sections 2, 8, 21, and 33 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:017. Requirements for elimination events.

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; (3) to amend Sections 1 through 5, 9, 11, 12, 15, 18, 20, 21, 23, 24, 26, and 28 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to amend Section 19 to make a conforming amendment to correct an inconsistency between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; and (5) to amend Section 29 to revise material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:035. Seconds.

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 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; and (3) to amend Sections 2, 3, 4, 7, 9, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:055. Physicians.

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; (3) to amend Sections 1 through 4, 7, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to amend the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE to make corrections. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:100. General requirements for amateur mixed martial arts shows.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Sections 1, 10, and 45 to make technical corrections; and (2) to amend Section 2 to make conforming amendments to correct an inconsistency between the currently effective administrative regulation and the administrative regulation as amended after comments. Without objection, and with agreement of the agency, the amendments were approved.

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.

A motion was made and seconded to approve the following amendments: (1) to delete Section 2 because it duplicates existing regulatory provisions; and (2) to amend Section 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 1:152. Asian Carp Harvest Program. David Hise, counsel, Benjy Kinman, deputy commissioner, and Mark Mangeot, legislative liaison, represented the department.

In response to a question by Senator Pendleton, Mr. Kinman stated that the minimum net size was amended to increase the harvest of Asian carp. The amendment liberalized the administrative regulation rather than making it more stringent.

A motion was made and seconded to approve the following amendments: (1) to amend the title to include "Scaled Rough Fish"; (2) to amend Section 1 to define "scaled rough fish"; (3) to amend Section 3(7) to include the ability to sell the harvested scaled rough fish; (4) to amend Section 3 to: (a) require a harvest ratio of seventy-five (75) percent Asian carp to twenty-five (25) percent scaled rough fish over a one (1) month period; and (b) provide for suspension of a licensee if there is a failure to follow regulatory requirements; and (5) to amend section 6 to correct a minor drafting error. Without objection, and with agreement of the agency, the amendments were approved.

Game

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a minor drafting error. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a minor drafting error; and (2) to amend Section 6 to: (a) insert the requirements for Big Rivers WMA; (b) delete the requirements for the Scott County WMA; (c) delete the Sturgis WMA; (d) insert the Veteran's Memorial WMA; (e) require closure of all tracts of the Western KY WMA during firearm quota hunts; and (f) require check-in for the "A" tracts of Western KY WMA. Without objection, and with agreement of the agency, the amendments were approved.

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

501 KAR 6:250 & E. Graduated sanctions for technical violations of probation and compliance incentives system. Amy Barker, assistant general counsel, and J. Todd Henning, staff attorney, represented the department.

In response to a question by Representative Ford, Ms. Barker stated that failing to complete community service was being added as a minor violation because it was inadvertently omitted from the administrative regulation as originally filed.

In response to questions by Co-Chair Bell, Ms. Barker stated that she would relay his concerns to the local facilities staff regarding the minimum staffing requirement for the smallest of the state's jails.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to include more specific statutory references; (2) to amend Section 2 to establish procedures if an officer determines that an informal response or graduated sanctions are not appropriate; (3) to amend Section 3 to include "failure to complete community service" as a minor violation in accordance with KRS 439.3107(1); (4) to amend Section 4 to delete "felony conviction" and "absconding supervision" from the list of major violations as they are already categorized as violations which must be returned to the releasing authority; (5) to amend Section 4 to include "failure to participate in a required program or service" as a major violation in accordance with KRS 439.3107(1); (6) to amend Section 6 to establish procedures if an offender contests the graduated sanction to be imposed for a minor violation; (7) to amend Section 8 to include "awarding certificates of achievement," "deferring a monthly supervision fee payment," and "asking the supervised individual to be a mentor" as compliance incentives in accordance with KRS 439.250(8); and (8) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and

Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:270 & E. Probation and parole policies and procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to delete extraneous references; (2) to amend Section 1 and the material incorporated by reference to clarify provisions, to conform to the requirements of 501 KAR 6:250, and to correct technical errors; and (3) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department for Libraries and Archives: Public Records Division: Archives

725 KAR 1:061. Records retention schedules; authorized schedules. Wayne Onkst, state librarian and commissioner, and Barbara Teague, state archivist, represented the department.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:125. Certificate of Need annual surveys, and registration requirements for new Magnetic Resonance Imaging units. Chandra Venetozzi, health data administrator, represented the office.

In response to a question by Senator Givens, subcommittee staff stated that the amendment before the subcommittee clarified that the registration requirements are mandatory rather than voluntary.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clarify the provisions of the administrative regulation; (3) to amend Sections 3, 7, and 11 to comply with the drafting requirements of KRS Chapter 13A; (4) to amend Section 12 to update the edition dates of the material incorporated by reference; and (5) to amend the material incorporated by reference to: (a) comply with the drafting requirements of KRS Chapter 13A; (b) insert the same certification page at the end of each survey; and (c) correct Web site addresses provided in the material. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Commissioner's Office: Managed Care

907 KAR 17:005 & E. Managed care organization requirements and policies. Stuart Owen, regulation coordinator, and Neville Wise, acting commissioner, represented the department.

In response to questions by Senator Givens, Mr. Wise stated that because this administrative regulation was drafted after the managed care contracts were entered,

the department based the regulatory requirements on the existing contracts and the federal waiver from the Centers for Medicaid and Medicare Services. The department also amended this administrative regulation after comments to ensure that its procedures for resolving provider grievances and appeals complied with the contractual provisions. While the department has some limited ability to address provider concerns with the MCOs, contract enforcement would be a legal matter. Subcommittee staff stated that the governing statute requires payment of claims by providers within 30 days.

In response to questions by Representative Lee, Mr. Wise stated that the department currently has 12 employees dedicated to compliance issues, with many other departmental employees temporarily assisting in that effort. Long term, the department will transition to a 15 to 20 person compliance branch. The department has frequent direct contact with the MCOs and the subcontractors. Representative Lee stated that at this point in the process, claim submission and prior authorizations should be electronic. A long wait for paper processing is unacceptable.

In response to a question by Senator Givens, Mr. Owen stated that by statute and under the terms of the contracts, the Finance and Administration Cabinet has the authority to terminate an MCO contract for noncompliance. As a preliminary step, the department could institute a corrective action plan.

In response to questions by Co-Chair Bell, Mr. Wise stated that the MCO determines what qualifies as a medical necessity. A member wishing to contest that determination can appeal to the MCO or through the department's administrative law judge. An MCO has to pay interest on any overdue payments to providers. The department does not need additional time to consider adding consumer protection provisions to this administrative regulation. The department is looking at consumer protection legislation and needs to have this general regulatory structure in place before the emergency administrative regulation expires. Subcommittee staff stated that the department could alternatively withdraw the current administrative regulation and file a new emergency administrative regulation.

Representative Lee stated that this administrative regulation should not be deferred until the next meeting of the subcommittee. It is needed as soon as possible to govern the MCOs. Once effective, the subcommittee can recall the administrative regulation if needed to address any deficiencies. Additionally, Mr. Wise stated that the department would not agree to a deferral.

Co-Chair Bell stated that he has concerns regarding this administrative regulation. It lacks sufficient consumer protection and is too long to be promulgated as a single administrative regulation.

In response to questions from Senator Pendleton, Mr. Wise stated that the contracts require the MCOs to determine prior authorization within 48 hours but that deadline is not always met. Senator Pendleton stated that the treating physician should be able to determine what is medically necessary with less

red tape. The wait for authorization can be very long for a sick person needing a diagnostic test.

Representative Lee restated his longstanding commitment to patient protection in the Medicaid program.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 1 to add definitions for the following terms: "complex or chronic condition", "QAPI", and "state survey agency"; (4) to amend Section 5 to require the provider to give a copy of the notice of decision for an appeal to the enrollee or to inform the enrollee of its provisions; (5) to amend Section 7 to authorize an enrollee to change primary care providers if the enrollee is denied access to needed medical services; (6) to amend Section 9 to authorize an MCO to include in the member handbook the names and contact information for non-primary care providers in the MCO's network; (7) to amend Section 38 to specify the duties of the Pharmacy and Therapeutics Committee; (8) to amend Section 51 to specify that the Quality and Member Access Committee shall provide the results of its reviews to the MCO; (9) to amend Section 66 to clarify that an MCO shall not disclose information related to an Open Records request without prior written authorization from the department; and (10) to amend Sections 1 to 9, 11 to 19, 21 to 30, 32, 33, 35 to 59, 64, 66, 68, and 69 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) correct citations and cross-references. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Child Care: Day Care

922 KAR 2:240. Kentucky Early Care and Education Trainer's Credential and training approval. Elizabeth Caywood, internal policy analyst, and Mary Beth Jackson, division director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 11, 12, 16, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A and for technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the April 11, 2012, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:102. Classified leave administrative regulations.

101 KAR 2:140. Workers' Compensation Fund and Program.

Personnel Cabinet, Unclassified  
101 KAR 3:015. Leave administrative regulations for the unclassified service.

GENERAL GOVERNMENT CABINET: Board of Accountancy: Board  
201 KAR 1:081. Initial firm license, renewal, and reinstatement.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carriers: Division  
601 KAR 1:019. Overweight or overdimensional farm equipment.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Kindergartens and Nursery Schools

704 KAR 5:070. Common Kindergarten entry screener.

The Subcommittee adjourned at 3:30 p.m. until April 11, 2012.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the April Meeting  
April 11, 2012

### Call to Order and Roll Call

The April meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, April 11, 2012, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Senators Alice Forgy Kerr, and Joey Pendleton; Representatives Danny Ford, and Jimmie Lee.

Guests: Devon Hankins, Janine Shackelford, David Gordon, Department of Revenue; Richard Carroll, Board of Accountancy; Patricia G. Farris, Denise Payne Wade, Kentucky Real Estate Commission; Anne Olson, Michael West Board of Speech-Language Pathology and Audiology; Jonathan Buckley, David Cox, State Board of Licensure for Professional Engineers and Land Surveyors; Becky Klusch, Board of Physical Therapy; Jim Grawe, Margaret Hazelett, Board of Social Work; Timothy Owens, Michael West, Board of Interpreters for the Deaf and Hard of Hearing; Cheryl Turner, Michael West; Board for Massage Therapy; Mark Brengelman, Sienna Newman, Board of Prosthetics, Orthotics, and Pedorthics; David W. Hise, Mark Mangeot, Karen Waldrop, Department of Fish and Wildlife; DJ Wasson, Department of Insurance; Anetria Connell, Shaun T. Orne Department of Financial Institutions; Richard Bartlett, and Charles Kendell; Department for Public Health.

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

The Administrative Regulation Review Subcommittee met on Wednesday, April 11, 2012, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms  
103 KAR 3:010. General

Administrative Forms Manual. Janine Shackelford, branch manager, and David Gordon, executive director, Property Tax, represented the department.

In response to a question by Co-Chair Bowen, Ms. Shackelford stated that these administrative regulations simplified forms and made them more user friendly.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to: (1)



comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 3:030. Property and Severance Forms Manual.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 3 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Accountancy: Board  
201 KAR 1:081. Initial firm license, renewal, and reinstatement. Richard Carroll, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a conforming amendment to correct an inconsistency between the currently effective administrative regulation and the filed proposed administrative regulation; and (2) to amend Sections 1, 3, 5, 7, 8 through 11, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Real Estate Commission: Commission

201 KAR 11:225 & E. License renewal, annual requirements and change request procedures. Denise Payne Wade, acting general counsel, represented the commission.

In response to a question by Representative Lee, Ms. Wade stated that it was imperative that the commission file this administrative regulation on an emergency basis because the renewal deadline date would otherwise not be in effect when the deadline arrived.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to make a technical correction; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (3) to amend Sections 2 and 4 to clarify provisions; and (4) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Speech-Language Pathology and Audiology: Board

201 KAR 17:011. Requirements for interim licensure as a speech language pathologist. Anne Olson, chair, and Michael West, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1)

to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to correct the edition date of the form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 17:012. Requirements for licensure.

A motion was made and seconded to approve the following amendment: to amend Section 2 to correct the edition date of the form incorporated by reference. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 17:032. Requirements for interim licensure as an audiologist.

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

201 KAR 17:034. Requirements for licensure as a Speech-Language Pathology Assistant.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a statutory citation; (2) to amend Section 2 to comply with the formatting requirements of KRS Chapter 13A; and (3) to amend Section 4 to correct the edition date of the form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 17:036. Requirements for licensure for an Audiologist.

A motion was made and seconded to approve the following amendment: to amend Section 2 to correct the edition date of the form incorporated by reference. Without objection, and with agreement of the agency, the amendment was approved.

Board of Licensure for Professional Engineers and Land Surveyors: Board

201 KAR 18:040. Fees. Jonathan Buckley, general counsel, and David Cox, executive director, represented the board.

In response to a question by Senator Pendleton, Mr. Cox stated that this administrative regulation did not raise fees. It eliminated an examination that was no longer administered.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to delete Section 6, Material Incorporated by Reference, because the material is cross referenced in a forms administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy: Board  
201 KAR 22:045. Continued competency requirements and procedures. Mark Brengelman, assistant attorney

general, and Becky Klusch, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 2 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; and (4) to amend Section 3 to revise a form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Board of Social Work: Board

201 KAR 23:130. Definition of non-profit field service office. Jim Grawe, assistant attorney general, and Margaret Hazlette, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend the TITLE and Sections 1 and 2 of this administrative regulation 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 Interpreters for the Deaf and Hard of Hearing: Board

201 KAR 39:001. Definitions. Timothy Owens, chair, and Michael West, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (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. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 3 to make a conforming amendment to correct an inconsistency between the currently effective administrative regulation and the filed proposed administrative regulation; and (3) to amend Section 1 to change one (1) of the proof of certification requirements to relate to those applying on or prior to July 1, 2013, instead of July 1, 2014. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 39:040. Fees.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph

to add 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; and (3) to amend Sections 1, 2, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Sections 2 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Sections 3 and 4 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

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

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 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 Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 39:080. Reciprocity.

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

201 KAR 39:090. Continuing education requirements.

201 KAR 39:100. Complaint procedure.

A motion was made and seconded to approve the following amendment: to amend Section 1 to correct a minor drafting error. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 39:120. Code of ethics.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with

agreement of the agency, the amendments were approved.

Board of Licensure for Massage Therapy: Board

201 KAR 42:040. Renewal. Cheryl Turner, chair, and Michael West, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend the STATUTORY AUTHORITY paragraph and Sections 1, 4, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Board of Prosthetics, Orthotics, and Pedorthics: Board

201 KAR 44:060. Continuing education requirements and procedures. Mark Brengelman, assistant attorney general, and Sienna Newman, chair, represented the board.

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 the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 2 to make a conforming amendment to correct an inconsistency between the currently effective administrative regulation and the proposed administrative regulation filed by the agency; and (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT and the FISCAL NOTE ON STATE OR LOCAL GOVERNMENT to make corrections. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:070. Complaint process and disciplinary action procedure.

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 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 the TITLE and Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT and the FISCAL NOTE ON STATE OR LOCAL GOVERNMENT. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 44:080. Renewals.

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 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 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to amend Section 5 to revise material incorporated by reference;

and (6) to revise the FISCAL NOTE ON STATE OR LOCAL GOVERNMENT and the SUMMARY OF MATERIAL INCORPORATED BY REFERENCE to make corrections. 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 1:058. Methods for taking turtles. David W. Hise, counsel; Mark Mangeot, legislative liaison; and Karen Waldrop, director, Wildlife Division, represented the department.

In response to questions by Senator Pendleton, Ms. Waldrop stated that this administrative regulation established requirements for taking snapping and softshell turtles. There were morphological differences between snapping and softshell turtles.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) add “smooth softshell turtle” and “spiny softshell turtle” to the types of turtles that may be taken; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Consumer Protection Division: Administration

806 KAR 2:095. Accounting and reporting requirements for collecting local government premium tax. D. J. Wasson, staff assistant, represented the division.

In response to a question by Co-Chair Bowen, Ms. Wasson stated that each insurance company already filed an annual reconciliation, even if a local government premium tax was not due. This administrative regulation clarified existing procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to delete 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; and (3) to amend Sections 1 through 3 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the filed proposed administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Securities Division: Securities

808 KAR 10:400. Examination fees and criteria. Anetria Connell, attorney, and Shaun T. Orne, assistant general counsel, represented the division.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and the NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to make conforming amendments to correct inconsistencies between the currently effective administrative regulation and the proposed administrative regulation as filed by the agency. Without objection, and with agreement of the

agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Trauma System

902 KAR 28:010. Definitions for 902 KAR Chapter 28. Richard Bartlett, emergency preparedness specialist, and Charles Kendell, chief of staff, represented the division.

In response to a question by Co-Chair Bowen, Mr. Kendell stated that these administrative regulations did not relate to the Certificate of Need process. This was a voluntary program for hospitals that wanted to be designated as trauma centers.

Representative Lee stated that a trauma center designation would increase the reimbursement rates for indigent care to 100 percent of the costs of that care.

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

902 KAR 28:020. Kentucky Trauma System Designation Process.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 6 to: (a) specify that the criteria for a facility seeking designation as a Level I, II, or III trauma center is established by the American College of Surgeons Verification Review Committee; (b) specify the application forms that shall be completed by a facility seeking designation; and (c) incorporate those items by reference; and (2) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 28:030. Kentucky’s Trauma System Level IV Criteria.

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

902 KAR 28:040. Kentucky’s Trauma System Registry.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to create a new Section 3 to incorporate by reference the national trauma data standards established by the National Trauma Data Bank. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 28:050. Kentucky’s Trauma System Appeals Process.

A motion was made and seconded to

approve the following amendments: (1) to amend Section 1 to specify: (a) when an appeal may be filed; and (b) that each appeal shall be conducted in accordance with KRS Chapter 13B; and (2) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 28:060. Kentucky Trauma System fees.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a citation; and (2) to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the May 8, 2012, meeting of the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Authority

11 KAR 4:080. Student aid applications.

KHEAA Grant Programs

11 KAR 5:145. CAP grant award determinations procedure.

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:102. Classified leave administrative regulations.

101 KAR 2:140. Workers’ Compensation Fund and Program.

Personnel Cabinet, Unclassified

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

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

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers. David W. Hise, counsel; Mark Mangeot, legislative liaison; and Karen Waldrop, director, Wildlife Division, represented the department.

In response to a question by Senator Pendleton, Dr. Waldrop stated that this administrative regulation lengthened the raccoon season, increased the bag limit for river otter, and extended the bobcat winter season by shifting the total season.

Subcommittee staff stated that the raccoon season remained a contentious issue and that the department considered deferral.

Mr. Mangeot stated that the raccoon season was the primary item of concern, but a deferral that delayed the effective date of this administrative regulation would negatively impact provisions pertaining to all three (3) furbearing species in this administrative regulation.

In response to a question by Co-Chair Bowen, Dr. Waldrop stated that deferral of this administrative regulation, with the purpose of further amendment, would delay the process because changes to this administrative regulation needed to go before all stakeholders for consideration. The delay would affect the bag limit



increase for river otter and the bobcat season changes, as well as the raccoon season, to the detriment of sportsmen. The department preferred to allow this administrative regulation to continue through the amendment process and would consider revision of the raccoon season in a future amendment. The department would defer if necessary, but preferred not to defer.

Senator Pendleton stated that he preferred not to delay this administrative regulation regarding the raccoon issue because it would affect the bobcat season. Bobcats caused significant property damage, and the change to the season was very important for bobcat control.

In response to a statement by Representative Ford, Senator Pendleton stated that he was unaware that a commitment to defer consideration of this administrative regulation had been made. He emphasized that it was important that the Subcommittee and the agency honor a prior commitment, but it would be unfortunate if this administrative regulation was deferred again from the upcoming May agenda.

In response to a question by Representative Lee, Dr. Waldrop stated that the bag limit for bobcats was five (5) because this was a federally regulated species. Each bobcat taken was required to be tagged. Species verification was required before taking a bobcat, and a special cities tag was required to sell the fur.

Co-Chair Bowen asked the department to defer consideration of this administrative regulation to the May meeting of the Subcommittee. Dr. Waldrop agreed to deferral.

JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: General Training Provision

503 KAR 3:070. Telecommunications (Public Safety Dispatch Non-CJIS) Academy.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carriers: Division

601 KAR 1:018. Special overweight or overdimensional motor vehicle load permits.

601 KAR 1:019. Overweight or overdimensional farm equipment.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Kindergartens and Nursery Schools

704 KAR 5:070. Common Kindergarten entry screener.

The Subcommittee adjourned at 1:55 p.m. until May 8, 2012.

## EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes of the Meeting  
December 12, 2011

### Call to Order and Roll Call

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Monday, December 12, 2011, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jack Westwood, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood,

Co-Chair; Representative Ted Edmonds, Co-Chair; Senators Vernie McGaha, Gerald A. Neal, and Ken Winters; Representatives Linda Belcher, Bill Farmer, and Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham.

Guests: Logan Eckler and Kent Johnson, Western Kentucky University and Gatton Academy; Laura McGee, Western Kentucky University; Emanuel Anama, Jackson County High School; Keith White, Office of Education Accountability; Karen Dayley, Rebecca Bright, Robert Duncan, Lauren Moore, LaTonya Bell, Karen Conway, and Bill Bohanan, Kentucky Department of Education; Jacklyn Waddle, KWLA/Middleburg Languages; Linda Beck, Fayette County Schools; Jim Thompson, Education and Workforce Development Cabinet; Phil Shepherd, KCAE; Jonathan Lowe, Jefferson County Public Schools; Roger Marcum, Kentucky Board of Education, Sue Cain, Kentucky Council on Postsecondary Education; John Foster; and Crystal Dempsey-Gillum; Kentucky Higher Education Assistance Authority.

LRC Staff: Sandy Deaton, Donna Little, Ken Warlick, Ben Boggs, Jo Carole Ellis, Janet Stevens, and Lisa Moore.

### Adopt Minutes of November 15, 2011, Meeting

Senator McGaha moved to adopt the minutes from the November 15, 2011, meeting, and Senator Winters seconded the motion. Motion carried.

### Review of Administrative Regulations:

#### 703 KAR 5:200 Next Generation Learners

#### 703 KAR 5:230 Next Generation Instructional Programs and Support

Senator Westwood moved to postpone the review of the administrative regulations until January 2012. He said according to KRS 13A, the amendments initiated by an agency are required to be filed at least five days prior to the subcommittee meeting. He noted the subcommittee members received the amendments to the regulations on Saturday, December 10, 2012, and this does not meet the five day requirement.

Representative Edmonds asked if a suspension of the five day rule was in order. Senator Westwood said he was not comfortable in doing so since members had limited time to review the amendments.

Dr. Terry Holliday, Commissioner of the Kentucky Department of Education (KDE), said he felt the administrative regulations should move forward because the amendments in question were Legislative Research Commission (LRC) staff amendments and not KDE amendments. He expressed concern with the chair's ruling as input was received on the administrative regulations from the Office of Education Accountability (OEA), the Local Superintendent Advisory Council (LSAC), the School Curriculum Assessment and Advisory Council (SCAAC), and the National Technical Advisory Panel on Assessment and Accountability (NTAPAA). The regulations incorporated over 125 technical amendments by LRC staff.

After consultation with LRC staff, Senator Westwood responded that the subcommittee must have agreement

with the KDE to defer the administrative regulations. After conferring with Kevin Brown, general counsel of the KDE, Dr. Holliday agreed to defer the review of the administrative regulations until January 2012. Senator McGaha moved to defer the review of the regulations, and Senator Winters seconded the motion. The motion was approved by voice vote.

The following people spoke in favor of the world language component in 703 KAR 5:230: Logan Eckler, Kent Johnson, Dr. Laura McGee, Emmanuel Anama, Jacklyn Waddle, Linda Beck, and John Foster.

Representative Edmonds moved to ask Dr. Holliday to reconsider his agreement to defer the review of the administrative regulations until January 2012, and Representative Marzian seconded the motion. The motion passed. Dr. Holliday reconsidered his position to defer on the basis that the amendments in question were LRC staff amendments and not KDE amendments.

Senator Westwood said Senate Bill 1 (2009 Regular Session) did not require world language as part of the accountability system. Dr. Holliday said the statute gives the board some flexibility in implementing its accountability system. If the same logic followed, the college readiness and student growth components would also have to be removed from the accountability system.

Donna Little, LRC staff, explained the amendments to the regulations. Representative Edmonds moved to accept the amendments to administrative regulations 703 KAR 5:200 and 703 KAR 5:230, and Representative Marzian seconded the motion.

Senator Winters distributed a document that included a statement on his motion to find the administrative regulations deficient. In accordance with KRS 13A.120, he moved to find administrative regulations 703 KAR 5:200 and 703 KAR 5:230 deficient, and Senator McGaha seconded the motion. Representative Edmonds asked to vote on his original motion. On a roll call vote, the motion to accept the amendments carried with 5 yeas, 0 nays, and 0 passes.

Ms. Little explained that subcommittees cannot approve administrative regulations, but can find them deficient. Senator Winters moved to find administrative regulations 703 KAR 5:200 and 703 KAR 5:230 deficient, and Senator McGaha seconded the motion. On a roll call vote, the motion failed with 3 yeas, 3 nays, and 0 passes.

Representative Edmonds moved to accept the administrative regulations, as amended, and Representative Marzian seconded the motion. The motion carried on a roll call vote of 5 yeas, 3 nays, and 0 passes.

### Office of Education Accountability's Proposed 2012 Study Agenda

Ms. Marcia Ford Seiler, Director, OEA, said pursuant to KRS 7.410, the Education Assessment and Accountability Review Subcommittee (EAARS) is to approve an annual study agenda for the OEA. After consideration of issues brought forward by OEA staff and other EAARS members, it was proposed that three studies be approved as the 2012

research agenda. These include: a review of the teacher shortage area, a review of virtual learning, and a review of data systems security. In addition to the three studies, OEA will prepare the annual *District Data Profiles*. She said because the state rankings change only slightly from one year to the next, OEA will produce the *Compendium of Education Rankings* only every two years. Therefore, the next Compendium will be produced in 2013.

Representative Marzian moved to accept OEA's 2012 study agenda, and Representative Edmonds seconded the motion. The motion carried by voice vote.

### Office of Education Accountability's Report "On-Behalf Payments"

Ms. Sabrina Olds, Research Analyst, OEA, said comprehensive accounting of state and district education revenue is necessary to provide policy makers and the public with accurate profiles of revenue at the national, state, and local levels. District annual financial reports (AFRs) are the primary source of data for district revenue and are also used to calculate total state revenue as reported to the federal government. She said this study identifies revenue that has not been reported on AFRs in the past and revenue inconsistently reported among districts. It focuses on two broad sources of revenue: on-behalf payments and local activity funds. On-behalf payments are those made by the KDE and other entities on behalf of local school districts. The majority of state on-behalf payments are for teacher retirement and health benefits. Local activity funds are revenues collected locally for functions such as textbook rental, athletics, and student clubs.

Ms. Olds said federal guidelines outlined by the National Center of Education Statistics (NCES) require reporting of both on-behalf payments and local activity fund revenue on district AFRs. She said KDE requires districts to report the majority of state on-behalf payments but does not require districts to report local activity funds, technology-related on-behalf payments, or debt service on-behalf payments made by the School Facilities Construction Commission (SFCC). In 2010, local activity funds totaled \$184 million. On-behalf payments totaled \$1.6 billion, \$120 million of which were technology and SFCC-related payments.

Ms. Olds said the study provides a more comprehensive accounting of total and state district revenue than has been provided in the past. In conducting the study, staff analyzed fiscal year 2006 through 2010 AFR data as well as additional data for revenue not reported or reported inconsistently on AFRs in those years. The study identifies two additional sources of revenue that are required by NCES but not reported or underreported on AFRs: federally donated commodities; and local contributions and donations from private sources such as parent teacher organizations and booster clubs. However, staff was not able to capture these revenues as comprehensive data are not available.

Ms. Olds concluded that the study also described in detail discrepancies or omissions identified by staff in the way that

districts are recording revenue on AFRs. Six recommendations are made on steps that can be taken by KDE to ensure more comprehensive and consistent reporting of revenue in the future. OEA has made similar recommendations in two previous reports. In response, KDE has updated the chart of accounts to mirror NCES standards but has not yet taken the steps necessary to ensure that total revenue is accurately recorded and reported. A complete list of the recommendations and the full report is in the meeting folder located in the Legislative Research Commission (LRC) library.

In response to a question from Representative Farmer, Ms. Olds said in addition to booster clubs, that several schools have obtained a gaming license to run bingo programs.

Responding to Senator Westwood, Ms. Olds said the KDE is supposed to acquire the technology to track the AFRs in the MUNIS system. She will send him the data that was collected in 2008 from the *School Fees and Dues* study. She noted a wealthy school district could receive more money because of having fewer free and reduced lunch students. A poorer district has to waive those requirements for students who receive free and reduced lunch and are unable to collect the revenue that wealthier districts get from school fees, dues, and activity funds. Ms. Seiler said it would be interesting to compare the booster club, Parent Teacher Organization (PTO), and Parent Teacher Association (PTA) revenues, but KDE has yet to address the issue.

In response to questions from Representative Belcher, Ms. Olds said the OEA recommended accounting changes to the KDE, but they have yet to implement due to cuts in staffing. She said there are no requirements to report earnings made by PTA/PTO's. However, the red book requires that booster clubs report to the high school or school entity what the AFR end-of-year revenue receipts and expenditures total.

**Office of Education  
Accountability's Report "Funding  
Equity"**

Ms. Pam Young, Research Analyst, OEA, said that in January 2008, the OEA presented the *2007 School Finance Report* to the EAARS. That report primarily focused on school districts' local and state revenues, but also included federal revenues, for fiscal year 1990 through 2006. This current report reflects the addition of data for fiscal years 2007 through 2010.

Ms. Young said the report begins with an explanation of the methodologies used to examine equity in school finance. Local and state combined revenues are then analyzed. The sources of school district revenue are then disaggregated, and the next three sections of the study discuss local, state, and federal revenues, respectively. The final revenue analysis section of the report discusses total district revenue.

Ms. Young said the equity of local and state revenue is examined using quintile analysis, coefficient of variation, Gini Coefficient, and Comparable Wage Index. OEA's finance reports have historically examined the level of equity among school districts in available revenue through

a method by which school districts are placed in five groupings, or quintiles, based upon the district's per-pupil local property assessment. The coefficient of variation is a measure of how much variation exists in districts' per-pupil funding. The Gini Coefficient measures the difference between the actual distribution of per-pupil revenue and a perfectly equitable revenue distribution. The Comparable Wage Index is a cost adjustment technique that uses the salaries of college graduates who are not educators to measure regional variations in wages. The resulting data can then be used by researchers to adjust district-level finance data to make resource comparisons across geographic areas. The equity of total revenue, including local, state, and federal is examined using the quintile analysis.

Ms. Young said while analyzing unadjusted dollars using the quintile analysis, the disparity in local and state (combined) revenue and total revenue between property-rich school districts and property-poor districts is now greater than it was pre-Kentucky Education Reform Act (KERA) in 1990. However, when revenues are adjusted for inflation, the equity gap is less in all years since KERA was enacted.

Ms. Young said two equity measures indicate that Kentucky has met or has been close to meeting equity standards much of the time since KERA was enacted. While the magnitude of the equity gap varies depending upon the method used, all methods consistently show that the equity gap for local and state revenue has been widening in recent years with a slight narrowing in fiscal year 2009.

Ms. Young said the quintile analysis used for total revenue, including local, state, and federal, indicates a slight decrease in the equity gap for fiscal years 2009 and 2010. The quintile analysis of total revenue also shows that in fiscal year 2010, the unadjusted equity gap was 12 percent above the 1990 level, but the inflation-adjusted equity gap was 34 percent below the 1990 level. The complete report is in the meeting folder located in the LRC library. Ms. Young will be available to meet with individual legislators if there are further questions.

**Office of Education  
Accountability's Report "Career and  
College Readiness"**

Dr. Ken Chilton, Research Analyst, OEA, said the P-20 database will permit researchers to gauge the success of Senate Bill (SB) 1, enacted in the 2009 regular session of the General Assembly. He noted this is the first time that career and college readiness has been included in the overall measurements of education effectiveness. SB 1 required the KDE, the Kentucky Board of Education (KBE), the Council on Postsecondary Education (CPE), and other stakeholders to cooperate in defining career and college readiness standards. Postsecondary institutions were mandated to increase college completion rates and to decrease the percentage of students who need remedial courses.

Dr. Chilton said the arduous process of interagency data collection and data cleaning needed to produce an accurate initial P-20 cohort is leading to proposed changes in agency level data quality checks. Future P-20 cohorts will

include more variables that enable policy makers to track students and their career or postsecondary outcomes. He noted the 2009 cohort could not reliably track students to out-of-state postsecondary institutions, independent and private colleges, the workforce, and the military.

Dr. Chilton said for this study, staff were able to conduct analyses of college readiness by student gender and race, enrollment type (full-time and part-time), and university type (two-year public and four-year public). For each group, an overall college readiness measure was determined. He said overall college readiness is defined as the percentage of students who were college ready at the time of college enrollment, either by ACT exams or university recognized placement tests such as Compass, Kentucky Online Testing placement, or the College Level Examination Program (CLEP).

Dr. Chilton said Kentucky uses the CPE's ACT benchmarks that are slightly lower than the readiness scores recommended by ACT. The data show that the different benchmarks, especially in math, make a significant difference in the percentage of high school graduates deemed college ready. The CPE concluded that a lower math benchmark enables more college students to take credit-bearing math classes instead of enrolling students in developmental math classes that do not yield academic credit. Majors in science, technology, engineering, and math must meet higher math benchmark scores to enroll in high level math classes such as Algebra and Calculus.

Dr. Chilton said overall, the 2009 cohort analysis confirms much of what is already known about college readiness. Students enrolled in four-year public institutions had much higher rates of college readiness than two-year public enrollees. The analyses show that females enrolled in postsecondary institutions at higher rates than males, despite higher college readiness levels reported for males. Black students had significantly lower college readiness levels than white students. As additional years of college data are accumulated in the P-20 data set, additional analysis on this cohort can be conducted, providing data on how many students complete their programs and earn degrees.

Dr. Chilton said one concern raised by the report is the need to develop a cohort career and college readiness rate. If career and college readiness is measured only in the graduation year, many students who dropped out of school between their freshmen and senior years are not captured in the measure. He concluded that this report found that nearly one-quarter of the 2009 graduating cohort fell out of the pipeline since their freshmen year. In order to provide a more comprehensive view of college and career readiness in the Commonwealth, the current high school graduate college and career measure should be augmented with a cohort-level readiness rate.

Senator Westwood is hoping the WorkKeys data will provide a more reliable number of students who are college and career ready. He said business and industry has communicated the vast need across the Commonwealth to have young people prepared and trained to enter

the workforce and help solve Kentucky's economic problems.

In response to questions from Senator Neal, Dr. Chilton said CPE does compile high school feedback reports. OEA does not have the ability to produce specific school reports based on the data provided in the P-20 database.

Mr. Brown said KDE has organized a group that will travel across the Commonwealth in the upcoming year to observe best practices at specific schools. Senator Neal would like to be included in the planning of KDE's group and assist in determining the benchmarks for the project.

Due to the lack of a quorum, Senator Westwood accepted the three OEA reports.

**Adjournment**

With no further business before the committee, the meeting adjourned at 12:10 PM.

**GOVERNMENT CONTRACT  
REVIEW COMMITTEE**

**Committee Minutes**

December 16, 2011

**Call to Order and Roll Call**

The Government Contract Review Committee met on Friday, December 16, 2011, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll and Paul Hornback; Representatives Jesse Crenshaw, and Brent Housman.

**Guests:** Paul Gannoe, David Waldner, Nikki Begley, Kim Miller, Bill Harris, Angie Martin, Maurice Brown, Pete Goodmann and Ron Price.

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

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

The secretary read correspondence from Representative Brent Yonts to Chairman Horlander advising he will be unable to attend the December 2011 meeting due to his participation in a Civil War dedication ceremony as Chair of the Civil War Sesquicentennial.

**NOVEMBER 2011 DEFERRED  
LIST**

A motion was made by Senator Carroll to approve the following contract: NORTHERN KENTUCKY UNIVERSITY, 2012-594, Athletic Staffing & Consulting, LLC; NORTHERN KENTUCKY UNIVERSITY, 2012-600, Isaacson Miller; DEPARTMENT OF EDUCATION, 1200000459, National Academy Foundation. Representative Housman seconded the motion, which passed without objection.

**DEFERRED ITEMS**

A motion was made by Senator McGaha to defer the following contracts to the January 2012 meeting of the committee: WESTERN KENTUCKY UNIVERSITY, 111249, Validus Ventures. Senator Carroll seconded the motion,



which passed without objection.

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

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

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

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

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**CORRECTIONS, DEPARTMENT OF:**

Big Brothers Big Sisters of Kentuckiana Incorporated, 1200000834.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Nirbhay N. Singh, 1200000560.

**DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:**

TRK, Limited, 1200000829.

**EDUCATION, DEPARTMENT OF:**

Caveon, LLC, 1200000745.

**EDUCATIONAL TELEVISION, KENTUCKY:**

Broadcast Tower Technologies Incorporated, 1200000429.

**FAIR BOARD:**

Scarlett W. Mattson, 1200000860; David H. Snowden, 1200000862.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

EOP Architects, PSC, 1200000525; Ross Tarrant Architects Incorporated, 1200000613.

**KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:**

Tier 1 Performance Solutions, LLC, 499.

**LEGISLATIVE RESEARCH COMMISSION:**

Anderson Economic Group, LLC, 12-11.

**TRANSPORTATION CABINET:**

Bacon Farmer Workman Engineering & Testing Incorporated, 1200000781; DLZ Kentucky Incorporated, 1200000786; URS Corporation, 1200000826; American Engineers Incorporated, 1200000871; RH & Associates, 1200000893.

**UNIVERSITY OF KENTUCKY:**

CMTA Incorporated, A121090; Scientific Certification Systems, K12-134.

**UNIVERSITY OF LOUISVILLE:**

K. Norman Berry & Associates, PLLC, 12-030.

**WESTERN KENTUCKY UNIVERSITY:**

FranklinCovey Client Sales Incorporated, 111244.

**WORKER’S COMPENSATION FUNDING COMMISSION:**

Blue & Company, LLC, 1200000516.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

Amec Earth & Environmental, 0800008129; Stantec Consulting Services Incorporated, 0800008908; Ronald Richard Cicerello, 1100002224.

**EDUCATION, DEPARTMENT OF:**

National Center for Family Literacy, 1000003014.

**FINANCE AND ADMINISTRATION CABINET:**

Goldberg & Simpson, PSC, 1100001356.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Voelker Blackburn Niehoff Architects, 0900011541; Grossman Chapman Klarer Architects Incorporated, 0900012401; K. Norman Berry Associates, 1000000804; GRW Engineers Incorporated, 1000000839; Myers Jolly Architects, 1000000840; Amec Environment & Infrastructure Incorporated, 1000000872; Brown & Caldwell, 1000001566; John Milner Associates Incorporated, 1100000253; Stantec Consulting Services Incorporated, 1100001971; KZF Design Incorporated, C-05199876-1; Barnette Bagley Architects, C-05256613-1.

**KENTUCKY HOUSING CORPORATION:**

Multi, 2012-8.

**TRANSPORTATION CABINET:**

Quest Engineering Incorporated, 0700004974; HDR Engineering Incorporated, 0700005909; WMB Incorporated, 0800010585; HNTB Corporation, 0900011447; URS Corporation, 1000000126; Lochner H W Incorporated Consulting, 1200000344; Public Financial Management Incorporated, 1200000454; Presnell Associates Incorporated d/b/a QK4, C-01051835-3.

**UNIVERSITY OF KENTUCKY:**

EOP Architects, A101120; Jeffrey L. Ashley & Associates, LLC, K11-171.

**UNIVERSITY OF LOUISVILLE:**

CMTA Consulting Engineers Incorporated, 11-033; Arrasmith, Judd, Rapp, Chovan Incorporated, 11-044; Red7e, 11-092.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

University of Kentucky Research Foundation, 1200000713; Franklin County Fiscal Court, 1200000715.

**DEPARTMENT FOR NATURAL RESOURCES:**

University of Kentucky Research Foundation, 1200000603; Lincoln County Soil Conservation District, 1200000714; Multi, 1200000799.

**EDUCATION, DEPARTMENT OF:**

Gallatin County Board of Education, 1200000336; Madison County Board of Education, 1200000509; Teach for America, 1200000512; Martin County Board of Education, 1200000693; Kentucky Valley Education Cooperative, 1200000888; Kentucky Valley Education Cooperative, 1200000895.

**INFRASTRUCTURE AUTHORITY:**

City of Sturgis, 1200000797; Knott County Fiscal Court, 1200000866; Knott County Fiscal Court, 1200000867; Mountain Water District, 1200000926; City of Providence, 1200000927.

**KY HORSE RACING AUTHORITY:**

University of Kentucky Research Foundation, 1200000638.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

Floyd County Fiscal Court, 1200000386; City of Providence, 1200000721; City of Pikeville, 1200000748; City of Burgin, 1200000782; Henderson County Fiscal Court, 1200000804; City of Richmond, 1200000824; City of Paducah, 1200000914.

**PERSONNEL-OFFICE OF THE SECRETARY:**

Finance and Administration Cabinet, 1200000647.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**AGRICULTURE, DEPARTMENT OF:**

Multi, 0900011666; Kentucky FFA Foundation Incorporated, 1100002439; Kentucky 4-H Foundation, 1100002440.

**COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:**

University of Kentucky Research Foundation, 1100002383.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

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

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

Banklick Watershed Council, 0700006624.

**DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:**

Jefferson County Board of Education, 1100000493; Barren County Board of Education, 1100000496.

**DEPARTMENT FOR PUBLIC HEALTH:**

University of Kentucky Research Foundation, 1100002287.

**EDUCATION, DEPARTMENT OF:**

Jefferson County Board of Education, 1000002717; Indiana University, 1000003642; Kentucky Educational Development Corporation, 1100002265; Spencer County Board of Education, 1100002266; Bourbon County Board of Education, 1100002267; Mason County Board of Education, 1100002596.

**MILITARY AFFAIRS, DEPARTMENT OF:**

Fort Knox Schools Food Service, 1100000569.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

Letcher County Fiscal Court, 0600002936; City of Hazard, 1000000859; Whitley County Fiscal Court, 1000001046; Leslie County Fiscal Court, 1000003078; Ohio County Fiscal Court, 1100001024; Muhlenberg County Fiscal Court, 1100001178; Muhlenberg County Fiscal Court, 1100001179; Pike County Fiscal Court, 1100001183; Lawrence County Fiscal Court, 1100001215; City of Martin, 1100001306; Leslie County Fiscal Court, 1100001325; Owsley County Fiscal Court, 1100001339; Leslie County Fiscal Court, 1100001407; Letcher County Fiscal Court, 1100001539; Consolidated Health Systems d/b/a Highland Health System, 1100001553; Pike County Fiscal Court, 1100001557; Hancock County Fiscal Court, 1100001620; Menifee County Sheriff’s Office, 1100001768; Pike County Fiscal Court, 1100001930; Knott County Fiscal Court, 1100002299; Knott County Fiscal Court, 1100002301; Knott County Fiscal Court, 1100002332; Leslie County Fiscal Court, 1100003083; Pike County Fiscal Court, 1200000298; City of Clay, 1200000599.

**TRANSPORTATION CABINET:**

University of Kentucky Research Foundation, 1100002833; University of Kentucky Research Foundation, 1100002838.

**VETERANS AFFAIRS, DEPARTMENT OF:**

Volunteers of America of Kentucky Incorporated, 1100001042.

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

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Fairmont Press d/b/a AEE Energy Seminars, 1200000789. Paul Gannoe discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Hornback seconded the motion, which passed with Representative Housman voting NO.

**VETERANS AFFAIRS, DEPARTMENT OF:**



ARH Regional Medical Center, 1100002478; ARH Regional Medical Center, 1100002481. Nikki Begley and Kim Miller discussed the contracts with the committee. A motion was made by Senator McGaha for staff to draft a letter to ARH from GCRC requesting ARH to respect the legislative and contracting processes. Representative Housman seconded the motion, which passed unanimously. A motion was made by Senator McGaha to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed unanimously.

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

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

TetraTech Incorporated, 0700003392; Amec Environment & Infrastructure Incorporated, 1000001118; Murphy & Graves Architects, 1100001469. Paul Gannoe and David Waldner 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 with Representative Housman voting NO.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Rosser International Incorporated, 0900012990. Paul Gannoe 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.

**UNIVERSITY OF KENTUCKY:**

Huron Consulting Group, K12-110. Bill Harris and Angie Martin 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.

**THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10,000 AND UNDER WAS SELECTED FOR FURTHER REVIEW:**

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:

Tiffany Michelle Parsons, 1200000663. Maurice Brown discussed the contract with the committee. A motion was made by Senator Hornback to DISAPPROVE the contract. Senator Carroll seconded the motion, which passed unanimously.

**THE FOLLOWING MEMORANDUM OF AGREEMENT AMENDMENT WAS SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

University of Kentucky Research Foundation, 1100001694. Pete Goodmann and Ron Price discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

**EXEMPTION REQUESTS**

THE COMMERCIAL MOBILE RADIO SERVICE EMERGENCY

**TELECOMMUNICATIONS BOARD (CMRS):**

The CMRS Board requested an exemption from the committee's routine review process for all Purchase Orders (Master Agreements) issued as instruments of obligation for grant funds awarded by the CMRS Board and will provide quarterly reports. A motion was made by Senator McGaha to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

**THE OFFICE OF HOMELAND SECURITY:**

The Office of Homeland Security requests an exemption from committee's routine review process for all agreements issued as instruments of obligation for funds under State and Federal Homeland Security Grant Programs and will provide quarterly reports. A motion was made by Senator McGaha to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

**DEPARTMENT OF MILITARY AFFAIRS DIVISION OF EMERGENCY MANAGEMENT:**

The Department of Military Affairs Division of Emergency Management requests an exemption from committee's routine review process for FEMA funded MOAs and Grants for declared emergencies and will provide the committee with quarterly reports. A motion was made by Senator McGaha to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

**ENERGY AND ENVIRONMENT CABINET:**

The Energy and Environment Cabinet requests a continued exemption from two year contracting restrictions for Nonpoint Source MOAs and PSCs; 100 percent federally funded. A motion was made by Senator McGaha to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

**ENERGY AND ENVIRONMENT CABINET:**

The Energy and Environment Cabinet requests a continued exemption from two year contracting restrictions for the remaining phases of the Map Modernization Management Support and Risk Mapping Grant; 100 percent federally funded. A motion was made by Senator McGaha to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

**THE COUNCIL ON POSTSECONDARY EDUCATION:**

The Council on Postsecondary Education requests a continued exemption from two year contracting restrictions of the Biennial Time Limit for 100 percent Federally Funded Grant Agreements including GEAR UP, Improving Educator Quality (IEQ) and Kentucky Adult Education. A motion was made by Senator McGaha to approve the request to December 31, 2012. Senator Carroll seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:55 AM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

January 10, 2012

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, January 10, 2012, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Paul Hornback; Representatives Jesse Crenshaw, Brent Housman, and Brent Yonts.

Guests: Wally Skiba, Ken Walker, David Holcomb, Anne Swinford, Stephen Hall, Betsy Dunnigan, Kevin Mudd, Tony Hatton, Chuck Stribling, Joe Wilkins, Tom Stratton, Micheal Dailey, Renee Scott, Joan Graham, Don Speer, and Sherry Bray.

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

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

**DEFERRED ITEMS**

A motion was made by Representative Housman to defer the following contracts to the February 2012 meeting of the committee: UNIFIED PROSECUTORIAL SYSTEM, 1200000633, Police Technical, LLC; WESTERN KENTUCKY UNIVERSITY, 111249, Validus Ventures. Representative Yonts seconded the motion, which passed without objection.

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

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

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

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

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

CORRECTIONS, DEPARTMENT

OF:

The Kentucky Foundation for Women Incorporated, 1200000924.

**DEPARTMENT FOR NATURAL RESOURCES:**

Tetra Tech Incorporated, 1200000911.

**DEPARTMENT FOR PUBLIC HEALTH:**

Houchens Food Group Incorporated, 1200000625.

**ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:**

3M Company, 1200000779.

**EDUCATIONAL TELEVISION, KENTUCKY:**

Steven Shaw, 1200001028.

**FINANCE AND ADMINISTRATION CABINET:**

Pacific Technologies Incorporated, 1200000661.

**FISH AND WILDLIFE, DEPARTMENT OF:**

Amec Earth & Environmental, 1200000729; Copperhead Environmental Consulting Incorporated, 1200000819.

**JUVENILE JUSTICE, DEPARTMENT OF:**

Commonwealth Research Consulting Incorporated, 1200000818.

**KY HORSE RACING AUTHORITY:**

HFL Sport Science Incorporated, 1200000814.

**MOREHEAD STATE UNIVERSITY:**

BerryDunn, 12-018.

**TRANSPORTATION CABINET:**

Strand Associates Incorporated, 1200000958; EA Partners, PLC, 1200000960; HMB Professional Engineers Incorporated, 1200000964; HMB Professional Engineers Incorporated, 1200000966; Vaughn & Melton Consulting Engineers (Kentucky) Incorporated, 1200001015; J M Crawford & Associates, 1200001090.

**UNIVERSITY OF KENTUCKY:**

Brown + Kubican, A121100; AECOM Services of DC, PSC, A121110; JDR Quest & Company, K12-135.

**UNIVERSITY OF LOUISVILLE:**

360Factor Consulting, LLC, 12-026; AON, 12-035.

**WESTERN KENTUCKY UNIVERSITY:**

Non-Profit Leadership, LLC, 111247; McDonald Transit Associates Incorporated, 111248.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:**

Dean Dorton Allen Ford, PLLC, 1100001651.

**DEPARTMENT FOR AGING AND INDEPENDENT LIVING:**

Eckman Freeman & Associates, 1000001774.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Kentucky Self-advocates for Freedom Incorporated, 1000001543.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Specialized Alternatives for Families & Youth of Kentucky, 1000002528.



DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
Stantec Consulting Services Incorporated, 1100002226; Kenvirons Incorporated, 1100002227; Tetra Tech Incorporated, 1100002229.

DEPARTMENT FOR PUBLIC HEALTH:  
Planned Parenthood of Kentucky Incorporated, 1100002004.

EMBALMERS AND FUNERAL HOME DIRECTORS, BOARD OF:  
Kathleen Kearney Schell, Attorney-at-Law, 1100001229.

FINANCE AND ADMINISTRATION CABINET:  
Multi, 1100000187; Cunningham Lindsey U.S. Incorporated, 1200000580.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:  
Omni Architects, 0600000391; McGhee Engineering Incorporated, 0600002824; Brandstetter Carroll Incorporated, 1000000845; CMW Incorporated, 1000000976; Stantec Consulting Services Incorporated, 1100001637; Myers Jolly Architects, 1200000117; Staggs & Fisher Consulting Engineers Incorporated, 1200000308; Stantec Consulting Services Incorporated, C-01187237; Ross Tarrant Architects, C-06082726.

PERSONNEL-OFFICE OF THE SECRETARY:  
Covington & Burling, 1000002501; Winner Resources, LLC, 1000003320.

TRANSPORTATION CABINET:  
E A Partners, PLC, 0600001849; Florence and Hutcheson, 0800007989; J M Crawford & Associates Incorporated, 0800010551; Palmer Engineering Company, 0800010558; HMB Professional Engineers Incorporated, 1000000851; T H E Engineers Incorporated, 1000001409; Strand Associates Incorporated, 1100000500; Florence & Hutcheson, 1100001049; W M B Incorporated, C-00053395-3; American Engineers Incorporated, C-01345595-1; American Engineers Incorporated, C-03060711-1.

UNIVERSITY OF LOUISVILLE:  
Lockett & Farley, 11-040.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:  
CORRECTIONS, DEPARTMENT OF:  
University of Kentucky Research Foundation, 1200000711.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
Cumberland Valley RC&D Council Incorporated, 1200000609; Regional Water Resource Agency, 1200000749.

DEPARTMENT FOR PUBLIC HEALTH:  
Southside Pic Pac Incorporated, 1200000587; TMM Groceries d/b/a South Shore Foodland, 1200000589; Longs Pic Pac, 1200000794.

ENERGY AND ENVIRONMENT CABINET, OFFICE OF THE SECRETARY:  
City of Whitesburg, 1200000943.

GOVERNORS OFFICE FOR TECHNOLOGY:  
Green River Area Development District, 1200000859.

MILITARY AFFAIRS,

DEPARTMENT OF:  
City of Muldraugh, 1200000857.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:  
Breathitt County Fiscal Court, 1200000705; Elliott County Fiscal Court, 1200000771; Jackson Independent School District, 1200000917; City of Sturgis, 1200000945; Knox County Fiscal Court, 1200000969; Breathitt County Fiscal Court, 1200000971; Leslie County Fiscal Court, 1200000977; Leslie County Fiscal Court, 1200000980; Leslie County Fiscal Court, 1200000981; Webster County Fiscal Court, 1200000982; Harlan County Fiscal Court, 1200000988; Harlan County Fiscal Court, 1200000989; Harlan County Fiscal Court, 1200000991; Harlan County Fiscal Court, 1200000992; Henderson County Fiscal Court, 1200000993; Ohio County Fiscal Court, 1200000995; Harlan County Fiscal Court, 1200000997; Harlan County Fiscal Court, 1200000998; Adair County Fiscal Court, 1200001041; Henderson County Fiscal Court, 1200001097; City of Morehead, 1200001129.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:  
AGRICULTURE, DEPARTMENT OF:  
Multi, 0900011602; Multi, 0900011666; Murray State University, 1100002784; UK Research Foundation, 1100002785.

DEPARTMENT FOR AGING AND INDEPENDENT LIVING:  
Purchase Area Development District, 1100002097; Pennyryle Area Development District, 1100002104; Bluegrass Area Development District Title Iii, 1100002112; Kentuckiana Regional Planning, 1100002116; Barren River Area Development District, 1100002163; Northern Kentucky Area Development District, 1100002166; Big Sandy Area Development District, 1100002174; Kentucky River Area Development District, 1100002178; Audubon Area Community Services Incorporated, 1100002188; Licking Valley CAA, 1100002189.

DEPARTMENT FOR COMMUNITY BASED SERVICES:  
University of Louisville Research Foundation, 1000003637; Kentucky Communities Economic Opportunity Council Incorporated, 1100001859.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
Louisville Metro Waste, 1100001571.

DEPARTMENT FOR FAMILY RESOURCE CENTERS AND VOLUNTEER SERVICES:  
Morehead State University, 1000003914; Northern Kentucky University Research Foundation, 1100000395.

DEPARTMENT FOR PUBLIC HEALTH:  
Food World Incorporated, 1100000328; University of Kentucky Research Foundation, 1100002149; Four Rivers Behavioral Health, 1100002215.

EDUCATION, DEPARTMENT OF:  
University of Kentucky, 1100000212; Ohio Valley Educational Cooperative, 1100001845; Kentucky

Valley Education, 1100002268; Pike County Board of Education, 1100002592; Western Kentucky University Research Foundation, 1100002777.

FISH AND WILDLIFE, DEPARTMENT OF:  
The University of Georgia, 1200000391; Kentucky Medical Services Foundation Incorporated, 1200000677.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:  
McCreary County Fiscal Court, 0700005807; Franklin County Fiscal Court, 0800010790; City of Monticello, 0900012126; City of Salyersville, 0900012608; Carter County Fiscal Court, 0900013005; Webster County Fiscal Court, 1000000399; City of Springfield, 1000000473; City of Barlow, 1000000492; Barren County Fiscal Court, 1000000493; Housing Authority of Bowling Green, 1000000590; City of Barlow, 1000000700; Madison County Fiscal Court, 1000000705; City of Paris, 1000000831; City of Jackson, 1000000917; City of Pikeville, 1000000918; City of Fulton, 1000000965; City of Newport, 1000001000; Marshall County Fiscal Court, 1000001167; City of Greenup, 1000001419; City of Fulton, 1100000773; Pulaski County Fiscal Court, 1100001393; City of Wheelwright, 1100001527; Madisonville Community College, 1100001690; City of Coal Run Village, 1100002895; Magoffin County Health Department, 1100003091; Knox County Fiscal Court, 1200000272.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:  
EASTERN KENTUCKY UNIVERSITY:  
Access Wellness Group, 12-056. Wally Skiba discussed the contract. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed with Senator McGaha voting NO.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM:  
Association of Community College Trustees Incorporated, 500; Hanna Resource Group, LLC, 501. Ken Walker and David Holcomb discussed the contracts. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:  
COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:  
University Medical Associates, 1000002504. Anne Swinford discussed the contract. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:  
The Chyron Group, LLC, 1000001456. Stephen Hall, Betsy

Dunnigan, and Kevin Mudd discussed the contract. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:  
AMS Temporaries Incorporated, 1000002836; Crown Services Incorporated, 1000002837; Guardian Angel Staffing Agency, 1000002838; Guardian Healthcare Providers, 1000002839; Nursestaffing Group Kentucky, LLC, 1000002840. Stephen Hall, Betsy Dunnigan, and Kevin Mudd discussed the contracts. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed unanimously.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
Chase Environmental Group, 1100000056. Tony Hatton discussed the contract. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENT WERE SELECTED FOR FURTHER REVIEW:  
DEPARTMENT OF WORKPLACE STANDARDS:  
Department of Military Affairs, 1200000885. Chuck Stribling and Joe Wilkins discussed the contract. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF:  
Kentucky State University, 1200000892; University of Kentucky Research Foundation, 1200000910. Tom Stratton, Michael Dailey, and Renee Scott discussed the contracts. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:  
DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:  
University of Kentucky Research Foundation, 1000003584. Stephen Hall, Betsy Dunnigan, Kevin Mudd, Joan Graham, and Don Speer discussed the contract. A motion was made by Representative Yonts to defer the contract to the February 2012 meeting of the committee. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS FOR \$50,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:  
STATE POLICE, DEPARTMENT OF:  
Seven Counties Services,

1200000737; Allen County Fiscal Court, 1200000740; River Valley Behavioral Health, 1200000850. Sherry Bray discussed the contracts. A motion was made by Senator Gibson to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

**EXEMPTION REQUESTS**  
**CABINET FOR HEALTH AND FAMILY SERVICES:**

The Cabinet for Health and Family Services (CHFS), Kentucky Commission on Community Volunteerism and Services (KCCVS) requests and exemption from two year contracting restrictions for AmeriCorps program contracts; 100 percent federally funded. A motion was made by Representative Yonts to approve the request to December 31, 2012. Representative Housman seconded the motion, which passed unanimously.

**CABINET FOR HEALTH AND FAMILY SERVICES:**

The Cabinet for Health and Family Services (CHFS), requests continued exemption for all Local Health Department Memoranda of Agreements and Amendments from the committee's routine review process and will provide quarterly reports. A motion was made by Representative Yonts to approve the request to December 31, 2012. Representative Housman seconded the motion, which passed unanimously.

**ENERGY AND ENVIRONMENT CABINET:**

The Energy and Environment Cabinet, Department for Energy Development and Independence requests an exemption from two year contracting restrictions for Tennessee Valley Authority funding contracts; 100 percent federally funded. A motion was made by Representative Yonts to approve the request to December 31, 2014. Representative Housman seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:50 AM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

Committee Minutes  
February 14, 2012

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, February 14, 2012, at 3:35 PM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Paul Hornback; Representatives Jesse Crenshaw, Brent Housman, and Brent Yonts.

**Guests:** Allyson Taylor, Travis Powell, Robert King, Paul Gannoe, David Holcomb, Paul Czarapata, Philip Brashear, Robert Gipe, Tim Burcham, Mike Hill, David Steele, Kevin Damron, Bill Harris, Mitchell Payne, David Martin, Steven Kelly, Kristen Branscum, Paula Golf, Holly Ackerman, Cindy Parker, Laura Arnold, Charlie Harman, and Karla Tipton.

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

A motion was made by Senator McGaha to approve Minutes of the January 2012 meeting of the committee. Senator Hornback seconded the motion, which passed without objection.

**DECEMBER DEFERRED ITEM**

A motion was made by Representative Yonts to approve the following contract: WESTERN KENTUCKY UNIVERSITY, 111249, Validus Ventures. Senator McGaha seconded the motion, which passed without objection.

**JANUARY DEFERRED ITEMS**

A motion was made by Representative Yonts to approve the following contract: DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES, 1000003584, University of Kentucky Research Foundation. Senator McGaha seconded the motion, which passed without objection.

**UNIFIED PROSECUTORIAL SYSTEM:**

Police Technical, LLC, 1200000633. Allyson Taylor discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract reviewed. Senator Hornback seconded the motion, which passed unanimously.

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

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

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

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

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS:**

Little Mendelson, 1200001333; Fisher & Phillips, 1200001334.

**DEPARTMENT FOR INCOME SUPPORT:**

Paul Anthony Ebben, PsyD, 1200001011; Rebecca B. Luking, 1200001013.

**ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:**

Hausner Hard Chrome, 1200001115; AGC Automotive Americas Company, 1200001128.

**FINANCE AND ADMINISTRATION CABINET:**

Cunningham Lindsey U.S. Incorporated, 1100003015-1.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Wells Engineering, P.S.C., 1200001198.

**FISH & WILDLIFE DEPARTMENT OF:**

Southwick Associates Incorporated, 1200001133.

**KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:**

Blue Stone International, LLC, 502. **MURRAY STATE UNIVERSITY:** Hastings & Chivetta Incorporated, 016-12.

**SECRETARY OF STATE, OFFICE OF THE:**

Multi, 1200001359. **STATE POLICE, DEPARTMENT OF:**

Kelly McCloud, 1200001087. **TRANSPORTATION CABINET:**

Bacon Farmer Workman Engineering & Testing Incorporated, 1200001145; Lochner H W Incorporated Consulting, 1200001193; J M Crawford and Associates Incorporated, 1200001322; Bacon Farmer Workman Engineering & Testing Incorporated, 1200001327.

**UNIVERSITY OF KENTUCKY:** Triad Technology Partners, LLC, K12-136; S1 IT Solutions, K12-137.

**UNIVERSITY OF LOUISVILLE:** GEM Engineering Incorporated, 12-043.

**WESTERN KENTUCKY UNIVERSITY:**

Demand Engine Incorporated, 111246; Grant Writers Seminars & Workshops, LLC, 111250.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:**

Rudloff & Rudloff, 1000003141. **CORRECTIONS, DEPARTMENT OF:**

Mental Health America of Northern Kentucky, 1000003811.

**DEPARTMENT FOR AGING & INDEPENDENT LIVING:**

Experience Works, 1000003127. **DEPARTMENT FOR BUSINESS DEVELOPMENT:**

Finn Weisse, 1100003046. **DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

Tetra Tech Incorporated, 0600002004. **DEPARTMENT FOR NATURAL RESOURCES:**

Tee Engineering Co Incorporated, 1100000440.

**DEPARTMENT FOR PUBLIC HEALTH:**

St. Elizabeth Medical Center, 1100000269.

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:**

Tiffany Michelle Parsons, 1200000663.

**EASTERN KENTUCKY UNIVERSITY:**

Pappas Consulting Group Incorporated, 12-054.

**FINANCE AND ADMINISTRATION CABINET:**

**ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Omni Architects, 0600000391; Roger Cunningham Consultants, 0700006169; CDP Engineers Incorporated, 0800010316; Collignon & Nunley, 0900011347; Rosser International Incorporated, 0900012990; Luckett & Farley Architects Engineers & Construction Managers Incorporated, 1000000498; Linebach Funkhouser Incorporated, 1000001607; HMB Professional Engineers Incorporated, 1000001609; URS Corporation, 1100000073; Omni Architects, 1100001498; Peck Flannery Gream Warren, C-04544176-1.

**MEDICAL LICENSURE, BOARD OF:**

Multi, 1000002739. **PERSONNEL-OFFICE OF THE SECRETARY:**

Blue & Company, LLC, 1000002245. **TRANSPORTATION CABINET:**

Presnell Associates Incorporated d/ b/a QK4, C-99059032-5.

**UNIVERSITY OF KENTUCKY:**

Murphy & Graves Architects, A101110; Ross Tarrant Architects, A111060; Paladin Incorporated, A121060; Fellon-McCord & Associates, LLC, K12-106.

**UNIVERSITY OF LOUISVILLE:**

JRA Architects Incorporated, 11-041.

**WESTERN KENTUCKY UNIVERSITY:**

Multi, 101238; School Improvement Network, LLC, 111223; Affinity Consulting Group, 111242.

**WORKFORCE INVESTMENT, OFFICE OF:**

Landor Associates, 1200000304.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

University of Kentucky Research Foundation, 1000003584-1.

**EDUCATION, DEPARTMENT OF:**

Jefferson County Board of Education, 1100002272.

**MILITARY AFFAIRS, DEPARTMENT OF:**

Multi, 1200000537. **OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

City of Prestonsburg, 1200000940; Coal Fields Regional Independent Authority, 1200000963; Whitley County Fiscal Court, 1200000994; Union County Fiscal Court, 1200001040; City of West Liberty, 1200001059; Laurel County Fiscal Court, 1200001197; Lee County Fiscal Court, 1200001258; Ohio County Fiscal Court, 1200001268; Knott County Fiscal Court, 1200001271; Johnson County Fiscal Court, 1200001277; Martin County Fiscal Court, 1200001279; Johnson County Fiscal Court, 1200001280; Martin County Economic Development Authority, 1200001281; Johnson County Fiscal Court, 1200001287.

**STATE POLICE, DEPARTMENT OF:**



Bluegrass Regional MHMR Board, Incorporated, 1200000851.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS:**

Kentucky River Community Care Incorporated, 1100003120.

**AGRICULTURE, DEPARTMENT OF:**

Multi, 0900011602; Multi, 0900011666.

**DEPARTMENT FOR AGING & INDEPENDENT LIVING:**

Green River Area Development, 1100002110; Lake Cumberland Area Development District, 1100002130; Lincoln Trail Area Development District, 1100002150; Cumberland Valley Area Development District, 1100002161; Fivco Area Development District, 1100002164; Gateway Area Dev District, 1100002181; Buffalo Trace Area Development District, 1100002182.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

Eastern Kentucky University, 1100002183.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Kentucky Domestic Violence Association, 1100001252; NKCAC Incorporated, 1100001868; Community Action of Southern Kentucky Incorporated, 1100001870; Community Action Kentucky Incorporated, 1100001888; Community Action Kentucky Incorporated, 1100001888.

**DEPARTMENT FOR PUBLIC HEALTH:**

Department of Military Affairs Kentucky Community Crisis Board, 1000001632; Greater Louisville Medical Society, 1100002300; University of Kentucky Research Foundation, 1100002877.

**EDUCATION, DEPARTMENT OF:**

Lee County Board of Education, 1000002724; Berea Independent Board of Education, 1200000085; Beechwood Independent Board of Education, 1200000086; Western Kentucky Educational Cooperative, 1200000087.

**FISH & WILDLIFE, DEPARTMENT OF:**

Auburn University College of Veterinary Medicine, 1200000712.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

Martin County Fiscal Court, 0800010600; Martin County Economic Development Authority, 1000002152; Martin County Fiscal Court, 1100001195; Hancock County Fiscal Court, 1100001620; Ohio County Fiscal Court, 1200000970.

**WORKFORCE INVESTMENT, OFFICE OF:**

Shelby County Board of Education, 1000002123; Kentuckiana Works/Workforce Investment Board, 1000003032; Western Kentucky University, 1100003049.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER**

**REVIEW:**

**FINANCE AND ADMINISTRATION CABINET:**

National Center for Higher Education Management Services, 1200001297. Travis Powell and Robert King discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed with Senator McGaha, Senator Hornback, and Representative Housman voting NO.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**

Paladin Incorporated, 1200001144. Paul Gannoe discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with Representative Housman voting NO.

**KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:**

Appalshop Incorporated, 503. David Holcomb, Paul Czarapata, Philip Brashear, Robert Gipe, and Tim Burcham discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed with Senator Hornback voting NO.

**KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:**

Summit 7 Systems, 504; Solaritech d/b/a The Solarity Group, 505. David Holcomb, Paul Czarapata, Philip Brashear, Robert Gipe, and Tim Burcham discussed the contracts with the committee. A motion was made by Senator McGaha to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

**TRANSPORTATION CABINET:**

URS Corporation, 1200001167. Mike Hill, David Steele, and Kevin Damron discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

**UNIVERSITY OF KENTUCKY:**

Witt/Kieffer, K12-138. Bill Harris discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

**UNIVERSITY OF LOUISVILLE:**

Laureate Consulting Group Limited d/b/a Chartwell Business Advisors Limited, 12-042. Mitchell Payne and David Martin discussed the contract. A motion was made by Representative Housman to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

**THE FOLLOWING PERSONAL SERVICE CONTRACT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:**

Summit 7 Systems, 440. David Holcomb, Paul Czarapata, Philip Brashear, Robert Gipe, and Tim Burcham discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator

Carroll seconded the motion, which passed with Representative Housman voting NO.

**TRANSPORTATION CABINET:**

Michael Baker Jr., Incorporated, 0700004078. Mike Hill, David Steele, and Kevin Damron discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

**AGRICULTURE, DEPARTMENT OF:**

University of Kentucky Research Foundation, 1200000904; University of Kentucky Research Foundation, 1200000907. Steven Kelly and Kristen Branscum discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

**EDUCATION, DEPARTMENT OF:**

University of Kentucky, 1200000244. Cindy Parker and Charlie Harman discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**DEPARTMENT FOR PUBLIC HEALTH:**

Adanta Group, 1100002211; Bluegrass Regional MH/MR Board Incorporated, 1100002212; Comprehend Incorporated, 1100002213; Lifeskills, 1100002217; Mountain Comp Care Center, 1100002218; Pennyroyal Mental Health, 1100002220; Seven Counties Services, 1100002221; Kentucky River Community Care, 1100002512. Paula Golf and Holly Ackerman discussed the contracts with the committee. A motion was made by Senator McGaha to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed unanimously.

**EDUCATION, DEPARTMENT OF:**

Carter County Board of Education, 1200000054; Grant County Board of Education, 1200000061; Grayson County Board of Education, 1200000062; Jessamine County Board of Education, 1200000065; Lewis County Board of Education, 1200000068; Magoffin County Board of Education, 1200000072; Muhlenberg County Board of Education, 1200000075; Scott County Board of Education, 1200000078; Union County Board of Education, 1200000081; Kenton County Board of Education, 1200000082. Laura Arnold, Charlie Harman, and Karla Tipton discussed the contracts. A motion was made by Senator McGaha to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

**THE FOLLOWING MEMORANDA OF AGREEMENTS FOR \$50,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

**AGRICULTURE, DEPARTMENT OF:**

University of Kentucky Research Foundation, 1200000903; University of Kentucky Research Foundation, 1200000905; University of Kentucky Research Foundation, 1200000906; University of Kentucky Research Foundation, 1200000908; Kentucky Association of Food Banks Incorporated, 1200001032. Steven Kelly and Kristen Branscum discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Hornback seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 5:22 PM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

March 13, 2012

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, March 13, 2012, at 4:30 PM, 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 Carroll Gibson and Paul Hornback; Representatives Jesse Crenshaw, Brent Housman, and Brent Yonts.

**Guests:** Bobby Sherman, Laura Hendrix, Joanna Strange, Mike Hill, Steve Byars, Bill Harris, Peter Goodmann, Dale Winkler, Andrew Yunt, Anne Chaney, Lynsey Womack-Denney, Lynn Littrell, Clay Lamb, Elizabeth Schmitz, and Ryan Green.

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

A motion was made by Representative Housman to approve Minutes of the February 2012 meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

**DEFERRED ITEMS**

A motion was made by Representative Yonts to defer the following contracts to the April 2012 meeting of the committee: NORTHERN KENTUCKY UNIVERSITY, 2012-602, Omni Architects; WESTERN KENTUCKY UNIVERSITY, 111257, ASTD. Representative Horlander 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. Senator Hornback 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. Senator Hornback 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. Senator Hornback seconded the motion, which passed without objection.

Amotion 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. Senator Hornback seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**CORRECTIONS, DEPARTMENT OF:**  
Glenn Stuart Minor, 1200001438.

**CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:**  
Law Enforcement Services Incorporated, 1200001593.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**  
Larry J. Sowder, 1200001325.

**ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:**  
General Motors, LLC, 1200001429.

**EDUCATIONAL TELEVISION, KENTUCKY:**  
Neville Brett Smith, 1200001557.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**  
Florence & Hutcheson, 1200001112.

**HISTORICAL SOCIETY, KENTUCKY:**  
Lindsay Elizabeth Merritt, 1200001330.

**KENTUCKY STATE UNIVERSITY:**  
JGB AV Designs, LLC, KSU-12-06; Tronconi Segarra & Associates, LLP, KSU-12-07.

**NORTHERN KENTUCKY UNIVERSITY:**  
Michael Schuster Associates Incorporated, 2012-601.

**OFFICE OF HOMELAND SECURITY:**  
Ross & Company, PLLC, 1200001320.

**OFFICE OF INSPECTOR GENERAL:**  
Michigan Peer Review Organization, 1200001343.

**POST SECONDARY EDUCATION, COUNCIL ON:**  
Collaborative for Teaching & Learning, 1200001305; MGT of America Incorporated, 1200001357.

**SECRETARY OF STATE, OFFICE OF THE:**  
Multi, 1200001536.

**TRANSPORTATION CABINET:**  
HMB Professional Engineers Incorporated, 1200001404; Stantec Consulting Services Incorporated, 1200001443; Stantec Consulting Services Incorporated, 1200001462; Stantec Consulting Services Incorporated, 1200001543; Stantec Consulting Services Incorporated, 1200001544; Stantec Consulting Services Incorporated, 1200001545; Stantec Consulting Services Incorporated, 1200001546; WMB Incorporated, 1200001589; Stantec

Consulting Services Incorporated, 1200001635; Stantec Consulting Services Incorporated, 1200001639; Stantec Consulting Services Incorporated, 1200001642.

**UNIVERSITY OF KENTUCKY:**  
Smith Management Group, K12-139.

**UNIVERSITY OF LOUISVILLE:**  
Huron Consulting Services, LLC, 12-050.

**WESTERN KENTUCKY UNIVERSITY:**  
SE Engineering, 111254.

**WORKFORCE INVESTMENT, OFFICE OF:**  
CSG Government Solutions Incorporated, 1200001370.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:**  
Tichenor & Associates, 1200000192.

**BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:**  
Stout Farmer & King, PLLC, 1000003137; Bowles Rice McDavid Graff & Love, 1000003138; Goldberg Simpson, LLC, 1000003139; Rudloff & Rudloff, 1000003141.

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

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**  
Amec Environment & Infrastructure Incorporated, 0600001999; Tetra Tech Incorporated, 0600002004; Stantec Consulting Services Incorporated, 0600002006; Camp Dresser & McKee, 0600002008; Tetra Tech Incorporated, 0600002009; Stantec Consulting Services Incorporated, 1000001351; Tetra Tech Incorporated, C-05120724-1.

**DEPARTMENT FOR NATURAL RESOURCES:**  
ATC Associates Incorporated, 0900013190.

**DEPARTMENT FOR PUBLIC HEALTH:**  
Kentucky Hospital Research & Education Foundation, 1000001961; Wendell Fosters Campus d/b/a Western Kentucky Assist Tech, 1100000110.

**FINANCE AND ADMINISTRATION CABINET:**  
Blue & Company, LLC, 1000002965; Multi, 1100000187.

**FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:**  
Beaver Creek Hydrology, LLC, 0800011174; Stantec Consulting Services Incorporated, 1100001637; L'Acquis Consulting Enterprises, LLC, 1200000394; EOP Architects, PSC, 1200000525; Sherman Carter Barnhart, C-05199877-1; Sherman Carter Barnhart, C-05236910; Luckett & Farley Architects, Engineers & Construction Managers Incorporated, C-05255581-1.

**FINANCIAL INCENTIVES, DEPARTMENT OF:**  
Aecom Technical Services Incorporated, 1000003236.

**KENTUCKY HOUSING**

**CORPORATION:**  
Multi, 2012-08; Mountjoy Chilton Medley, LLP, 2012-16.

**STATE BOARD FOR PROPRIETARY EDUCATION:**  
Allen Law Office, 1100001912.

**TRANSPORTATION CABINET:**  
J M Crawford & Associates Incorporated, 0700003368; WMB Incorporated, 1000001506; Kentucky Bridge Solutions, LLC, 1000003102; HDR Engineering Incorporated, 1000003299; H. A. Spalding Incorporated, 1100002629; Gresham Smith & Partners, C-99005237-5; Presnell Associates Incorporated d/b/a QK4, C-99109299-7.

**UNIVERSITY OF KENTUCKY:**  
Stidham & Associates, PSC, K12-113; Smith Management Group, K12-123.

**VETERANS AFFAIRS, DEPARTMENT OF:**  
Multi, 1000002522.

**WESTERN KENTUCKY UNIVERSITY:**  
Kerr Greulich Engineers, 101230; Rosso Lampone Group Incorporated d/b/a Workshop Marketing, 111240.

**WORKFORCE INVESTMENT, OFFICE OF:**  
Maher & Maher, 1100001708; Thomas P. Miller & Associates, 1100002739.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS:**  
Morehead State University, 1200001315; Mountain Comprehensive Care Center, 1200001398; University of Kentucky Research Foundation, 1200001401.

**DEPARTMENT FOR PUBLIC HEALTH:**  
Whitaker Food Stores Incorporated, 1100000328-1; Food Giant Supermarkets Incorporated, 1200000588; CVS Pharmacy Incorporated, 1200000720.

**EDUCATION, DEPARTMENT OF:**  
National Summer Learning Association, 1200001345.

**FISH & WILDLIFE, DEPARTMENT OF:**  
U.S. Fish & Wildlife Service, 1200001098; Environmental and Public Protection Cabinet, Division of Conservation, 1200001289.

**INFRASTRUCTURE AUTHORITY:**  
City of Pikeville, 1200001436.

**KENTUCKY RIVER AUTHORITY:**  
Bluegrass Water Supply Commission, 1200001535.

**MILITARY AFFAIRS, DEPARTMENT OF:**  
Jefferson County Local Emergency Planning Committee, 1200001148; Multi, 1200001344.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**  
Pike County Fiscal Court, 1200000384; Pike County Fiscal Court, 1200000996; Breathitt County Fiscal Court, 1200001039; Breathitt County Board of Education, 1200001265; Leslie County Fiscal Court, 1200001286; Letcher

County Fiscal Court, 1200001354; Letcher County Fiscal Court, 1200001356; Letcher County Fiscal Court, 1200001366; Letcher County Fiscal Court, 1200001368; Letcher County Fiscal Court, 1200001372; Hopkins County Fiscal Court, 1200001379; Boyd County Fiscal Court, 1200001381; City of Jeffersontown, 1200001433; City of Bardwell, 1200001470; City of Harlan, 1200001481; Lincoln County Fiscal Court, 1200001537; City of Newport, 1200001538; Webster County Fiscal Court, 1200001564; Webster County Fiscal Court, 1200001573; Webster County Fiscal Court, 1200001579; Webster County Fiscal Court, 1200001581; Lee County Fiscal Court, 1200001583; City of Leitchfield, 1200001594; City of Mount Sterling, 1200001601; City of Lawrenceburg, 1200001602; City of Jenkins, 1200001608; Mountain Water District, 1200001609; Letcher County Fiscal Court, 1200001619; Hopkins County Fiscal Court, 1200001621; Jackson County Fiscal Court, 1200001625.

**WORKFORCE INVESTMENT, OFFICE OF:**  
Council on Postsecondary Education, 1200001466.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**CORRECTIONS, DEPARTMENT OF:**  
Marion County Jail, 1100002089.

**DEPARTMENT FOR PUBLIC HEALTH:**  
University of Kentucky Research Foundation, 1000004025; University of Kentucky Research Foundation, 1000004230; Food World Incorporated, 1100000328; University of Kentucky Research Foundation, 1100002171; Cumberland River Regional Mental Health Mental Retardation Board, 1100002214; Seven Counties Services, 1100002222.

**EDUCATION, DEPARTMENT OF:**  
Owen County Board of Education, 1000002745; Simpson County Board of Education, 1100002015; Daviess County Board of Education, 1100002239; Green County Board of Education, 1100002243; Larue County Board of Education, 1100002253; Trigg County Board of Education, 1100002254; Danville Independent Board of Education, 1100002256; Madison County Board of Education, 1100002261; Scott County Board of Education, 1100002262; Daviess County Board of Education, 1100002263; Madison County Board of Education, 1100002264; Bourbon County Board of Education, 1100002267; Marion County Board of Education, 1100002269; Todd County Board of Education, 1100002575; Madison County Board of Education, 1100002578; Perry County Board of Education, 1100002582; Madison County Board of Education, 1100002583; Bracken County Board of Education, 1100002584; Bowling Green Independent Board of Education, 1100002593; Madison County Board of Education, 1100002599; Eastern Kentucky University, 1100002775; University of Louisville Research Foundation, 1100002776; Clark County Board of Education, 1100002880; Pulaski County Board of Education, 1200000114.

**OFFICE OF THE GOVERNOR,**



DEPARTMENT FOR LOCAL GOVERNMENT:

City of Mount Vernon, 1100000897; Boyle County Fiscal Court, 1100001058; City of Mount Vernon, 1100001083; City of Harlan, 1100001497; Letcher County Fiscal Court, 1100003100.

STATE POLICE, DEPARTMENT OF:

University of Tulsa, 1200001165.

WORKFORCE INVESTMENT OFFICE OF:

Eastern Kentucky University, 1100002448; KCTCS, 1100003039; Morehead State University, 1100003047; Eastern Kentucky University, 1100003127; NKU Research Foundation, 1200000601.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

LEGISLATIVE RESEARCH COMMISSION

Sheryl G. Snyder, 11/12-12. Bobby Sherman, Laura Hendrix, and Joanna Strange 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 without objection.

TRANSPORTATION CABINET

Stantec Consulting Services Incorporated, 1200001547. Mike Hill 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 without objection.

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

UNIVERSITY OF KENTUCKY

Selge Holding & Ventures, LLC d/b/a Wheelless Partners Executive Search Firm, K12-107. Bill Harris and Steve Byars discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Watershed Watch in Kentucky Incorporated, 1200000813. Peter Goodmann discussed the contract with the committee. A motion was made by Senator Hornback to disapprove the contract. Senator Gibson seconded the motion, which did not pass with Senator McGaha and Representatives Yonts and Crenshaw voting NO. The contract moves forward.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

University of Kentucky Research Foundation, 1100002186. Andrew Yunt,

Bill Harris, and Steve Byars discussed the contract with the committee. A motion was made by Senator Gibson to defer the contract to the April 2012 meeting of the committee. Senator Hornback seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT OF

Franklin County Board of Education, 1200000060; Jefferson County Board of Education, 1200000064; Johnson County Board of Education, 1200000066; Powell County Board of Education, 1200000077. Charlie Harman and Dale Winkler discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed without objection.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT

Beattyville Housing & Development Corporation, 1000000719. Lynn Litrell, Ann Chaney, and Lynsey Womack-Denney discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDA OF AGREEMENT FOR \$50,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

ENVIRONMENTAL EDUCATION COUNCIL

Paris Independent School District, 1200001309. Clay Lamb and Elizabeth Schmitz discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

WORKFORCE INVESTMENT OFFICE OF

Kentucky Community & Technical College System, 1200001559. Ryan Green discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

EXEMPTION REQUESTS

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

The Office of the Governor, Department for Local Government requests an exemption pertaining to the Biennial requirement Government Contract Review Committee Policy Statement 99-4; seeking extensions for time only on various projects. A motion was made by Representative Yonts to approve the request to June 30, 2013. Representative Horlander seconded the motion, which passed unanimously.

ENERGY AND ENVIRONMENT CABINET, DEPARTMENT FOR NATURAL RESOURCES:

The Energy and Environment Cabinet, Department for Natural Resources requests an exemption pertaining to the Biennial requirement Government Contract Review Committee

Policy Statement 99-4; seeking extensions for time only on various projects. The request is for one contract, which is set to expire on June 30, 2013 as a 50% Federal and 50% General Grant. A motion was made by Representative Yonts to approve the request. Representative Horlander seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 5:35 PM.

**GOVERNMENT CONTRACT REVIEW COMMITTEE**

**Committee Minutes**

April 17, 2012

**Call to Order and Roll Call**

The Government Contract Review Committee met on Tuesday, April 17, 2012, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll and Carroll Gibson; Representatives Jesse Crenshaw, Brent Housman, and Brent Yonts.

Guests: Virginia Underwood, Linda Potter, Scott Aubrey, Travis Powell, Robert King, Patrick Yewell, Leslie Brown, Rick Washabaugh, and Diana Olszowy.

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

Amotion was made by Representative Yonts to approve Minutes of the March 2012 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

**DEFERRED ITEMS**

Amotion was made by Representative Yonts to defer the following contracts to the May 2012 meeting of the committee: UNIVERSITY OF KENTUCKY, K11-110, Stites & Harbison, PLLC; DEPARTMENT OF CRIMINAL JUSTICE TRAINING, 1200001881, University of Louisville; DEPARTMENT OF CRIMINAL JUSTICE TRAINING, 1200001876, Postsecondary Education KYVU; DEPARTMENT OF EDUCATION, 1200001169, Rocky Mountain Center for Health Promotion Education. Senator McGaha seconded the motion, which passed without objection.

**MARCH DEFERRED ITEMS**

A motion was made by Senator McGaha to approve the following contracts: NORTHERN KENTUCKY UNIVERSITY, 2012-602, Omni Architects; WESTERN KENTUCKY UNIVERSITY, 111257, ASTD; COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS, 1100002186, University of Kentucky Research Foundation. Representative Yonts seconded the motion, which passed without objection.

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

Amotion was made by Representative Yonts to consider as reviewed, the Personal

Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

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

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

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Kentucky School Board Association, 1200001419.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Reach of Louisville Incorporated, 1200001656.

DEPARTMENT FOR MEDICAID SERVICES:

Myers & Stauffer, LC, 1200000868; Rector & Associates Incorporated, 1200001405.

DEPARTMENT FOR PUBLIC HEALTH:

Mose & Garrison Siskin Memorial Foundation, Inc., 1200001149; National Jewish Health, 1200001437.

DEPARTMENT OF INSURANCE:

National Association of Insurance Commissioners, 1200001686.

EASTERN KENTUCKY UNIVERSITY:

Sturgill, Turner, Barker & Moloney, PLLC, 14-002; King & Schickli, PLLC, 14-003; Mark Zietlow & Associates, PLC, 14-004.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Judy Pickerell, 1200001677; Robyn K. Swanson, 1200001681; Nancy Stout, 1200001688; Anna Kostelnik, 1200001695; Elissa Odham, 1200001696; Constance M. Evans, 1200001723; Judy Kurtz, 1200001728; Karla Spencer, 1200001729; Norma Wade, 1200001820; Linda Nickel, 1200001877.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Amec Environment & Infrastructure Incorporated, 1200001195; Lucas Schwering Architects, 1200001461; Staggs & Fisher Consulting Engineers, 1200001533; Ross Tarrant Architects Incorporated, 1200001550; Patrick D. Murphy Company Incorporated, 1200001707.

HISTORICAL SOCIETY, KENTUCKY:

Abrams Associates Design, LLC, 1200001663.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

National Summer Learning Association, 506.



KENTUCKY HOUSING CORPORATION:  
The Inspection Group Incorporated, 2013-18; Venture Encoding Services, LLC, 2013-6; TheoPro Compliance & Consulting Incorporated, 2013-7; Multi, 2013-8; Kinkead & Stilz, PLLC, 2013-9.  
MURRAY STATE UNIVERSITY:  
RubinBrown, LLP, 017-12.  
NORTHERN KENTUCKY UNIVERSITY:  
Ross Tarrant Architects Incorporated, 2012-603.  
PERSONNEL-OFFICE OF THE SECRETARY:  
Mercer Investment Consulting Incorporated, 1200001667.  
POST SECONDARY EDUCATION COUNCIL ON:  
ACT Incorporated, 1200001312.  
TRANSPORTATION CABINET:  
Vaughn & Melton, 1200001604; HDR Engineering Incorporated, 1200001709; Lochner H W Incorporated Consulting, 1200001737; Stantec Consulting Services Incorporated, 1200001738; Stantec Consulting Services Incorporated, 1200001742; Stantec Consulting Services Incorporated, 1200001743; Stantec Consulting Services Incorporated, 1200001744; Burgess & Niple Incorporated, 1200001748; Stantec Consulting Services Incorporated, 1200001749; Stantec Consulting Services Incorporated, 1200001750; Stantec Consulting Services Incorporated, 1200001751; Stantec Consulting Services Incorporated, 1200001752; Strand Associates Incorporated, 1200001779; Florence & Hutcheson, 1200001861; Steve Fitts, 1200001955; David T. Owen, 1200001956; Stantec Consulting Services Incorporated, 1200002065.  
UNIVERSITY OF KENTUCKY:  
Luckett & Farley, A121120; S1 IT Solutions, K12-137-1; SAP Public Services Incorporated, K12-140; S1 IT Solutions, K12-141; S1 IT Solutions, K12-142; R. V. Kuhns & Associates, K13-101; S1 IT Solutions, K13-102.  
WESTERN KENTUCKY UNIVERSITY:  
Multi, 111258; Ross Tarrant Architects, 111259.  
THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:  
CORRECTIONS, DEPARTMENT OF:  
Transitions Incorporated, 1200000529.  
DEPARTMENT FOR AGING & INDEPENDENT LIVING:  
Neurorestorative Carbondale d/b/a NeuroRestorative Kentucky, 1100001838.  
DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:  
AMS Temporaries Incorporated, 1000002836; CrownServices Incorporated, 1000002837; Guardian Angel Staffing Agency, 1000002838; GuardianHealthcare Providers, 1000002839; Nursestaffing Group Kentucky, LLC, 1000002840.  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
URS Corporation, 1000001352.  
DEPARTMENT FOR PUBLIC

HEALTH:  
Healthcare Education & Registration Training, 1000001956; Community Health Clinic of Hardin Larue Counties, 1000003044.  
DEPARTMENT OF INSURANCE:  
Patricia Shofner, 1000002813; Regulatory Services, LLC, 1000002815.  
EDUCATION, DEPARTMENT OF:  
Lighthouse Promise Incorporated, 1000002727; Multi, 1200000602.  
FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:  
CMW Incorporated, 1000000976; Stantec Consulting Services Incorporated, 1000001217; John Milner Associates Incorporated, 1100000253; L'Acquis Consulting Enterprises, LLC, 1200000394; Ross Tarrant Architects Incorporated, 1200000613.  
JUSTICE CABINET:  
St. Elizabeth Medical Center, 1000004200.  
KENTUCKY HOUSING CORPORATION:  
Goldberg Simpson, LLC, 2012-12.  
KENTUCKY STATE UNIVERSITY:  
Dean Dorton Allen Ford, PLLC, 12-01.  
MEDICAL LICENSURE, BOARD OF:  
Multi, 1000002739.  
NORTHERN KENTUCKY UNIVERSITY:  
Dinsmore & Shohl, LLP, 2012-546.  
OFFICE OF HOMELAND SECURITY:  
Goldberg Simpson, LLC, 1200000486.  
REAL ESTATE APPRAISERS BOARD:  
Dennis Badger & Associates Incorporated, 1000002492.  
TRANSPORTATION CABINET:  
QK4, 0600002874; J. M. Crawford & Associates Incorporated, 1000001094; Burgess & Niple Incorporated, 1100002545; Stantec Consulting Services Incorporated, 1200001749; Palmer Engineering Company, C-00124800-5; Presnell Associates Incorporated d/b/a QK4, C-02300472-3; Quest Engineering Incorporated, C-03117944-1; Presnell Associates Incorporated d/b/a QK4, C-04224166-2; Michael Baker Jr. Incorporated, C-05091322-4; W M B Incorporated, C-99005589-8.  
UNIVERSITY OF LOUISVILLE:  
AON, 12-035.  
VETERANS AFFAIRS, DEPARTMENT OF:  
Firstlab, LLC, 1000002625.  
THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:  
ADMINISTRATIVE OFFICE OF THE COURTS:  
Mountain Comp Care Center, 1200002073; Kentucky River Community Care Incorporated, 1200002078; Morehead State University, 1200002084; University of Kentucky Research Foundation, 1200002134.  
AGRICULTURE, DEPARTMENT OF:  
Elliot County Fair Board, 1200001873.  
CORRECTIONS, DEPARTMENT

OF:  
Division Substance Abuse DMHMR, 1200001661.  
CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:  
Eastern Kentucky University, 1200001637; Eastern Kentucky University, 1200001813.  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:  
City of London, 1200001565.  
EDUCATION, DEPARTMENT OF:  
Department for Public Health, 1200001326; Morehead State University, 1200001684; University of Louisville Research Foundation, 1200001694; Bourbon County Board of Education, 1200001717; Bourbon County Board of Education, 1200001718.  
INFRASTRUCTURE AUTHORITY:  
Knott County Fiscal Court, 1200002053.  
LIBRARIES & ARCHIVES, DEPARTMENT FOR:  
Laurel County Public Library, 1200001665; Morgan County Fiscal Court, 1200001822; Campbell County Public Library, 1200001823; Carroll County Public Library, 1200001826; Elliott County Fiscal Court, 1200001829; Fleming County Public Library, 1200001830; Grant County Public Library, 1200001831; McCreary County Public Library, 1200001832; Menifee County Public Library, 1200001833; Bell County Public Library, 1200001834; Nelson County Public Library, 1200001835; Daviess County Public Library, 1200001836; Robertson County Public Library, 1200001838; Greenup County Public Library, 1200001839; Metcalfe County Public Library, 1200001840; Wolfe County Public Library, 1200001841; Lexington Public Library, 1200001842; Oldham County Public Library, 1200001843; Boyle County Public Library, 1200001844; Pulaski County Public Library, 1200001845; Clark County Public Library, 1200001846; Rowan County Public Library, 1200001847; Lawrence County Public Library, 1200001848; Lincoln County Public Library, 1200001849.  
OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:  
Perry County Fiscal Court, 1200001596; Bell County Board of Education, 1200001600; Perry County Fiscal Court, 1200001612; Perry County Fiscal Court, 1200001613; Perry County Fiscal Court, 1200001614; Perry County Fiscal Court, 1200001628; Webster County Fiscal Court, 1200001672; Pike County Fiscal Court, 1200001675; City of Liberty, 1200001680; Kenton County Fiscal Court, 1200001746; Pikeville Independent Schools, 1200001866; Perry County Fiscal Court, 1200001974; City of Pineville, 1200001985; Henderson County Fiscal Court, 1200002091; Henderson County Fiscal Court, 1200002092; Henderson County Fiscal Court, 1200002094.  
STATE POLICE, DEPARTMENT OF:  
Administrative Office of the Courts, 1200001431.  
THE FOLLOWING MEMORANDA OF AGREEMENT

AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:  
ADMINISTRATIVE OFFICE OF THE COURTS:  
Pennyroyal Mental Health, 1100003122.  
AGRICULTURE, DEPARTMENT OF:  
Multi, 0900011602; Multi, 0900011666  
ATTORNEY GENERAL, OFFICE OF THE:  
Hope's Place Incorporated, 1100002405; Family & Children First Incorporated, 1200000111.  
CORRECTIONS, DEPARTMENT OF:  
University of Kentucky Research Foundation, 1200000700.  
DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:  
University of Kentucky Research Foundation, 1000003584.  
DEPARTMENT FOR COMMUNITY BASED SERVICES:  
Bell Whitley Community Action, 1100001851; Foothills Community Action, 1100001860; Lake Cumberland CSO Incorporated, 1100001861; Northeast Kentucky Community Action Agency, 1100001867.  
DEPARTMENT FOR PUBLIC HEALTH:  
University of Kentucky Research Foundation, 1100002047; University of Louisville Research Foundation, 1100002278; North Key Community Care, 1100002392; University of Kentucky Research Foundation, 1100002877.  
EDUCATION, DEPARTMENT OF:  
University of Kentucky Minority Education and Retention, 1100000212; Bell County Board of Education, 1100002234; Montgomery County Board of Education, 1100002235; Campbellsville Independent Board of Education, 1100002236; Letcher County Board of Education, 1100002242; Campbellsville Independent Board of Education, 1100002247; Boyle County Board of Education, 1100002248; Paris Independent Board of Education, 1100002251; Letcher County Board of Education, 1100002252; Glasgow Independent Board of Education, 1100002259; Pike County Board of Education, 1100002270; Monroe County Board of Education, 1100002577; Jefferson County Board of Education, 1100002579; Carter County Board of Education, 1100002585; Woodford County Board of Education, 1100002589; Boyle County Board of Education, 1100002590; Knott County Board of Education, 1100002591; Owen County Board of Education, 1100002597; Washington County Board of Education, 1100002601; Owen County Board of Education, 1100002602; Jefferson County Board of Education, 1100002619; University of Kentucky Research Foundation, 1100002645; Washington County Board of Education, 1100002674; Letcher County Board of Education, 1100003141; Newport Independent Board of Education, 1200000076; Kentucky Educational Development Corporation, 1200000159; Eastern Kentucky University, 1200000259; University of Louisville Research Foundation, 1200000262; Jefferson County Board of Education,



1200000317; Kentucky Association of School Administrators, 1200000397; Jefferson County Board of Education, 1200000586.

FISH & WILDLIFE DEPARTMENT OF:

Jackson Purchase Resource Conservation & Development Foundation, 1000003083.

INFRASTRUCTURE AUTHORITY:

Knott County Fiscal Court, 1200000866.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Green River Housing Corporation, 1000000832; Newport Housing Authority, 1000001278; Hart County Fiscal Court, 1000001910; Hart County Fiscal Court, 1000002168; City of Somerset, 1000003916; Housing Authority of Henderson, 1100000881; Lawrence County Fiscal Court, 1100001217; Crittenden County Fiscal Court, 1100001263; Elliott County Fiscal Court, 1100002062; Elliott County Fiscal Court, 1100002288; Elliott County Fiscal Court, 1100002291; City of Campton, 1100003126; Pike County Fiscal Court, 1200000384; City of West Liberty, 1200001059.

POST SECONDARY EDUCATION, COUNCIL ON:

Association of Independent Kentucky Colleges & Universities, 1100001281.

THE FOLLOWING PERSONAL SERVICE CONTRACT WAS SELECTED FOR FURTHER REVIEW:

EASTERN KENTUCKY UNIVERSITY

McCandish Holton, PC, 14-001. Virginia Underwood 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 without objection.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR NATURAL RESOURCES

Finance & Administration Cabinet, 1200001740. Linda Potter and Scott Aubrey 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 without objection.

POST SECONDARY EDUCATION, COUNCIL ON

Eastern Kentucky University, 1200002109. Travis Powell and Robert King discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gibson seconded the motion, which passed with Senator McGaha and Representative Housman voting NO.

THE FOLLOWING MEMORANDUM OF AGREEMENT AMENDMENT WAS SELECTED FOR FURTHER REVIEW:

ADMINISTRATIVE OFFICE OF THE COURTS

University of Louisville Research Foundation, 1100001913. Patrick Yewell

and Leslie Brown 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 without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT AMENDMENT WAS SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR NATURAL RESOURCES

University of Kentucky Research Foundation, 1200001850. Rick Washabaugh and Diana Olszowy 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 without objection.

EXEMPTION REQUESTS CABINET FOR HEALTH AND FAMILY SERVICES, OFFICE OF THE SECRETARY:

The Cabinet for Health and Family Services, Office of the Secretary requested an exemption pertaining to the Biennial Requirement GCRC Policy Statement 99-4. The request is for a 100% federally funded MOA between the Office of Inspector General and Kentucky State Police which is set to expire on May 19, 2014. The amount of the MOA will be approximately \$1,152,000.

DEPARTMENT OF MILITARY AFFAIRS, OFFICE OF THE ADJUTANT GENERAL:

The Department of Military Affairs, Office of the Adjutant General requested an exemption from committee's routine review process for federally funded Chemical Stockpile Emergency Program (CSEPP) agreements and will provide the committee with quarterly reports.

With no further business before the committee, the meeting adjourned at 10:37 AM.

**PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

Minutes

January 23, 2012

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Monday, January 23, 2012, at 3:00 PM, in Room 129 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Vernie McGaha, Joey Pendleton, John Schickel, Brandon Smith, and Katie Kratz Stine; Representatives Dwight D. Butler, Leslie Combs, Terry Mills, David Osborne, and Arnold Simpson.

Legislative Guests: Senator Julie Denton; Representative John Will Stacy.

Guests: Rosemary Smith, Pharmacist and Owner, Jordan Drug, and Board Member, Kentucky Independent Pharmacist Alliance. Luther Smith, Pharmacist and Owner, Jordan Drug. Jason Wallace, Pharmacist and Owner, Grant County Drugs. Neville Wise, Acting Commissioner, Department for Medicaid Services, Cabinet for Health and Family

Services.

LRC Staff: Greg Hager, Committee Staff Administrator; Christopher Hall; Sarah Harp; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Kris Harmon, Graduate Fellow; Stella Mountain, Committee Assistant. Bobby Sherman, Director.

**Medicaid and Independent Pharmacies**

Rosemary Smith thanked Chairman Steele for the opportunity to testify on behalf of independent pharmacies. Eighty-five days into its implementation, managed care has been disastrous for Kentucky's independent pharmacists. Jordan Drug is among Kentucky's 560 independent pharmacies. It has operated eight pharmacies in rural eastern Kentucky for over 40 years. She cited examples of Jordan Drug being the only pharmacy or one of only two pharmacies servicing a community or county. The pharmacy's business is 95 percent prescription volume, of which close to 40 percent is Medicaid. They offer personalized service and provide expert medication counseling and other cost-saving services to customers.

The reimbursement cuts under managed care endanger patients' access to a pharmacy of their choice and will force many independent pharmacies out of business. As a result of the implementation of managed care, Jordan Drug has laid off 11 of its 50 employees (22 percent).

In the summer of 2011, she and Luther Smith started the Kentucky Independent Pharmacist Alliance (KIPA), whose membership has grown rapidly. KIPA is collecting data on lay-offs, store closures, and stores being forced to sell to chains as a result of managed care. Managed care organizations (MCOs) and pharmacy benefit managers (PBMs) are killing independent pharmacies and are compromising the health of patients by preventing access to medications. Independent pharmacies are continually forced to fill prescriptions for less than it costs them to buy the medication. She described the experience of Michael and Elizabeth Berry, who opened a pharmacy in Maysville, but are in danger of losing their business due to the implementation of managed care. Pharmacy is the only provider group that had no opportunity to contract with the three new MCOs. Pharmacy was rolled into existing national contracts that many pharmacists still have not seen.

She cited two studies of the cost of filling Medicaid prescriptions: \$5.83 in Kentucky in 1993 and \$9.59 in Minnesota in 2006. Prior to the implementation of managed care on November 1, dispensing fees for Kentucky Medicaid were \$4.50 for brand drugs and \$5.00 for generics, and the state maximum allowable cost (MAC) list was uniform and reasonable with an effective appeal process. Under managed care, dispensing fees are approximately \$1. Most MAC appeals are denied even when the pharmacy submits invoices indicating that its cost to fill a prescription is less than the MAC price.

The 2012 legislative session is critical to the survival of independent pharmacies. KIPA's goals include passage of HB 262, which restores the pre-managed care Medicaid co-payment structure; reasonable rates for Medicaid managed

care; transparency of MAC pricing; that mail order not be mandatory for patients; and that Medicaid patients be afforded the same consumer protections as those with private insurance. Ms. Smith concluded by urging the committee to obtain PBMs' contracts and investigate their practices.

Representative Steele described his recent experience in obtaining a needed prescription from his local independent pharmacy after not being able to do so at chain drugstore pharmacies. Local independent pharmacies offer prompt and personal service.

In response to a question from Senator Pendleton, Mr. Wallace said Passport has not changed reimbursement for prescriptions and there is a big difference in payments to pharmacies among the other three MCOs. One MCO is treating independent pharmacies fairly and met with them about the contract prior to implementation. The other two MCOs are killing independent pharmacies. Senator Pendleton said that is what he is hearing from pharmacists in his area.

In response to a question from Senator Pendleton, Mr. Wallace said that getting paid promptly is not an issue at this time. At issue is how much independent pharmacies are being reimbursed for the cost of drugs; the cost is arbitrary. The details of contracts are unknown.

Senator Pendleton asked whether a pharmacy will be reimbursed if it cannot get immediate prior approval from an MCO but dispenses a partial filling of the prescription anyway. He asked how long it takes to get prior approval. Mr. Wallace said if it is a Medicaid patient, the patient will probably go without the medication. Sometimes a pharmacy gives just sufficient medication to patients while getting prior approval, but the pharmacy does not receive reimbursement for medication given until the date of prior authorization. In response to a question from Senator Pendleton, Ms. Smith said that getting approval is a problem with all three MCOs.

Senator Pendleton expressed his hope that this issue can be addressed in this legislative session. He said there are no big box stores in rural Kentucky. He is aware of other health care areas besides pharmacies having trouble with prior authorizations.

Senator Stine asked for the Cabinet's assessment of the current situation. She asked whether the Cabinet envisioned disparate treatment for pharmacies and providers, and whether it envisioned that reimbursements would be less than the actual cost of the medicines. Mr. Wise said the requirement of the MCOs is to assure that the Medicaid recipients have access to services. The Cabinet envisioned that the MCOs would have to pay sufficient rates to providers to ensure that recipients do have access to services. The Cabinet did not envision that MCOs would piggyback the independent pharmacies onto existing commercial contracts. The Cabinet understands the plight of the independent pharmacies. The two MCOs that independent pharmacies are not happy with have made some concessions and there have been productive meetings. But how much it has helped depends on whom one speaks with.

Senator Stine said if independent

pharmacies are unable to stay in business, patient access would be a problem. Mr. Wise said there would be sanctions if there was no access under the MCOs.

Representative Simpson asked if there are thresholds that MCOs must pay independent pharmacies. Mr. Wise said the rates must be sufficient for providers to participate. Representative Simpson asked how independent pharmacies can continue to operate if they are paid less than their actual expenses. Mr. Wise said for now, the independent pharmacies are continuing to participate. Representative Simpson asked whether the MCOs would be willing to pay more if the independent pharmacies resigned as providers. Mr. Wise said the MCOs would have to continue to provide access for the members and they would have to take measures to ensure access. Representative Simpson asked whether the state can address the problem if the MCOs do not enforce their contracts with the independent pharmacies. Mr. Wise said that the two MCOs that were not paying sufficient rates have increased their rates.

Ms. Smith clarified that two MCOs increased the reimbursement on dispensing fees only for generics but then decreased the drug reimbursement, which cancelled it out. This increase went to a few independent pharmacies in rural areas; it did not affect Passport or independent pharmacies in urban areas. In January, there were drastic cuts to MAC reimbursements, so independent pharmacies lost money. Mr. Wallace added that the MCOs slashed drug reimbursement by over 20 percent on generic drugs. This meant that his pharmacies lost over 20 percent in payments for the top 45 drugs they dispense. Even with the increase in dispensing reimbursement, a pharmacy in an underserved area would still be in the hole.

Senator Schickel said that in Northern Kentucky this is an access issue. He thanked Mr. Wallace for the service he provides and said that the legislators take this very seriously as it is a critical issue for citizens.

Senator Higdon asked how reimbursement works and how reimbursement can be lower than the cost of the product. Mr. Wise said trying to get at the bottom of what actual ingredient costs for pharmaceuticals are has been the most complicated matter he has experienced in implementing managed care. Pharmacies have anti-disclosure clauses in their contracts with their suppliers, so it is very difficult to find out the cheapest amount for which a drug is available from a supplier. Senator Higdon said that reimbursement for a product dispensed should be at least for what it costs. He cannot imagine how they have a formula that lets the MCOs pay less. Mr. Wise said that the MCOs are saying that they know of a source where these drugs can be purchased at that lower price. Mr. Wallace said that they would like to see where that source is. Senator Higdon asked how they can show this to the independent pharmacies. Mr. Wise said it is very hard to trace this because of competitive agreements.

Senator Higdon said that the Program Review and Investigations Committee is the only committee in the legislature that has subpoena power. He asked whether they need to exercise that power to find

the answers to this situation. Mr. Wallace said they would like to know how they arrive at these reimbursement rates. There are three or four regional wholesalers that all independent pharmacies have access to. If the MCOs were using the drugs that the independent pharmacies have access to, they would like to know how they determine the reimbursement rates.

Senator Pendleton made a motion to exercise the committee's subpoena power and get the MCOs in for questioning. Representative Steele seconded the motion.

Representative Stacy said that, in the interest of full disclosure, he is a partner in two independent pharmacies in rural Eastern Kentucky. He said that if something is not done in this session concerning this issue, there will be hundreds of Kentucky independent pharmacies going out of business. If MCOs do not honor these contracts, once a provider is lost in a rural area, it will take a long time to regain access. The big chain drugstores are not here today. They are owned by wholesalers and thus, their profit is built in. The problem goes beyond the MCOs. Buying groups bear a lot of responsibility. Independent pharmacies are held to terms of a contract with a buying group they cannot see. PBMs also have contracts the independent pharmacies cannot see. It is the fault of the buying groups, the PBMs, and to a lesser extent, the MCOs. If they just reimburse the independent pharmacies at cost, the independent pharmacies cannot stay in business; they must be able to make a profit.

Representative Steele explained that the motion is to exercise the committee's subpoena power but that staff would first gather more specific information to be reviewed by the committee. Representative Simpson asked for clarification that this motion pertains to the broad topic of issuing a subpoena and letting third parties know that this committee is going to do that, but that the committee is going to further define the information needed by committee action, with staff input.

Representative Simpson suggested that the original motion and second be withdrawn and that a new motion be made. Representative Steele withdrew his second of the motion. Senator Pendleton said that he wanted clarity before he would withdraw his motion. He said that the only time that the committee has issued a subpoena was when he was chair. When witnesses were put under oath, responses were more informative. His motion was to exercise the committee's subpoena power to get the necessary groups together and put them under oath.

Representative Simpson asked if the subpoena would apply to documents as well. If so, the scope of that would have to be defined. Representative Stacy said that if the motion is a broad motion to subpoena individuals and records associated with this issue, that gives the co-chairs and staff enough room to bring in people and/or documents that may be needed.

Senator Pendleton withdrew his motion. He made a second motion that the co-chairs get together concerning the exercise of subpoena power and report back to the committee by February 1.

Mr. Sherman said that if the motion passes, staff would work with the co-chairs

of the committee to suggest documents for consideration by the full committee when it meets next month. Such documents might include potential subpoena documents once the committee decides how it wants to proceed.

Senator Schickel seconded Senator Pendleton's motion. The motion was adopted by roll call vote.

Senator Smith moved to have the emergency information to committee members by the following day or as soon as possible. Representative Steele said it would take staff longer than a day to gather the information. Representative Combs asked that information be provided no later than the following Monday. Representative Steele agreed with the request.

#### **Approve Minutes for December 8, 2011**

Upon motion by Senator Higdon and second by Senator Schickel, the minutes of the December 8, 2011 meeting were approved by voice vote, without objection.

**Consideration of report *Kentucky's Community Mental Health System Is Expanding and Would Benefit From Better Planning and Reporting: An Update*** (presented at October 13, 2011 meeting)

Upon motion by Senator Higdon and second by Representative Simpson, the report was adopted by roll call vote.

#### **Selection of Study Topics for 2012**

This item on the agenda was not addressed in the meeting.

The meeting was adjourned at 4:05 p.m.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes**

February 13, 2012

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

The Program Review and Investigations Committee met on Monday, February 13, 2012, at 2:00 PM, in Room 129 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Perry B. Clark, Julie Denton, Vernie McGaha, Joey Pendleton, John Schickel, and Katie Stine; Representatives Dwight D. Butler, Leslie Combs, Terry Mills, David Osborne, Ruth Ann Palumbo, and Arnold Simpson.

Legislative Guest: Representative John Will Stacy.

Guests: Auditor of Public Accounts Adam Edelen. Rosemary Smith, Pharmacist and Owner, Jordan Drug, and Board Member, Kentucky Independent Pharmacist Alliance. Jason Wallace, Pharmacist and Owner, Grant County Drugs. Neville Wise, Acting Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services. Managed Care Organizations: Jim Giardina, Vice President, Pharmacy Services; Thomas Salinsky, General Counsel; Coventry HealthCare. Marty White, Vice President of External Affairs, Kentucky Spirit. Mike Minor, President; Alan Daniels, Pharmacy Director;

WellCare of Kentucky. Pharmacy Benefit Managers: Bill Wolfe, President, Catalyst Rx. G. William Strein, Vice President Provider Relations, Medco Health Solutions. Don Nagy, Vice President, Pharmacy Networks, US Script. Pharmacy Service Administration Organizations: Alan Chazen, Executive Vice President of Managed Care Services, EPIC Pharmacy Network. Kenny Sanders, Vice President of Professional Affairs, American Pharmacy Cooperative.

LRC Staff: Greg Hager, Committee Staff Administrator; Christopher Hall; Sarah Harp; Colleen Kennedy; Van Knowles; Lora Littleton; Jean Ann Myatt; Kris Harmon, Graduate Fellow; Stella Mountain, Committee Assistant.

#### **Approve Minutes for January 23, 2012**

Upon motion by Senator Pendleton and second by Representative Combs, the minutes of the January 23, 2012 meeting were approved by voice vote, without objection.

Representative Mills welcomed two independent pharmacists from his district: Mr. Steve Hill and Mr. Pat Mattingly.

Senator Higdon welcomed Senator Denton as a new member of the committee.

#### **Selection of Study Topics for 2012**

Senator Higdon said that he and Representative Steele recommend the following study topics for adoption by the committee: 1) boards and commissions, 2) Kentucky Retirement Systems and Teachers Retirement Systems, 3) impact and importance of the coal industry to Kentucky, 4) personal care homes, 5) four bills that have become law but the executive branch has not implemented, and 6) the medically fragile designation in the foster care system. Upon motion by Representative Mills and second by Senator Stine, the six study topics were approved by roll call vote. Senator Stine explained her yes vote by saying that there are other worthy study topics, and that the committee should not be limited in studying additional topics to ensure that government operates efficiently and serves the people. Senator Higdon said that additions to the topics can be made.

Senator Higdon welcomed Auditor Adam Edelen to the meeting.

#### **Medicaid Managed Care and Independent Pharmacies**

Senator Higdon mentioned that members' folders have handouts on pharmacy reimbursement and possible legislative action. He asked staff to display and explain a diagram that shows how Medicaid managed care for pharmacy is set up.

Van Knowles showed a simplified diagram of how managed care works for Medicaid in Kentucky with regard to the pharmacies. He said the Department for Medicaid Services contracts with three managed care organizations (MCOs): Coventry Cares, Kentucky Spirit, and WellCare. Each contracts with a pharmacy benefit manager (PBM), in this case Medco, US Script and Catalyst Rx. The PBMs then offer Medicaid and other health plans to the pharmacy services administrative organizations (PSAOs) and the pharmacies. PSAOs are organizations that provide services to independent



pharmacies to allow them to be more efficient and to get better pricing. As far as staff knows, the three PBMs have contracts with all the major PSAOs and with some independent pharmacies.

In response to a request from Senator Higdon, Mr. Knowles said that the MCOs are organizations that take on the risk of providing health services, including the pharmacy benefit. They agree to perform services for a fixed fee per member. Generally, MCOs do not provide pharmacy benefits directly. PBMs tend to have specialized software, expertise, and are already in the business of providing prescription service. PSAOs assist independent pharmacies with administrative tasks such as contracting for health plans. The PSAOs are formed in part because the independent pharmacists are prevented by anti-trust laws from banding together and organizing on their own. Most of what happens inside this diagram, however, is unknown. It is confidential proprietary information, particularly with regard to the amount of payments.

In response to questions from Senator Stine, Mr. Knowles said that a PSAO is a free-standing independent organization that works for the independent pharmacies, similar to a purchasing organization. Independent pharmacies contract with PSAOs, PSAOs sign contracts and agreements with PBMs, PBMs contract with MCOs, which contract with the state. A few independent pharmacies contract with PBMs without going through PSAOs.

Senator Stine asked if people are being served and have access to services. Mr. Knowles replied that the service requirements for MCOs should be passed along to the subcontractors.

In response to questions from Senator Stine, Mr. Knowles said that the basic structure for pharmacy services for Passport is similar to that of the new Medicaid managed care system. His recollection was that University Health Care contracts with AmeraHealth Mercy, and Perform Rx is the PBM.

In response to questions from Representative Combs, Mr. Knowles said that the diagram illustrates the relationships among entities for pharmacy services and all of it would not apply for other types of services. The money flows through the MCOs. They receive a fixed amount for each member in order to provide services needed.

Senator Stine asked what the difference is between the previous Medicaid system and the new system regarding reimbursement for cost of drugs and dispensing fees. Mr. Knowles said both systems have a drug cost and a dispensing fee but he has not obtained information about specific amounts. The dispensing fee under the previous system was \$4.50 for brand drug and \$5 for generic. His understanding is that the dispensing fee under the new system is considerably less than that. The reimbursement for the cost of the drugs has decreased. In response to a question from Senator Stine, Mr. Knowles said the payment information is included in the contracts between the PBMs and the PSAOs. Independent pharmacies have to agree to become part of that contract and by doing so, they accept the payment

rate.

Senator Denton commented that only one of the three PBMs set up a separate Kentucky Medicaid plan. The other two PBMs folded Kentucky Medicaid into existing contracts. Pharmacies were not given an opportunity to negotiate that contract but had to accept the contract or be removed from the network. Within the contracts, the pharmacies may not turn anybody away but have to fill all the prescriptions within that contract; if they do not, they would be removed from the network. The pharmacies have no control as to what the reimbursements are going to be and they cannot decide which prescriptions they want to refill based upon whether they are going to be paid enough to cover their costs. Senator Denton commended the Auditor for looking into reimbursements on a global basis but it needs to be determined where all the money is going. Before managed care came into effect, the dispensing fee was \$4.50. Now there is sometimes no dispensing fee. The average national actual dispensing cost is approximately \$9, so the pharmacies are at a disadvantage.

Mr. Giardina said that Coventry, which has Medicaid health plans in 10 states, serves approximately 230,000 Kentuckians. In Kentucky, the company is known as Coventry Cares of Kentucky. It is committed to fixing problems quickly and will work with affected parties to understand and address their issues and concerns. Coventry contracts with the PBM Medco, which processes all pharmacy claims, provides 24/7 pharmacy customer service, and contracts with pharmacies to participate in the Medco network. Medco then makes the pharmacies in its network available to Coventry's members to obtain covered drugs. Coventry is not privy to the terms of Medco's contractual relationship with its contracted pharmacies.

Coventry develops and maintains the formulary, which is the list of drugs that are covered under the benefit plan. The company requires prior authorization before it will cover some drugs. The company handles requests by prescribing providers to cover drugs that are not on the formulary. All denied requests are reviewed by a physician licensed to practice medicine in Kentucky. He described Coventry's transition program for members who were taking drugs not on the formulary prior to the Kentucky Medicaid contract. For members taking specified behavioral health and epilepsy drugs prior to managed care, Coventry removed the formulary restriction and prior authorization requirements.

On average, Coventry pays for 100,000 prescriptions each week for its Kentucky members at pharmacies that contract with Medco. Coventry reviews approximately 1,100 exception requests weekly for drugs that are not on the formulary, drugs that have prior authorization criteria, and quantity limits. Reviews are completed within two business days, and approximately 60 to 70 percent of these requests are approved.

Senator Denton asked Mr. Giardina if the committee has the contract between Coventry and Medco. Mr. Giardina said that Medco is providing this.

In response to questions from Senator Denton, Mr. Giardina said that the contract

with Medco did not cover reimbursement or dispensing fees.

In response to a question from Senator Denton, Mr. Giardina said that the turnaround on preauthorizations for pharmacies is within two business days. Senator Denton cited the example of a preauthorization by Coventry for delivery of a baby that took 14 days.

Senator Denton asked what percentage of money paid by Coventry to Medco is for actual claims. Mr. Giardina said that he would have to ask for permission to provide that information.

Senator Pendleton said that if 60 to 70 percent of preauthorizations are accepted, what happens with the remaining 30 to 40 percent. Mr. Giardina said that for the 30 to 40 percent denied, with reasons given for the rejection, and instructions on how to appeal, are sent to the member. Senator Pendleton commented that if requests keep coming back because there is no preauthorization, this will cost more money. Mr. Giardina said that this should not happen because alternative drugs are offered as part of the preauthorization process.

Representative Stacy asked for the general counsel for Coventry to come to the table. In response to a question from Representative Stacy, Mr. Salinsky said that HB 262 would not cause a problem. He clarified a question from Senator Pendleton that there are 100,000 preauthorizations a week of which only 11,000 are exceptions. The 30 to 40 percent denied are of those 11,000 a week.

Representative Combs asked where the main office of Coventry is and whether there is an office in Kentucky. Mr. Salinsky said the main office is in Bethesda, Maryland; the state office is in Louisville.

Marty White testified that in many areas Kentucky Spirit's members only access to pharmacy services is through independent pharmacies. The relationship between Kentucky Spirit Health Plan, US Script, and Centene is unique. Centene is a leading multi-line healthcare enterprise. Kentucky Spirit Health and US Script, its PBM, are wholly-owned subsidiaries of Centene. Don Nagy, with US Script, began meeting with pharmacists before Centene and Kentucky Spirit were awarded the Kentucky Medicaid contract and he has continued to do so.

Kentucky Spirit has been fair in contracting with pharmacists by providing a Kentucky-specific contract and by reimbursing pharmacies using a dispensing fee that is comparable to what was received under Medicaid fee for service. Updates to maximum allowable cost (MAC) pricing have been timely. Kentucky Spirit is committed to paying pharmacists in a timely fashion. Early in the implementation process, as the result of a system glitch, some payments were delayed or inaccurate. Pharmacists were notified, and the problem has not been repeated. Kentucky Spirit's payment cycle to Kentucky pharmacists is timelier than is contractually obligated.

Based on discussions with pharmacists, exemptions to the four drug limit were expanded. Based on discussions with pharmacists and the behavioral community, a policy change grandfathered

most behavioral health medicines that patients take that have proven effective in their treatment. He closed by saying that Kentucky Spirit respects and understands the important services independent pharmacists provide to the plan's members and that he is confident you will hear the same from pharmacists.

In response to a question from Representative Combs, Mr. White said that Kentucky Spirit's head office, Centene, is located in St. Louis, Missouri, and the Kentucky office is in Lexington. The company has about 200 Kentucky employees.

In response to a question from Representative Steele, Mr. White said that Kentucky Spirit has no problem with HB 262.

In response to a question from Representative Osborne, Mr. White said the contractual relationship between Kentucky Spirit and US Script is unique and provides the advantage of having one team work with pharmacists.

In response to questions from Senator Denton, Mr. White said that the contract between Kentucky Spirit and US Script did not cover pharmacy payments. US Script negotiated new Medicaid contracts and did not fold them into existing contracts. He said that he would provide the contract. He said that the company is caught up on the backlog of claims, and claims are now processed within two days. Senator Denton asked what percentage of money paid by Kentucky Spirit to US Script is for actual claims. Mr. White said that he would provide this information as well as the dispensing fee.

Mike Minor testified that WellCare wants to have as many qualified pharmacies as possible in network and available to its plan members. The company remains focused on ensuring access to services in the context of providing comprehensive, quality health care services for members. When Medicaid managed care was initiated in November, WellCare had 1,021 pharmacies; it has 1,116 pharmacies now, a 9 percent increase. Almost all WellCare members have access to at least one pharmacy within 15 miles.

He said that, after listening to pharmacy concerns, WellCare offered a second proposal, with higher reimbursement to Kentucky independent pharmacists using previously unbudgeted funds. Nearly all of the independent pharmacies accepted. Pharmacies that accepted this contract are now reimbursed at aggregate levels that are equal to or higher than what pharmacies receive from Medicare and the private, commercial insurance markets.

Based on feedback from pharmacists, WellCare initiated a number of approaches designed to ease the transition for pharmacies and our members they serve. These include not implementing mail order pharmacy in Kentucky and not enforcing the four prescription limit used in traditional fee for service. WellCare also developed a 90-day transition of care plan that allowed members to continue existing pharmacy medications.

Subsequent feedback from independent pharmacists was that WellCare's PBM's MAC rates for certain drugs did not match what the independent pharmacies had to pay to acquire those

drugs. In response, WellCare implemented a daily MAC appeal process for Kentucky pharmacies through which drug pricing for pharmacy providers is adjusted in real time and price adjustments are retroactive.

Since November 1, WellCare has paid over 675,000 pharmacy claims and only received 332 appeals. Over 50 percent of the appeals were from 12 pharmacies; one pharmacy accounts for over 10 percent of all appeals. No comments have been heard on medications where the MAC price allows pharmacies to make above average margins. For every drug for which the MAC is equal to or lower than the cost a pharmacy's wholesaler is charging, there are many more drugs for which cost reimbursements are much higher than what pharmacies are paying. He asked if independent pharmacists want Kentucky's Medicaid program to eliminate all instances where the MAC price is lower than what they are paying through their PSAO's suppliers, and whether WellCare should also attempt to eliminate all instances where the same system provides margins that are significantly higher than costs.

The MAC developed by WellCare's PBM Catalyst is based on nationally available drug acquisition sources. Catalyst uses the same MAC pricing for all of WellCare's Medicaid states and receives no profit from WellCare's MAC. There is no incentive for Catalyst to limit drug buying choice.

Mr. Minor concluded by saying that WellCare's pharmacy payment for Medicaid is equal to or higher than the same prescriptions being filled for private, commercial carriers and Medicare.

In response to a question from Representative Combs, Mr. Minor said that the parent company of WellCare is located in Tampa, Florida. There are Kentucky offices in Ashland, Bowling Green, Hazard, Lexington, Louisville, and Owensboro, with almost 170 Kentucky employees.

In response to a question from Senator Denton, Mr. Minor said that the contract does not address pharmacy reimbursements and dispensing fees. Senator Denton asked what percentage of money paid by WellCare to Catalyst is for actual claims. Mr. Minor said that there are two payments: administrative and reimbursement for medical costs. One hundred percent of the latter goes for pharmacy payments.

Senator Denton asked about a \$10 voucher offered by WellCare that can be used through mail-order to obtain over-the-counter drugs. She said that a pharmacist had contacted her about a prescription for cough and cold medicine being denied on the grounds that it would be covered by the voucher. Mr. Daniels said that they have learned of situations like this and are addressing the concerns. There is a cough and cold list; most products are available.

In response to a question from Senator Denton, Mr. Minor said that HB 262 does not present a problem for WellCare.

Bill Wolfe testified that Catalyst Rx provides PBM services to over 18 million people through a contracted pharmacy network of over 60,000 pharmacies in all states. Catalyst Rx's business model is built on pass through pricing, which means that 100 percent of any contracted

discount with the pharmacy network is passed on fully to the client.

Catalyst Rx is paid the same administrative fees from WellCare whether there is a MAC or not, no matter what the MAC discount yields on a particular item. Catalyst Rx uses the same MAC for all pharmacies in Kentucky and for all contracted Medicaid pharmacies in Kentucky, New York, Georgia, Ohio, and Florida. The MAC is proprietary but is based on industry standard protocols developed over the last 13 years determined through review by external consultants. Catalyst Rx reviews product cost information on a continual basis, updating prices up or down as dictated by marketplace changes. Catalyst Rx implemented an expedited review process for appeals of MAC pricing in Kentucky in November. As of January 31, 2012, after adjudication of 628,102 claims since November 1, there have been 332 appeals.

There are currently 1,119 pharmacies contracted in Kentucky to fill prescriptions for WellCare members; 66 pharmacies have asked for appeal reviews. In other states in which Catalyst processes managed Medicaid claims under the same MAC, 57,265 participating pharmacies have filled prescriptions. Since November 1, over 3 million claims have been processed with only 447 MAC appeals. Mr. Wolfe concluded by saying that he was unaware of any significant pharmacy withdrawals from Catalyst Rx's network in any of the operating states.

In response to questions from Senator Stine, Mr. Wolfe said that the Department for Medicaid Services does not have access to Catalyst's contracts with PSAOs and pharmacies. He assumes that the department can access Catalyst's contract with the MCO, but he was unsure whether the cabinet does access the contract.

In response from a question from Senator Stine, Mr. Wolfe said that he did not know why there seem to be more complaints under the new system than with Passport.

G. William Strein testified that Medco is the PBM for Coventry nationally and in Kentucky. He said that if there are questions today for which Medco does not provide the committee with sufficient answers, it can provide an answer later and can provide clarification of any response if the committee requests it.

Medco provides benefits for approximately 50 million covered lives nationally and approximately 691,000 lives prior to November 1 in Kentucky and now an additional approximately 230,000 lives in Medicaid managed care. In other states, Medco has set up programs to use community pharmacists to close patient gaps in care and reimburses pharmacies for that clinical work. It has tried to discuss such a program with Kentucky pharmacists, but has not found Kentucky pharmacists to be interested.

Once a pharmacy is credentialed and becomes a Medco provider, it chooses to sign different rate sheets, or pricing schedules, for different networks for different clients. In some instances, when a new client is starting, Medco sends out new rate sheets, or pricing schedules. In

other instances, Medco can use pricing schedules that have already been signed by pharmacies to create a network for the client. The pricing schedules include dispensing fees and reimbursement amounts for brand and generic prescription drugs.

As part of the pricing of prescription drugs, virtually all payers, including state and the federal government, use MAC lists to set reimbursement for generic products. Mr. Strein summarized a handout on MAC pricing that was distributed to committee members. According to the document, MAC pricing is used by 86.6 percent of private employer prescriptions drug plans for retail generic prescriptions, and 46 state Medicaid programs use MAC lists. MAC lists have been adopted largely to create uniformity in pricing and reimbursement for generic products and to ensure that pharmacies do not attempt to maximize their profits on generic products at the expense of the client and consumer. Because pharmacies can acquire generic drugs at substantial discounts from published list-price benchmarks such as average wholesale price, in the absence of a MAC list an individual pharmacy could earn a higher profit by dispensing the generic drug made by a manufacturer with the highest list price.

Medco set its MAC prices based on research. Medco also maintains communications through community pharmacy owner advisors directly and with PSAOs representing independently owned pharmacies, and who also monitor MAC pricing, and submit appeals on behalf of the independent pharmacies. Medco attempts to ensure pharmacies receive a reasonable margin to promote the use of generics. It has a process by which a pharmacy can appeal the MAC reimbursement, and Medco adjust pricing continually. In the Kentucky Medicaid program run through Coventry, Medco reimburses independent pharmacies more for MAC-listed generic drugs than it does the large chain pharmacies. Medco believes that the large chain pharmacies have the ability to purchase generics more cheaply and sets its reimbursement accordingly.

Approximately 40 percent of the generic drugs that are being dispensed by Kentucky pharmacies for the Coventry program are also on standard \$4 generic lists available at other pharmacies. On average, a Kentucky pharmacy is receiving between \$7.88 and \$8.88 per prescription for those same \$4 drugs. The pricing schedule, which is inclusive of the dispensing fee and MAC list being used in Kentucky, is being used nationwide. Since November 1, 2011, Medco processed 3.2 million generic claims from pharmacies in Kentucky with 302 MAC appeals.

Mr. Strein concluded by saying that the state has the option to mandate the use of the Kentucky MAC list—run by a state vendor—for the managed Medicaid business. If the state would like to increase reimbursement to Kentucky pharmacies for Medicaid prescriptions to ensure access is available at all independent pharmacies, it should do so. The additional cost is one that would ultimately be borne by Kentucky and its taxpayers.

Representative Stacy asked what would be considered reasonable

reimbursement. Mr. Strein said that it would be the midpoint between acquisition cost, and giving the payer savings and the pharmacy a margin. There is no defined percentage. MAC pricing should never be below acquisition cost of the generic product in the market place. Representative Stacy asked why Medco is reimbursing below acquisition cost. Mr. Strein said that he has asked for written documentation of MAC prices being below acquisition costs and has not received it. In response to a question from Representative Stacy, Mr. Strein said that the MAC price list is proprietary. Representative Stacy commented that it was unreasonable not to provide the company's price list while asking pharmacists to document their costs. Mr. Strein said that the company does not make any money on MAC reimbursement. In response to a question from Representative Stacy, Mr. Strein said that the company makes money through the contract with the MCO. Representative Stacy asked how it is fair that reimbursement is below pharmacists' costs. Mr. Strein repeated that reimbursement should not be below costs.

In response to questions from Senator Clark, Mr. Strein said that all independent and corporate pharmacies understand the MAC pricing and dispensing cost and know what they are getting paid for their services. Pharmacies have the right to look at and examine the contract under which claims are paid. Some contracts have been signed and executed by the PSAOs, other contracts have been executed directly with Medco. There is some uncertainty about reimbursement until the claim is processed, because the MAC price is not posted, and until that claim response comes back, the pharmacy does not know what the reimbursement is on that generic product on that day.

Representative Combs asked how long it takes to address appeals. Mr. Strein said that the internal standard is within six days but he thinks it is less than that in practice. The problem is that many appeals are not going to the 24/7 system available through the website.

Senator Higdon asked that contracts be provided today.

Don. Nagy testified that US Script, founded in 1999, represents in excess of 3 million covered lives, of which approximately 1.5 million are from managed Medicaid beneficiaries from the Centene Corporation.

Over the past two years, he has worked with independent pharmacy associations and advocacy groups in Mississippi, Kansas and Georgia addressing concerns consistent with the topics this committee has brought forth. He conducted meetings with individuals from the Kentucky Pharmacy Association, the Kentucky Retail Federation, and independent community pharmacists as early as April 2011. The covered topics included use of existing commercial contracts and rates between US Script and PSAOs and retail reimbursement. As a result of these meetings, US Script proactively addressed some of the key issues of concern to the committee. Starting August 3, 2011, US Script solicited Kentucky Spirit specific pricing addendums to PSAOs with member pharmacies in Kentucky. US



Script choose to create custom rates similar to the current Kentucky fee-for-service rate. US Script offered economically equivalent reimbursement rates to any willing provider for participation in US Script's retail pharmacy network and specialty pharmacy network. Prior to implementation of Kentucky Spirit, US Script made available to members of the Kentucky Pharmacy Association its MAC list, MAC pricing philosophy, and price setting process.

When managed care was implemented on November 1, Mr. Nagy said that he visited Eastern Kentucky community pharmacies to get immediate feedback when a MAC reimbursement fell below the pharmacy acquisition cost. US Script identified the top 20 generic drugs with MAC prices being filled for Kentucky Spirit members and proactively raised pricing comparable to the Kentucky fee-for-service MAC list. MAC pricing inquiries submitted by Kentucky pharmacists during the month of November were responded to within 24 hours.

Since November 1, US Script has received 106 MAC appeals from Kentucky pharmacies, of which 93 (87 percent) were approved.

In response to a question from Senator Denton, Mr. Nagy said that the contracts between the PBMs and the PSAOs were made available to pharmacies.

In response to a question from Senator Denton, Mr. Nagy said that he did not know how PSAOs make money. The PSAOs are paid centrally for all their member pharmacies, which in turn disseminate the money to the individual pharmacists. The claims come to the PBM, they get processed, and the remittance payment is paid on a weekly basis to the PSAOs.

Representative Palumbo said that there were 106 appeals, of which 87 were accepted and 2 denied. She asked what happened to the other 17. Mr. Nagy said that 11 were suspended and temporarily removed from the MAC list due to shortages. Some of them were not processed because the form with the acquisition cost, which is part of the appeals process, was not provided or a claim for the price enquiries was never returned. Representative Palumbo asked what it meant that a drug was suspended. Mr. Nagy said that if a drug had three or four sources but went down to only one source, it was removed from the MAC list. In response to a question from Representative Palumbo, Mr. Nagy said that pharmacies were notified when drugs were removed from the list. They can retroactively reprocess the claim for the updated price.

Senator McGaha asked for the independent pharmacists in the audience to raise their hands if they contract with US Script. Most audience members raised their hands. Senator McGaha asked them to keep their hands up if US Script was reimbursing them at below cost. Everyone lowered their hands. Senator McGaha asked for the independent pharmacists in the audience to raise their hands if they contract with Medco. Most audience members raised their hands. Senator McGaha asked them to keep their hands up if Medco was reimbursing them at

below cost. Few if any lowered their hands. Senator McGaha asked for the independent pharmacists in the audience to raise their hands if they contract with Catalyst. Most audience members raised their hands. Senator McGaha asked them to keep their hands up if Catalyst was reimbursing them at below cost. Few if any lowered their hands.

In response to questions from Senator McGaha, Mr. Nagy said the MCOs contract with the cabinet for a fixed dollar amount per member per month. The PBM contracts with the MCO for direct reimbursement for brand name prescriptions of average wholesale price (AWP) minus a certain percentage plus a dispensing fee. US Script has an exact reimbursement methodology with the PSAOs of AWP minus a percentage plus a dispensing fee for brand drugs and a MAC list for generic drugs. Mr. Nagy did not know how the PSAO remits payments to the pharmacies.

Senator Higdon introduced one of his constituents, Mr. Leon Claywell.

Mr. Wallace spoke on the appeals process. He said that he was not allowed to mention any of the PBMs by name so he played a recording. The recording was a message from a Medco employee, informing Mr. Wallace that Medco had reviewed his request for reimbursement of a prescription filled in November 2011 and had determined that he has been properly reimbursed based on the current market conditions. Mr. Wallace said that is the end of the appeal. Every time that prescription has been filled since November, it has been dispensed at a loss because Medco refuses to adjust the claim and refuses to adjust the MAC price on that drug despite Mr. Wallace demonstrating that he cannot find the drug for that price.

Mr. Chazen explained that once EPIC Pharmacy Network receives the funds from the PBMs, the remittance shows how much to pay each pharmacy and 100 percent of that amount is passed on to the particular pharmacy.

Concluding the meeting, Senator Higdon said that a big problem exists and more information is needed. Another meeting will be scheduled to continue this discussion.

The meeting was adjourned at 3:57 p.m.

## PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

### Minutes

March 19, 2012

#### Call to Order and Roll Call

The Program Review and Investigations Committee met on Monday, March 19, 2012, at 2:00 PM, in Room 169 of the Capitol Annex. Representative Fitz Steele, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Julie Denton, and John Schickel; Representatives Dwight D. Butler, Leslie Combs, Terry Mills, David Osborne, Ruth Ann Palumbo, and Arnold Simpson.

Legislative Guest: Representatives

Hubert Collins, Keith W. Hall.

Guests: Auditor of Public Accounts Adam Edelen. William E. Collins, DMD, private practitioner, Chairman, RAM (Remote Area Medical) Kentucky. Rosemary Smith, Pharmacist and Owner, Jordan Drug, and Board Member, Kentucky Independent Pharmacist Alliance. Luther Smith, Pharmacist and Owner, Jordan Drug. Jason Wallace, Pharmacist and Owner, Grant County Drugs. Managed Care Organizations: Marty White, Vice President of External Affairs, Kentucky Spirit Health Plan. B. Russell Harper, Director of Government Operations, CoventryCares of Kentucky. Dora Wilson, WellCare of Kentucky. Kay Tillow, Kentuckians for Single Payer Health Care. Garret Adams, MD, Physicians for National Health Program Kentucky.

LRC Staff: Greg Hager, Committee Staff Administrator; Christopher Hall; Sarah Harp; Colleen Kennedy; Katie Kirkland; Van Knowles; Lora Littleton; Jean Ann Myatt; Kris Harmon, Graduate Fellow; Stella Mountain, Committee Assistant.

### Approve Minutes for February 13, 2012

Upon motion by Representative Mills and second by Representative Combs, the minutes of the February 13, 2012 meeting were approved by voice vote, without objection.

#### Medicaid Managed Care

Auditor of Public Accounts Edelen testified that his office started a preliminary investigation of the Medicaid managed care organizations (MCOs) after receiving complaints. The investigation, which is not a full audit, was based on data supplied by the MCOs at his request. He supports managed care if it is done properly, but the investigation found problems. A letter to the MCOs, which was supplied to the members of Program Review, made 10 recommendations to reduce the problems in implementing managed care. Seven of the 10 recommendations are to the MCOs; three are directed to the Cabinet for Health and Family Services. One of the recommendations to the cabinet is that it should study whether behavioral health patients would be better served under a fee-for-service system.

He is shifting existing resources within the office of the Auditor of Public Accounts to create an Office of Medicaid Accountability and Transparency.

Discussing some of the recommendations, he said that there are different metrics among the MCOs as to how performance is measured. The cabinet gets 140 reports from MCOs. A common metric needs to be agreed upon so that meaningful measurement and comparisons are possible. Secure, up-to-date technology should be used. Communication and the preauthorization process should be streamlined. Adequate staffing is needed for these and other tasks such as addressing backlogs.

He is pleased with how the MCOs have addressed the recommendations. Two MCOs responded in writing. He is aware that the cabinet has convened several meetings related to improving implementation.

His office will be conducting a full

audit of Medicaid managed care to be reported in 2013.

Representative Steele commented that he is still getting calls from frustrated providers.

Mr. Edelen said that he still hears anecdotal evidence as well but that the situation is getting better. The providers had an obligation to be prepared for the system too. The third-party billers must be held to account; they are not communicating effectively with providers about why claims are rejected.

Senator Denton asked Mr. Edelen which two MCOs had responded to his letter. He replied that one was Coventry; he did not remember the other but could provide that information.

Senator Denton said that the federal waiver for Passport has not been renewed. She does not want to see the same situation in the Passport region as is now happening in the rest of Kentucky. She urged Mr. Edelen to keep preparation for the Passport region in mind. Mr. Edelen agreed. There is need for better communication, and adequate time for effective rollout has to be built into the system.

Senator Denton said she wondered how the MCOs could have passed the state's readiness reviews. Mr. Edelen replied that he would be involved in this issue as long as he is in office.

Representative Palumbo said that she appreciated the attention to third-party billing and behavioral health.

Dr. Collins testified that he has been a private practitioner in Pike County for 21 years. He is the chairman of RAM Kentucky and provides care to military personnel on weekends. The dental problems with Medicaid managed care include a decrease in access to care; denial of claims; reductions in fees to providers; lack of uniformity among the three MCOs; patients being unaware of services available to them, which may be due to cumbersome patient manuals; MCOs cutting deals with certain providers; too many layers of administration (three medical MCOs, three dental MCOs, three vision MCOs, and the regular Medicaid system); treatments being approved, reevaluated, and then denied; providers trying to get patients to sign with MCOs they can more easily work with; MCOs being good for one area of care but not all; too much time spent verifying Medicaid patients; a cumbersome appeals system; and delays in treatment to patients and payments to providers. MCOs want paper copies of documents, but they will not accept certified mail. His view is that the subcontractors make money by delaying treatments to patients and by delaying payments to providers.

Tooth decay is the greatest problem in this population of children. As they become adults, they work, but in low-paying jobs because they are not presentable to the public.

Senator Denton asked him to be specific as to which MCOs are responsible for which problems. Dr. Collins said that Dr. Fred Sharpe, chief dental officer with Avesis, is good to work with. The biggest problems are with WellCare and DentaQuest. He noted that the last case he submitted was a Coventry case. Dr. Sharpe waited all day for an answer from the MCO. This was not an Avesis problem;

it was an MCO problem.

Dr. Collins said that Tennessee has carved out its dental program from its Medicaid MCOs. He referred to an insert in his printed report on how much they have done in Pikeville.

Patients often are on the phone with an MCO for a long time to convince the MCO that they are Medicaid patients because they are not in the MCO's system. Some of the MCOs will not even talk to him.

The greatest damage is the decrease in access to care. Dr. Collins noted that he cannot get approvals in a timely manner. Patients are denied procedures that are in the guidelines. When the decision is appealed, the procedure may be approved. This tactic of delaying payment hurts the patient the most. He described the recent case of a 7-year-old girl who was shown as ineligible on the MCO site but who was active on the Kentucky Medicaid site. Dr. Collins did the extraction with no assurance that he would be paid. Payment was made after the claim was resubmitted. Dr. Collins also noted some cases in the US of people with abscessed teeth who died due to lack of care.

Kentucky pays its providers \$38 for an extraction; West Virginia pays \$80. Kentucky pays \$78 for a periodontal deep scaling; West Virginia pays \$148. West Virginia also has programs to provide dentures. He described how patients who are now employed after having been provided dentures through the RAM clinic in Pike County. Dr. Collins described a patient who had three strokes over a short period of time who also had four abscessed molars. The MCO did not want the patient in the hospital. The patient waited all day and was finally authorized late in the day. Knowing that Dr. Collins was coming to testify at the meeting, the MCO asked to not be taken to task over this. He described problems in referring patients. No orthodontists are taking new managed care patients. No oral surgeons are taking patients from WellCare and Kentucky Spirit. No pediatric dentists are taking new patients from Kentucky Spirit.

Representative Palumbo thanked Dr. Collins for his work. She referred to the child patient in the photo on page 14 of his handout. Dr. Collins responded that the child has likely consumed Mountain Dew since the child was a baby. Initially, Coventry would not pay for surgery with her. Dr. Sharpe had to take up the issue with Coventry to get care for the child.

Representative Palumbo asked whether he refers patients to periodontists. Dr. Collins replied that no periodontists take Medicaid patients. He noted a case of a patient who tried to appeal a refusal by WellCare and WellCare would not let the patient appeal the matter.

Representative Palumbo said that more education on early care is needed, particularly regarding children and soft drinks. Representative Combs agreed and recommended that legislators should review the materials provided by Dr. Collins.

In response to a question from Senator Denton, Dr. Collins said that MCOs or dental counterparts do not provide guidance on deep scales; there were no manuals until January. He has had no problems with billing so far; the problems

have been with preauthorizations. Senator Denton asked whether preauthorization was required for deep scales. Dr. Collins replied that he does not think he would get paid without a preauthorization.

In response to a question from Senator Denton, Dr. Collins replied that he had to go through Coventry and Avesis for eligibility and preauthorizations, not payments. The problem is not with the claims; it is with the MCOs' knowledge of patients' eligibility. The MCOs do not keep their records up to date. Senator Denton, noting that Murray Wood and Neville Wise of the Department for Medicaid Services were in the audience, stressed the need for fast notification of the Medicaid eligibility of clients.

In response to a question from Representative Hall, Dr. Collins said that recent work in providing care to people outside of his practice included clinics for military personnel.

Representative Hall asked about enrollment problems. Dr. Collins said MCOs cut patients off at the end of a month. They are not picked up by another MCO until the next month. This was particularly a problem in January. Patients need to be able to switch MCOs because MCOs cover different medications and services. In response to a question from Representative Hall, Dr. Collins said that providers should be involved in making decisions.

Representative Hall asked whether the one thing that legislators should know about patients in Eastern Kentucky is that they must go to the University of Kentucky for care. Dr. Collins said yes.

Representative Hall commented that he is appalled that West Virginia is doing a better job than Kentucky. The bottom line is that people are not being served.

Representative Steele explained that RAM is medical providers who provide free care on weekends.

In response to a question from Representative Steele, Ms. Smith said that the situation with independent pharmacies and managed care has not improved.

Ms. Smith said that she is testifying on behalf of 560 independent pharmacies in Kentucky and thousands of employees, their families, and patients. She is a cofounder of the Kentucky Independent Pharmacist Alliance (KIPA). The more than 40 independent pharmacists who attended the February meeting of Program Review sat in disbelief as officials of the MCOs and pharmacy benefit managers (PBMs) misled the committee.

Independent pharmacies face the same issues as when she testified at the January Program Review meeting. Independent pharmacy is in danger of being obliterated. There are two new administrative layers of people who do not work directly with patients. These are not Kentucky companies; tax dollars are going out of state at the expense of Kentucky providers.

Problems have gotten worse. Coventry and WellCare rolled pharmacies into their existing national contracts on November 1. The pharmacy services administration organizations (PSAOs) used by independent pharmacies objected. The PSAOs were told by the PBMs that if they refused to accept the Medicaid members, then each PSAO and all of its

pharmacies nationwide would have all its contracts with Medco [PBM for Coventry] and Catalyst [PBM for WellCare] cancelled. If the MCOs were subject to the managed care laws of the Department of Insurance instead of just being licensed by the department as required by Medicaid, this would have been in violation of KRS 304.17A.150(4). The contracts that pharmacies were rolled into have cut professional fees by up to 80 percent.

The second major unresolved issue is co-payments, which are required under 907 KAR 1:604. Kentucky Spirit, through its PBM US Script, is the only MCO to keep the co-payment requirement. HB 262, which passed the House, is one of three bills that are crucial to the survival of independent pharmacies. Implementing the co-payment requirements required by law costs the MCOs no money. The state's contracts with the MCOs say nothing about collecting co-payments being optional. The co-payments were in effect when the contracts were executed, so they are not a material change in the contracts. The MCOs should be required to increase dispensing fees in an amount equal to the co-payment; the co-payment can be deducted from the professional fee and tracked. When they were asked at the February Program Review whether they would oppose HB 262, the three MCOs said no. It appears that they have changed their minds.

The biggest complaint remains that independent pharmacies are being paid less for many generic drugs than it costs the pharmacies to purchase these drugs. Because the maximum allowable cost (MAC) list of each MCO/PBM is secret, the pharmacies do not know they will be losing money until after a drug is dispensed. Medicaid's fee-for-service MAC is posted and is reasonable. Kentucky Spirit allowed a review of its MAC list prior to November 1; most prices that did not cover costs were adjusted. Coventry and WellCare rarely make changes and give no direction on which drug they base their price and where that drug could be purchased at that price. They should be required to base pricing for their Kentucky MAC list only on prices available in Kentucky.

Ms. Smith asked for support for SB 125, which would require that a MAC price be based on nationally recognized compendia and based on products available locally. The bill also requires that pharmacies be notified prior to the implementation of a MAC on a particular drug and that there be a reasonable appeal process.

KIPA members support Auditor Edelen's recommended changes for the Kentucky Medicaid system.

Pharmacies deserve to be paid for their claims for durable medical equipment such as diabetic supplies. Two MCOs have paid no durable medical equipment claims since November 1; the other is way behind.

She described the case of a Jordan Drug patient with bone cancer who was denied pain medication because she already had two controlled medications that month. The result was that the patient had to be hospitalized.

She concluded by saying that passing HB 262, SB 125, and HB 349 (the audit bill) is vital to the survival of independent

pharmacies.

Representative Steele commented that he heard the same messages from three pharmacies he visited today.

Senator Denton said that she had been called by a pharmacist in western Kentucky that WellCare has a new limit on opiates per month per patient and that getting preauthorization is difficult. In response to a question from Senator Denton, Mr. Wallace said that preauthorizations are a problem. The MCOs' practice is to refuse claims and hold payments. The most frustrating issue is that pharmacy, when rebates are included, was less than 8 percent of Medicaid spending. Independent pharmacy was cut because it was an easy target. The one word for their treatment by the MCOs is abysmal.

Senator Denton said that at the February 13 Program Review meeting, the MCOs and PBMs testified that they did not have a problem with HB 262. Kentucky Spirit still has no problem with the bill because they already collect co-payments. Coventry and WellCare now do have a problem because they say keeping track of co-payments is a material change to their contracts.

Mr. Wallace said that the bills were easy to implement and fiscally neutral. What was said by Coventry and WellCare at last week's meeting of the Senate Health and Welfare Committee was a blatant misrepresentation. Senator Denton said that she intends to ask all three MCOs about this.

Mr. Smith said that the situation is so bad that it cannot be allowed to go on. Independent pharmacies need legislators' help.

Ms. Tillow referred to a study by the Commonwealth Fund that found that for-profit MCOs have higher administrative costs and lower quality. Connecticut has taken Medicaid away from MCOs and returned it to state control to improve care and save money. Oklahoma has done the same. She recommended that Medicaid should be provided publicly, not for profit.

Mr. Adams said that he is an advocate for publicly provided national health care. MCOs exist for profit. The best chance now is for Kentucky to back out of managed care.

Mr. White said that Kentucky Spirit had responded in writing to Mr. Edelen's letter and that he could share the letter. Many of Mr. Edelen's recommendations are already in place. Kentucky Spirit will look at other recommendations, particularly those related to technology. The situation is getting better. As of mid-February, Kentucky Spirit has about 145,000 members. It is paying claims weekly, approximately \$13 million a week in total claims. On average, its pay time on claims is 11 days. Kentucky Spirit pays interest on claims that are not satisfied within 30 days.

Senator Denton asked Mr. Harper about Coventry's response to HB 262. Mr. Harper said that senior pharmacy advisors were meeting on this and he will provide information to Senator Denton by March 20.

Senator Denton asked Ms. Wilson about WellCare's response to HB 262. Ms. Wilson said that implementing HB 262 would be challenging.



Representative Steele said that the situation is not improving. The MCO executives should stop dragging their feet.

The meeting was adjourned at 3:40 p.m.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes**

January 11, 2012

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, January 11, 2012, at 8:15 AM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators David Givens, Dennis Parrett, and Joey Pendleton; Representatives Royce W. Adams, Tom McKee, Fred Nesler, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Bill McCloskey, Angela Blank, and Jennifer Hudnall, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley and Kelly Blevins.

The December 7, 2011, minutes were approved, without objection, by voice vote, upon motion made by Representative Nesler and second by Senator Pendleton.

### **Governor's Office of Agricultural Policy**

The committee received the monthly report from Mr. Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), regarding project funding decisions made by the Agricultural Development Board (ADB) in its December meeting.

Mr. Neaveill summarized the funding allocations made under the County Agricultural Improvement, Deceased Farm Animal Disposal Assistance, and Shared-use programs from the previous month. He also recapped amendments approved for previously funded projects.

Mr. McCloskey reviewed the projects approved by the board at the previous meeting. Those included: Garrard County Board of Education, approved for \$30,000 in Garrard County funds to implement a forage management program for youth and adult education attendees; Nonprofit Dynamics, Hickman and surrounding counties, \$55,782 in state and county funds to undertake a wild pig control program in the Obion Creek Watershed area; and Bluegrass Stockyards of Albany LLC, \$35,000 to erect a stockyard facility in Albany. The board had delayed action on one project, Louisville-Jefferson County Metro Government.

Regarding the Garrard County project, the GOAP officials responded to committee members' questions about the scope of the acreage involved in the project and size of the building. According to their testimony, the Garrard County Board of Education will assist if there are cost runovers.

The Nonprofit Dynamics project prompted discussion about the growing wild swine problem in the state. Co-chair Hornback wondered aloud if the animals could be eradicated. Co-chair Stone mentioned the extensive testimony on the subject during a House Agriculture and Small Business Committee meeting earlier in the day. He related that Department of Fish and Wildlife Resources officials would strive toward eradication.

During discussion of the Bluegrass Stockyards project, Co-chair Stone expressed his approval of a requirement that if the recipient of the agricultural development funds sells equipment bought with the funds during a five-year period, any money earned from the sale shall be returned to the board of a pro-rated basis.

Mr. Neaveill summarized the Louisville-Jefferson County Metro Project which sought \$350,000 to fund two segments of the project including the Farm to Table program and revolving loan program for small businesses. The board pended the project until questions are resolved, including seeking Kentucky Agriculture Finance Corporation (KAFC) loans.

Co-chair Hornback noted that he has heard a great deal about the Farm to Table program and believes it is a good promotion for agriculture.

In response to a question by Senator Givens, Mr. Thomas responded that the Farm to Table program has received funding in the past. Senator Givens asked if the Louisville-Jefferson County Metro Government plans to contribute to the program. Mr. Neaveill responded that the project is fully matched with federal funds with no contribution from local funds.

Senator Givens inquired how many state funds are available, to which Mr. Neaveill responded \$16.5 million is available to the board. Mr. Thomas asked the members to keep in mind there are \$8 million in recurring expenditures (e.g. Kentucky Proud, Kentucky Beef Network, Kentucky Beef Council, Kentucky Horticulture Council, and The Kentucky Center for Agriculture and Rural Development) that are sought every two years, which reduces the \$16.5 million to \$8.5 million in funds actually available.

Senator Givens responded that the rigor used to evaluate projects will need to become stronger.

Mr. Thomas said staff took another program that was funded with federal funds, the On-Farm Energy Production and Efficiency Program, and suggested that the board reconsider setting aside state funds to continue the program for two years. The board agreed and set aside \$2 million. He noted that in 2011, more than \$750,000 in state funds were awarded across the state. Those investments result in more than \$800,000 in energy savings in one year; he noted those savings will be achieved every year going forward.

Senator Givens said he applauds that the board is changing the culture and introducing new practices. He cautioned that routine has been to not re-fund from another cycle so the standard of measurement is higher when applicants come back seeking funds again.

Mr. Thomas noted positive press regarding the Farm to Table program saying the board felt that this was worthwhile to

continue for another two year cycle. He mentioned another investment in that area, Capstone Produce Auction, which plays a part in the Louisville Metro area.

Senator Parrett noted that he could not see any impact in Hardin County by the Farm to Table program. Mr. Thomas noted that he would contact Ms. Sarah Fritchner with the program and report back.

Representative McKee shared appreciation to the GOAP staff and board members from a Harrison County Magistrate for the deceased animal removal program. He also noted Tamara Sandberg with the Farms to Food Bank Program, who was present in the audience; he said the money provided to the program has reaped enormous benefits and mentioned the value of the program.

Mr. Thomas returned the accolades mentioned by Representative McKee to the General Assembly and to Governor Beshear for putting money into agricultural development. He noted the food bank funding last year and the fact that money was leveraged to obtain money from Wal Mart.

In response to a question by Senator Givens, Mr. Thomas responded that it is hard to report how much money has been withheld due to arbitration.

There being no further business the meeting was adjourned.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes**

March 5, 2012

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Monday, March 5, 2012, at 2:00 PM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators David Givens and Vernie McGaha; Representatives Tom McKee and Ryan Quarles.

Guests: Roger Thomas, Joel Neaveill, Bill McCloskey, Angela Blank, Jennifer Hudnall, Christi Marksbury, and Michael Tobin, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley, Biff Baker, and Kelly Blevins.

At the outset of the meeting, the committee co-chair, Representative Wilson Stone, introduced the newest committee member, Representative Ryan Quarles, who replaced former State Representative and current Agriculture Commissioner James R. Comer.

Co-chair Stone introduced visiting governmental officials, journalists, and students from the country of Zambia in southern Africa. A host for the group, Mr. Al Cross, Director of the University of Kentucky Institute for Rural Journalism and Community Issues, explained to the committee the purpose of the Zambians' visit to Kentucky.

### **Governor's Office of Agricultural Policy**

The committee received the January and February reports from Mr.

Roger Thomas, Executive Director, Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), regarding project funding decisions made by the Agricultural Development Board (ADB) in the previous meetings.

Mr. Neaveill summarized the funding allocations made under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and Shared-use Equipment programs from the previous months. He also recapped amendments approved for previously funded projects.

Mr. Neaveill responded to Co-chair Stone, who asked about the scope of participation in CAIP by residents of Jefferson County. A GOAP staff person recalled that Jefferson countians have sought funds for cattle and vegetable production, to name a few. Mr. Thomas pointed out that a positive aspect about CAIP is that each county must offer co-share funding under the various investment areas, whereas counties were not required to do so under a previous program.

In reporting on February Shared-use allocations, the GOAP officials noted that two counties, McCreary and Perry, had received funding under a program created to set aside shared-used equipment funds in counties that receive smaller amounts of county tobacco settlement allocations.

Responding to committee members' questions, the GOAP officials indicated the Kentucky Beef Network receives about \$875,000 in state funding to support on-going cattle production efforts, which is separate from the \$310,000 awarded to support the KBN "MAG 60" management and genetics program. Mr. McCloskey also explained that a Washington County Cattlemen's Association request for additional funds, which total more than an original request, enabled the association to have cost-share funds readily available for 2012.

Mr. Rogers responded to questions from Senator Givens, who asked how efforts had gone to "think outside the box" regarding new and innovative project ideas. According to Mr. Rogers, the ADB had touted that concept and held forums throughout the state in 2011 in an effort to generate ideas. Mr. Rogers pointed out, too, that efforts have been made to urge counties to support regional projects. He mentioned some examples, an on-going Bracken County switchgrass production project and a deceased livestock disposal project in southern Kentucky, and regional meat processing facilities in Garrard and Wolfe counties.

GOAP officials reviewed three state-funded projects, one approved in the January ADB meeting for Padgett Farms LLC, Washington County, which was approved for \$15,000 in Washington County funds to install a water line to existing greenhouse facilities, and two in the February meeting, the Edmonton-Metcalf Industrial Authority, approved for \$50,000 in state funds and \$100,000 in Metcalfe County funds to build a marketing facility for blueberry production in Metcalfe County, and Garrison Meat Processing, approved for \$3,000 in Lewis County funds to expand the meat processing facility. Mr. McCloskey

indicated that the Garrison Meat Processing Co. also was approved for a separate \$100,000 Kentucky Agricultural Finance Corporation loan.

Referring to the Edmonton-Metcalf County project, Senator Givens explained to the committee that the industrial authority there became involved in furthering the blueberry industry because it viewed the effort as a part of economic development. Co-chair Stone pointed out that the project is an example of “non-traditional marketing.”

As the meeting ended, Mr. Thomas emphasized the importance, during the budget negotiations, of preserving the Master Settlement Agreement funds granted for agriculture diversification. Co-chair Stone indicated that agriculture in Kentucky has grown with the assistance of the funds. He cited the strong state cattle market as an example.

According to Mr. Thomas, the need for the on-going MSA allocations for agricultural diversification will be important in future years since the final federal tobacco buyout payment checks will be issued in 2014.

There being no further business the meeting was adjourned.

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- 236 Issues Confronting the 2012 Kentucky General Assembly
- 235 General Assembly Action 2011 Regular Session
- 234 Final Reports of the Interim, Joint, Special, and Statutory Committees 2010
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- 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)



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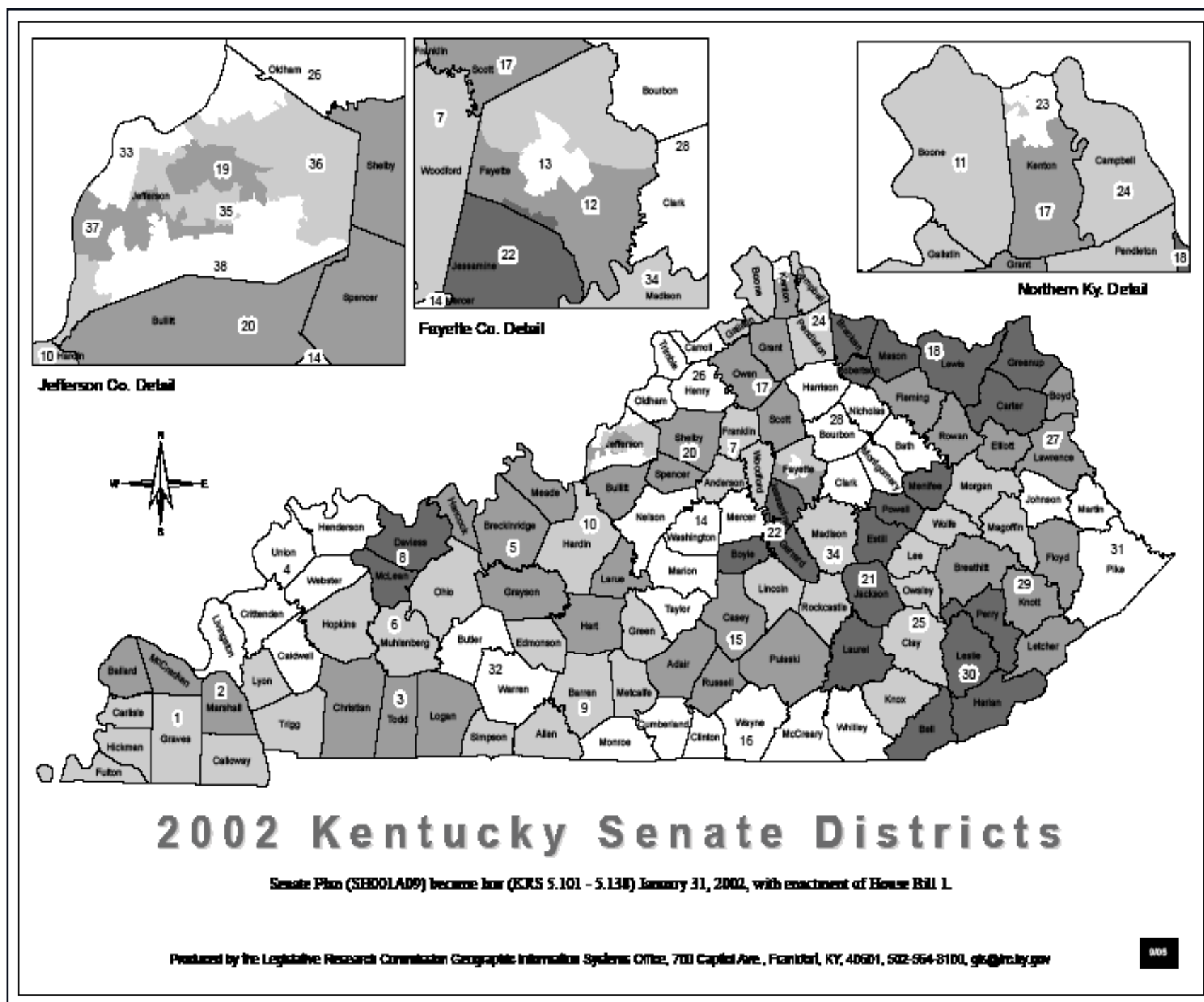
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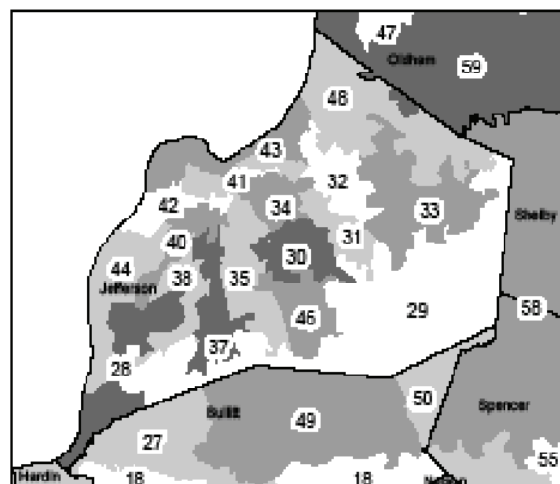
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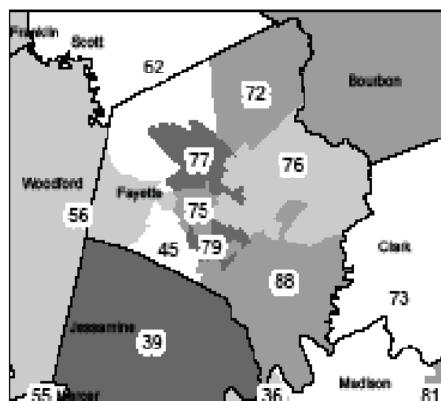
[364](#) Subcommittee on the Penal Code and Controlled Substances Act Report of the Subcommittee on the Penal Code and Controlled Substances Act (2009)



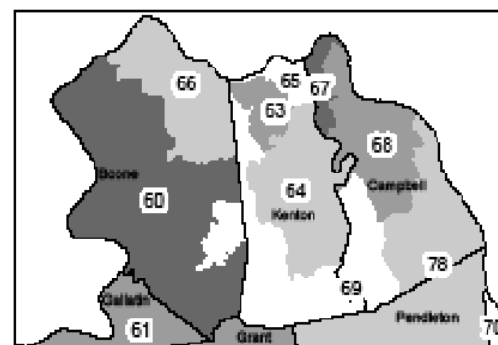




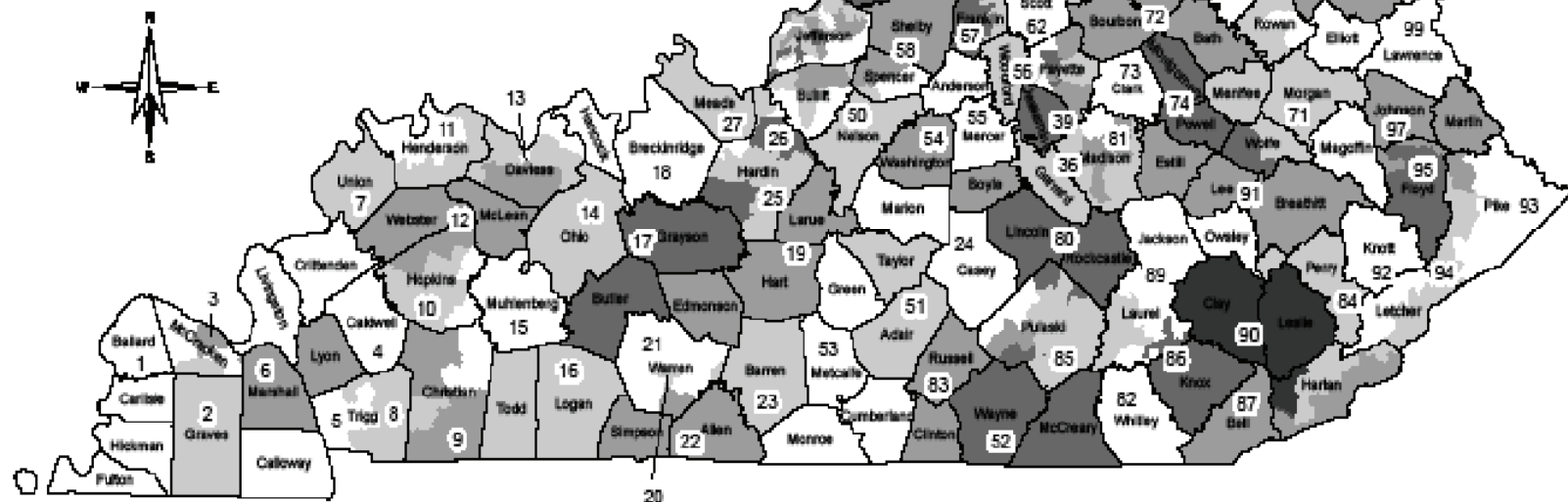
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House Plan (HB001A.11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.

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