

Lawmakers review recommended penal code changes

by Rebecca Mullins
LRC Public Information

FRANKFORT — Recommended changes to the state penal code—including an increase in the dollar amount of what constitutes felony theft— and the state’s drug laws proposed by committees of the Kentucky Criminal Justice Council were shared with a legislative subcommittee on Nov. 10.

The proposals, which are intended to reduce the state’s growing prison population, could lead to legislative changes in the next regular legislative session beginning in January. However, they must first be approved by the Council and delivered to Governor Steve Beshear by Dec. 1.

Some of the recommendations shared today with the legislative Subcommittee on the Penal Code and Controlled Substances Act by the Council’s Penal Code Committee Chairman Chris Cohron included applying a statute of limitations on certain Class D and C felonies (with an exemption for sex offenses), increasing the threshold for felony theft from \$300 to a larger amount, grading thefts based on severity of the crime, making DUI a felony after a third rather than a fourth offense and improving aid to county jails, among others.



Rep. Brent Yonts, D-Greenville, (left) and Sen. Dick Roeding, R-Lakeside Park, speak during the Nov. 10 subcommittee meeting.

Cohron said reimbursing counties for the 30 to 60 days that inmates spend in jail awaiting sentencing would help. Another way to impact the jail system,

said Justice and Public Safety Cabinet Secretary J. Michael Brown, is to waive pre-sentence investigations upon agreement of the parties.

“It would help us meet our already statutorily imposed guidelines of moving inmates within 45 days, rather than having them sit in the jail post-conviction and wait,” said Brown.

Rep. Joe Fischer, R-Ft. Thomas, who asked if the committees’ recommendations were in line with laws in other states, said “I agree that these do seem to be good common sense recommendations.”

The subcommittee then heard recommendations for changes to the state’s drug law statutes. Drug cases, explained Cohron, are a major drain on the justice system.

“The biggest issue we’re dealing with are all these drug cases,” he said. “If we can get to them quickly before they reoffend, that can save them... before they get disenfranchised from society.”

One change to the state drug laws that were recommended include passing a “drugged driver” law (proposed in previous legislative sessions) that would make driving under the influence of a controlled substance without a prescription a “per se” or clear offense. Other proposals could change laws

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Chief Justice discusses possible \$38 million shortfall facing courts in 2011

by Rebecca Mullins
LRC Public Information

FRANKFORT — State lawmakers are considering the possible effect of a projected \$37.8 million shortfall in state court funding in 2011, including less money for personnel and court programs.

“This looming deficit means we must greatly reduce expenditures, or increase appropriations, or face significant reductions in services to the people of the Commonwealth when citizen demands on the Justice system are greater than they have ever been in the history of the Commonwealth,” Kentucky Supreme Court Chief Justice John Minton told the Interim Joint Committee on Judiciary on Nov. 18.

Since about 88 percent of the budget of the courts is personnel costs, Minton said the Court of Justice has eliminated 73 positions--mostly through

retirements or other attrition. Only those jobs deemed “critical” will be filled, he said, including positions in drug court, pretrial services and court designated worker programs.

“As we see it, the continued vitality of statewide services like these have a significant impact on the reduction of inmate populations in county jails and state corrections facilities,” said Minton.

Other cost savings have come from what Minton called the Court of Justice’s enthusiasm to “do a new thing.” What are new are a felony mediation program that allows cases to be settled more quickly, an e-pay system that lets individuals pay court costs and fees by credit and debit card in at least 27 counties so far and an e-warrants program--now in five counties--that expedites the signing or recall of warrants by judges.

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Sen. Dan Seum, R-Louisville, comments during the Nov. 18 meeting of the Interim Joint Committee on Judiciary.

Penal code, from page 1

that determine proximity to public and private places by drug offenders, and alter some penalties.

"I'm not going to hold out that this is a comprehensive review of the penal code top to bottom," Brown told Subcommittee Co-Chair Sen. Gerald Neal, D-

"We need to look at things in a comprehensive way and look at which parts of the system promote...

rationality, at the same time... carrying out what justice requires."

Sen. Gerald Neal

said as of now, many areas of the penal code are "piece meal."

"Certainly, there are some very key aspects of the system that need to be addressed..." Neal told Brown, Cohron and others.

"The greatest concern from where I'm sitting, in terms of this subcommittee, is I think we'll miss the point if we're just a repository of wishes from individuals.

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Chief Justice, from page 1

Rep. Robin Webb, D-Grayson, the first Vice Chair on the House Appropriations and Revenue Committee, explained that a nearly \$38 million deficit will be hard to overcome. She said it also makes the chance to expand drug court—which she supports—"bleak." But Minton, a former drug court judge, spoke strongly in favor of

Lawmakers hear testimony on possibility of nuclear power in Kentucky

by Rebecca Mullins
LRC Public Information

FRANKFORT — Examining the use of nuclear power to generate electricity in Kentucky—part of a seven-point energy strategy unveiled by the Governor's Office yesterday—drew both interest and concern from some members of the General Assembly's Energy subcommittee on Nov. 21.

Rep. Tanya Pullin said she was shocked to find that the governor's plan cites her hometown of South Shore as one of four possible locations for a nuclear power plant, and asked that the citizens of the community be consulted before any such plans go forward.

Pullin, D-South Shore, was assured by Energy and Environment Cabinet Secretary Len Peters that the four sites were only "notional" based on resources such as water availability.

"We were looking at those only as notional sites so that you can find locations for nuclear plants, whether there would be any there or in the western part of the state," he said.

Peters also said his agency will not proceed with any plans for nuclear power plants in South Shore or other communities until there is plenty of discussion on the issue of nuclear energy with stakeholders.

"I think it's probably going to be a year-long conversation we are going to have to have about nuclear," said Peters. But Peters did say that a conversation is necessary, since Kentucky will need a more substantial mix of energy generation sources to meet the energy plan's goal of reducing the state's 1990 levels of greenhouse gas emissions by 20 percent by 2025.

Most states surrounding Kentucky already use some form of nuclear power as part of their energy

portfolio, Peters said.

"It's going to be part of the national solution—coal's going to be part of the national solution," he said. "We have to start that conversation."

Peters also assured Rep. Tom Riner, D-Louisville, that nuclear utilities or any electrical utility will not move into a community "where they are not wanted."

"That's fundamental. The electric utilities have faced that issue—in Marble Hill (in Indiana) and elsewhere—for some time... They aren't even going to propose a plant in (those communities)," Peters said. "If the community is not supportive of it, I can

"If the community is not supportive of it, I can assure you the administration will not be supportive of moving into that particular community."

Len Peters

hope I would be receptive to nuclear power once I understand all the pluses and minuses," said Borders. "(But) my concern is if a nuclear power plant were the best thing to ever happen for certain locations in the state, you'll never have the option of even considering that once you scare the people to death before we get an education."

Rep. Keith Hall, D-Phelps, said he is glad that the energy plan is being

discussed and complimented Peters on his open-mindedness on using different types of energy to meet the state's future needs.

"I am very encouraged that we're at least having this discussion," said Hall.

The energy mix that Peters spoke about, which also includes renewable energy and alternative fuels, would not only lower emissions but meet an estimated 40 percent increase in the state's energy needs, and electricity needs, by 2025.

Sen. Robert Stivers, R-Manchester, asked if the state's energy grid will be able to handle a 40-percent increase in electricity generation since, he said, the grid is already maxed out. "It doesn't matter if you produce it if you can't deliver it," said Stivers.

Peters said the state has not addressed that issue, but that "we believe we are going to see major (mostly federal) enhancements in the electricity grid over the next 20 years."

If improvements aren't made, he said, "not only are we not going to meet Kentucky's electricity needs, we aren't going to be able to meet any electricity needs in that regard."

Other strategies in the energy plan include: Improving energy efficiency in buildings and transport fleets, increasing renewable energy sources, increasing production of biofuels, developing a coal-to-liquids industry to replace gasoline and other petroleum-based liquids, improving natural gas production, and more aggressively pursuing carbon capture/sequestration projects related to coal-generated electricity.

Gov. Steve Beshear announced as part of the plan's unveiling that it will not only reduce emissions and help meet energy demands, but will create around 40,000 energy-related jobs in Kentucky.

the expansion.

"I think it is one of the tools that we have where if we do it effectively, it does have ramifications beyond us. We collect more child support, we (collect) more taxes, we keep more people out of jail if we effectively do what drug court does," said Minton. "You'll find in me a great supporter of

drug court."

A high rate of new cases in the court system concerned some lawmakers. With new trial court cases increasing at a rate of about 40,000 per year, Sen. Dan Seum, R-Louisville, said perhaps law enforcement needs to focus more on violent crime.

"It's been my concern that the

system's been somewhat upside down, that we haven't prioritized violent crime," said Seum.

"With all these unfunded mandates, we're breeding a lot of contempt out there. A lot of people realize that they don't have to adhere to the law

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Lawmakers look into driver's license renewals

by Chuck Truesdell
LRC Public Information

FRANKFORT - State agencies are working to make the driver's licensing process more secure, officials told members of the Interim Joint Committee on Transportation on Nov. 7.

"The driver's license is used for a lot more than driving a car," said Dan Glass, the state's Commissioner of Motor Vehicle Regulation. Voters also use them for identification, making them more than a simple road safety device.

The Transportation Cabinet works with 120 circuit clerks and the Kentucky State Police to issue secure driver's licenses, Glass said.

Immigration documents for all non-U.S. citizens are verified before licenses can be issued, said Cindy VanHoose, Director of the Division of Driver Licensing. About 14,000 documents were processed last year, she said. In addition, there is a fraud unit to make sure documents are authentic.

Social Security numbers are verified for license applicants, Glass said, even though the numbers are not used on the applicants' licenses and the system does not share the Social Security number with others under federal law.

Sen. Bob Leeper, I-Paducah, noted that there is no periodic vision screening when Kentuckians renew their license, although new licensees are screened.

"We are licensing people today who can't see," Leeper said, noting he has sponsored unsuccessful legislation in that area in the past.

Adam Whitlock, who heads the KSP Driver Testing Branch, noted that federal CDL licensing procedures require vision screening for renewals, and that some applicants have lost their licenses and jobs because they did not meet the requirements of 20/40 vision for each eye independently.

A review board exists to suspend licenses for medical reasons, VanHoose said. It requires an affidavit signed by family members or others concerned about the driver's ability to



Transportation Committee Co-Chair Rep. Hubert Collins, D-Wittensville, fields questions during the Nov. 7 meeting.

drive safely.

Rep. Greg Stumbo, D-Prestonsburg, noted that as a licensed pilot, he is required to take a biennial health screening. Such health screenings for drivers could reduce insurance costs across Kentucky, he said.

KSP Commissioner Rodney

Brewer remarked that some states require older drivers to take the driving skills test as well.

Committee chair Rep. Hubert Collins, D-Wittensville, said future meetings would delve more deeply into license issuance and how to make the process more secure.

Grape and wine industry making inroads in Kentucky

by Rob Weber
LRC Public Information

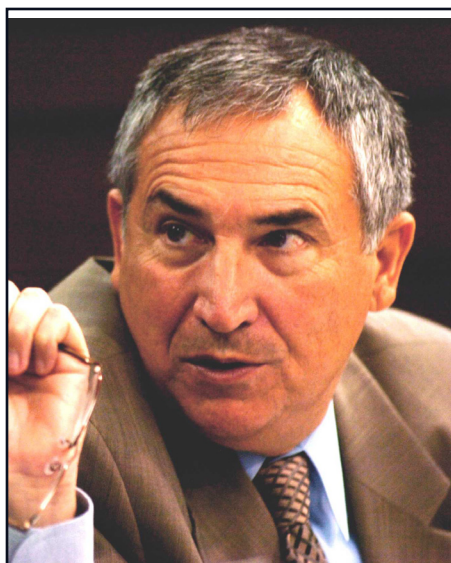
Like fruit on the vine, Kentucky's grape and wine industries are growing.

State lawmakers heard testimony on grape-growing and small farm winemaking successes, as well as some of the industry's growing pains, during the November 14 meeting of the General Assembly's Licensing and Occupations Committee.

Kentucky was home to America's first commercial vineyard, which was started in 1798 in Nicholasville. Prohibition largely erased the winemaking industry from Kentucky, but some say the industry is now in the beginning stages of a comeback.

The number of cases of wine produced annually has steadily grown in recent years, according to the state's 2008 Wine Production Survey. In 2008, more than 76,000 gallons of wine have been produced, nearly three times as many as four years ago.

There currently are 49 small farm wineries licensed in the state, said



Rep. Sal Santoro, R-Florence, talks with another lawmaker during the meeting.

Mack Stone, executive director of the Kentucky Department of Agriculture's marketing office.

Stone said Kentucky small farm wineries generally fall into two groups: those that highly depend on tourists' visits to their tasting rooms, and those that depend on retail sales.

Wineries in some parts of the

state are interested in changing laws that prevent them from selling wine on Sundays, Stone said.

"It has been shown in other states and across the country that Sunday is the second-biggest day for tourism, so some wineries are considering Sunday precinct votes," he said.

Winemakers also hope to boost sales of their products through marketing efforts during the 2010 World Equestrian Games, which are expected to draw hundreds of thousands of people to the Kentucky Horse Park, Stone said. Kentucky wines will be featured in an area in the event's main reception tent and will be made available for tasting, purchasing and shipping.

In response to a question from Sen. Dan Seum, R-Louisville, about whether grape growers typically enter into contracts with wineries that buy the fruit, one grower said the need for formal contracts rather than oral agreements is growing.

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Dairy issues aired before lawmakers

by Rebecca Mullins
LRC Public Information

FRANKFORT — After years of decline, Kentucky dairy farmers are looking to state lawmakers to help them rebuild their industry. Those who process their milk, however, want to make sure any state economic plan does not include more price regulation.

Both farmers and processing companies like Southern Belle, Dean's Foods and Flav-O-Rich testified on their views on Nov. 12 before the Interim Joint Committee on Agriculture and Natural Resources. Farmers like H.H. Barlow, who said the number of cows in Kentucky has dropped six-fold since 1954, said milk price volatility is a "huge" issue for farmers but that the state can help.

Barlow is also a member of the Kentucky Dairy Development Council, a group which supported the creation of a state Milk Commis-

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2009 Session Calendar

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

JANUARY – PART I

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

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

MARCH

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

FEBRUARY – PART II

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

() Denotes Legislative Day

() Denotes Legislative Day



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LEGISLATIVE RESEARCH COMMISSION

Minutes of the 527th Meeting September 24, 2008

The 527th meeting of the Legislative Research Commission was held on Wednesday, September 24, 2008, at 1:30 PM, in Room 125 of the Capitol Annex. Senator David L. Williams, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David L. Williams, Co-Chair; Representative Jody Richards, Co-Chair; Senators Carroll Gibson, Dan Kelly, Joey Pendleton, Dan Seum, Katie Stine, Johnny Ray Turner, and Ed Worley; Representatives Rocky Adkins, Larry Clark, Bob M. DeWeese, Charlie Hoffman, Jeff Hoover, Stan Lee, and Rob Wilkey.

LRC Staff: Bobby Sherman and Christy Glass.

Senator Williams called the meeting to order and the secretary called the roll. There being a quorum present, Senator Richards called for a motion to approve the minutes of the August 6, 2008, meeting; accept items A. through K. under Staff and Committee Reports; refer prefiled bills as indicated and approve items B. through P. under New Business; accept and refer as indicated items 1. through 53. under communications; and approve Resolutions A. through I. A Motion was made by Representative Richards and seconded by Senator Seum. A roll call vote was taken and the motion passed unanimously. The following items were approved, accepted, or referred:

STAFF AND COMMITTEE REPORTS

Information requests for August 2008.

Committee Activity Report.

Report of the Administrative Regulation Review Subcommittee meeting of August 12, 2008.

Committee review of Executive Reorganization Order 2008-502, relating to the Motor Vehicle Commission, by the Interim Joint Committee on Transportation during its meeting of August 5, 2008.

Committee review of Executive Reorganization Order 2008-529, relating to the Transportation Cabinet, by the Interim Joint Committee on Transportation during its meeting of August 5, 2008.

Committee review of Executive Reorganization Order 2008-507, relating to the Environmental and Public Protection Cabinet, by the Interim Joint Committee on State Government during its meeting on August 27, 2008.

Committee review of the FFY 2009 Community Mental Health Services Block

Grant Application by the Interim Joint Committee on Health and Welfare during its meeting on September 5, 2008.

Committee review of the FY 2009 Title V Maternal and Child Health Services Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting on September 5, 2008.

Committee review of the FY 2009 Substance Abuse Prevention and Treatment Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting on September 5, 2008.

Committee review of the FY 2009-2010 Temporary Assistance for Needy Families Block Grant Application by the Interim Joint Committee on Health and Welfare during its meeting on September 5, 2008.

Committee review of Executive Reorganization Order 2008-836, relating to the Council on Postsecondary Education, by the Interim Joint Committee on Education during its meeting of September 8, 2008.

NEW BUSINESS

Referral of prefiled bills to the following committees: BR 147 (relating to income tax credits for small businesses) to Appropriations and Revenue; BR 42 (relating to substance abuse screening pilot programs for public assistance recipients) to Health and Welfare; BR 60 (relating to domestic relations and declaring an emergency); BR 61 (relating to driving under the influence); BR 68 (relating to jury service); BR 69 (relating to the civil rights of deaf and hard of hearing persons); and BR 84 (relating to jurisdictional limits for Kentucky courts) to Judiciary; BR 94 (relating to horse racing) to Licensing and Occupations; BR 24 (relating to primaries); BR 79 (relating to automated or recorded political telephone messages); and BR 82 (relating to Kentucky State Parks) to State Government; BR 56 (relating to motor vehicles); BR 78 (relating to motor vehicle license plates); BR 120 (relating to motor vehicle license plates) to Transportation.

From Senator Brandon Smith and Representative Rick Nelson, Co-Chairs, Special Subcommittee on Energy: Memorandum requesting approval to meet on October 24, in Lexington, rather than the regular meeting date of October 17. This would be the committee's third out-of-town meeting. There are no apparent conflicts.

From Senator Tom Jensen, Representative Tom McKee, and Representative Jim Gooch, Co-Chairs, Interim Joint Committee on Agriculture and Natural Resources: Memorandum requesting approval to meet on September 12, in

Lexington, rather than the regular meeting date of September 10. There are six potential conflicts

From Senator Alice Forgy Kerr and Representative Eddie Ballard, Co-Chairs, Interim Joint Committee on Economic Development and Tourism: Memorandum requesting approval to meet jointly with the Interim Joint Committee on Labor and Industry on October 23, in Lexington, rather than the regular meeting date of October 16. This would be the committee's third out-of-town meeting. (A&R is scheduled to meet the same day; however, an attempt will be made to stagger meeting times to avoid conflicts.)

From Senator Alice Forgy Kerr and Representative Mary Lou Marzian, Co-Chairs, Interim Joint Committee on Labor and Industry: Memorandum requesting approval to meet jointly with the Interim Joint Committee on Economic Development and Tourism on October 23, in Lexington, rather than the regular meeting date of October 16. This would be the committee's third out-of-town meeting. (A&R is scheduled to meet the same day; however, an attempt will be made to stagger meeting times to avoid conflicts.)

From Bobby Sherman: Memorandum recommending Cynthia Galvin to be appointed Associate Uniform Law Commissioner for the remainder of a term which expires January 30, 2010, filling the vacancy left by the retirement of Ann Zimmer.

From Senator Charlie Borders and Representative Harry Moberly, Co-Chairs, Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on September 22, rather than the regular meeting date of September 25. There are no apparent conflicts.

From Bobby Sherman: Memorandum recommending approval of prefiling deadlines for the 2009 Regular Session.

From Bobby Sherman: Memorandum recommending approval of the 2009 Regular Session calendar.

From Senate President David L. Williams and House Speaker Jody Richards: Memorandum regarding appointments to the Task Force on Economic Development of the Interim Joint Committee on Economic Development and Tourism.

From Bobby Sherman: Memorandum recommending approval of appointments to the NCSL Executive Committee.

From Senate President David L. Williams and House Speaker Jody Richards: Memorandum regarding appointments to the Task Force on Elections, Constitutional Amendments, and Intergovern-

mental Affairs of the Interim Joint Committee on State Government

From Senate President David L. Williams and House Speaker Jody Richards: Appointment of Representative W. Keith Hall to the Special Subcommittee on Energy

From Senate President David L. Williams and House Speaker Jody Richards: Memorandum regarding appointments to the Local Superintendents Advisory Council

From Senator Brett Guthrie and Representative Hubert Collins, Co-Chairs, Interim Joint Committee on Transportation: Memorandum requesting approval to meet on Friday, November 7, rather than the regular meeting date of November 4 (election day). There are no apparent conflicts.

From Senator Tom Buford and Representative Tommy Thompson, Co-Chairs, Interim Joint Committee on Banking and Insurance: Memorandum requesting approval to meeting on Wednesday, October 29, rather than the regular meeting date of October 28. There are no apparent conflicts.

COMMUNICATIONS

From Kentucky Employers' Mutual Insurance: Quarterly Statements for the period ending June 30, 2008.

From Kentucky Employers' Mutual Insurance: Statement of Assets, Liabilities and Surplus, Statement of Income and Statement of Solvency for the period ending June 30, 2008.

From the Kentucky Personnel Board: FY 2008 Annual Report.

From the Cabinet for Economic Development, Kentucky Commission on Small Business Advocacy: FY 2008 Annual Report.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of July and August 2008.

From the Office of the Inspector General, Cabinet for Health and Family Services and the Medicaid Fraud and Abuse Control Division, Office of Attorney General: Medicaid Fraud and Abuse report for FY 2008.

From the Cabinet for Health and Family Services, Department for Community Based Services: Report for the period April 15, 2008, through June 30, 2008.

From the Cabinet for Economic Development: Kentucky Investment Capital Network Program Report for FY 2008.

From the Cabinet for Health and Family Services, Department for Public Health, Kentucky HIV/AIDS Planning and Advisory Council: September 2008 Year End Report.

From the Cabinet for Health and Family Services, Department for Community Based Services: Child Abuse and Neglect Annual Report of Child Fatalities and Near Fatalities, September 2008.

From the Tourism, Arts and Heritage Cabinet: 1% Transient Room (Lodging) Tax Progress Report.

From the Office of the Attorney General: Constitutional Challenge Reports for the month of July 2008.

From the University of Kentucky, Kentucky Interagency Groundwater Monitoring Network: FY 2008 Annual Report.

From the Personnel Cabinet: Statewide Turnover Report for the 2nd Quarter of 2008.

From the Auditor of Public Accounts: Report of the Audit of the 1st Judicial District Corrections Board, Inc., for the Year ended June 30, 2006.

From the Auditor of Public Accounts: Report of the Audit of the 1st Judicial District Corrections Board, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 3rd Judicial Circuit Community Corrections Board, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 17th Judicial Circuit, Division One, Community Corrections Program, Inc., for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the 17th Judicial Circuit, Division One, Community Corrections Program, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 18th Judicial Circuit Community Corrections Program for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the 18th Judicial Circuit Community Corrections Program for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 21st Judicial Circuit Community Corrections Project, Inc., for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the 21st Judicial Circuit Community Corrections Project, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Community Corrections – 24th Judicial Circuit, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 28th Judicial Circuit Community Corrections Board, Inc., for FY 2006.

From the Auditor of Public Accounts: Report of the 28th Judicial Circuit Community Corrections Board, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 33rd Judicial Circuit Community Corrections Board for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the 33rd Judicial Circuit Community Corrections Board for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 36th Judicial Circuit Community Corrections Board for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 43rd

Judicial Circuit Community Corrections Drug Court Program Administered by Administrative Office of the Courts for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 51st Judicial District Community Corrections Commissions, Inc., for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the 51st Judicial District Community Corrections Commissions, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Office of the Commonwealth's Attorney 54th Judicial District, for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the 56th Judicial District Corrections Board, Inc., for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Community Corrections – Drug Court Program Administered by the Administrative Office of the Courts, for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Jefferson County Drug Court Program, for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the Jefferson County Drug Court Program, for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Kenton County Community Corrections Advisory Board, Inc., Administered by Transitions, Inc., for FY 2006.

From the Auditor of Public Accounts: Report of the Audit of the Kenton County Community Corrections Advisory Board, Inc., Administered by Transitions, Inc., for FY 2007.

From the Auditor of Public Accounts: Independent Accountant's Report of the Kentucky Health Care Improvement Fund for FY 2007.

From the Auditor of Public Accounts: Independent Accountant's Report of the Early Childhood Development Fund for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Eastern Kentucky Exposition Center Corporation, Inc., for FY 2007.

From the Auditor of Public Accounts: Report on the Agreed-Upon Procedures Engagement of the Kentucky Executive Branch Ethics Commission Statements of Financial Disclosure for the calendar year 2007.

From the Auditor of Public Accounts: Report on Compliance with Civil Rights Laws Including Agency Title VI Implementation Plans, Updates and Compliance Reports for FY 2007.

From the Auditor of Public Accounts: Report of the Statewide Single Audit of the Commonwealth of Kentucky for FY 2007.

From the Auditor of Public Accounts: Independent Accountant's Report of the Rural Development Fund for FY 2007.

From the Auditor of Public Accounts: Independent Accountant's Report on Agreed-Upon Procedures for the Kentucky Department of Local Government for FY 2008.

From the Auditor of Public Accounts: Report of the Examination of Certain Specific Financial Activity of Kenlake State Resort Park.

From the Auditor of Public Accounts: Examination of the Kentucky Agricultural Development Board – Allied Food Marketers West, Inc., Project.

From the Auditor of Public Accounts: Independent Accountant's Report of the Lung Cancer Research Fund for FY 2007.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education for FY 2007.

From the Auditor of Public Accounts: Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program for FY 2008.

From the Auditor of Public Accounts: Evaluation of Kentucky's General Aviation Aircraft, September 2008 – Performance Audit.

RESOLUTIONS

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Clossie Ann Canter Neilson.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Ruric Nevel Greene.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Second Lieutenant Howard Clifton Enoch, Jr.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Kenny Ray Walton II.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Luther "Pete" Waits.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Emma Waldeck.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Wilma Jean Timberlake.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of William Terry Ward.

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Charles Steven Smothers.

Senator Seum moved that the Commission go into Executive Session at 1:45 p.m. The motion was seconded by Representative Lee. The motion carried.

Upon returning from Executive Session, a Motion was made by Senator Seum and seconded by Representative Wilkey that the Commission adopt a Memorandum

dum stating that effective September 1, 2008, the salary of the LRC Director shall be set at \$16,250 per month.

Representative Wilkey stated that given a review of the salaries across state government, and the importance of the position occupied by the LRC Director, the salary increase was appropriate.

A roll call vote on Senator Seum's Motion was taken and the Motion passed 11-5.

There being no further business, the meeting was adjourned at 2:30 p.m.

**INTERIM JOINT
COMMITTEE ON
AGRICULTURE AND
NATURAL RESOURCES
Subcommittee on Horse Farming
Minutes of the 4th Meeting
of the 2008 Interim
November 12, 2008**

The 4th meeting of the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, November 12, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representatives Royce W. Adams, Tom McKee, David Osborne, Sannie Overly, Don Pasley, and Tom Riner.

Guests: Ginny Grulke and Essie Rogers, Kentucky Horse Council; Lori Neagle, Kentucky Equine Humane Center; Chris McCarron, North American Racing Academy; and Lori Davis, Kentucky Community and Technical College System.

LRC Staff: Lowell Atchley and Katie Carney.

The presiding co-chair, Senator Thayer, deferred approval of the minutes, pending the gathering of a quorum for the meeting.

Co-chair Thayer called the first speakers to the witness table – Ms. Ginny Grulke, Executive Director and Ms. Essie Rogers, Director of Education and Welfare respectively of the Kentucky Horse Council, and Ms. Lori Neagle, Director of the Kentucky Equine Humane Center.

The speakers appeared before the subcommittee to discuss the issues of horse abuse, abandonment, and rescue in Kentucky.

Ms. Grulke opened the discussion. In her remarks, she characterized the issue as a national one that needs to be addressed. She said they are getting calls about the issue from throughout the state.

Starting with the number of horses that traditionally went to slaughter and deducing from that point, Ms. Grulke estimated there are 1,600 horses in Kentucky that are at-risk. Based on a cost of \$2,500 a year, she said it would cost about \$4 million a year to keep up the horses. Euthanasia, she said, would cost

about \$800,000.

Ms. Grulke discussed the causes of horse abuse and abandonment, such as economic impacts, behavior and attitude, and the failure of people to admit that they cannot keep up a horse, a refusal to give up a horse that cannot be cared for, the loss of the slaughter option, and the reluctance of local officials to confiscate horses.

The speaker mentioned two legislative goals – the need for a study to gather estimates on the number of horses at-risk and what it would take to care for them, and a change in the agister's lien process to allow horse boarders to sell or dispose of a horse sooner than now allowed.

During discussion, Ms. Grulke responded to Representative Adams that the subject of horse slaughter was not on the agenda during a recent national meeting, although the subject was discussed informally. Representative Adams said the issue is one that will need to be addressed and legislators will need someone to take the lead on it. Ms. Grulke said the Kentucky Horse Council is officially neutral on horse slaughter, but plans to survey its members regarding their attitudes.

Co-chair Thayer summarized the issue for the subcommittee, noting that the only slaughter facilities available for U.S. horses are in Mexico and Canada.

Representative McKee said he had learned that the market for lower end horses had diminished, even in the thoroughbred industry. He mentioned anecdotes he had heard about horses being left abandoned in farm fields.

Ms. Grulke agreed that the market for lower end horses had vanished. She noted that some horse owners are leaving their horses at stockyards, prompting stockyard personnel to gather detailed information from owners when they first bring horses in.

Representative McKee observed that horses have become akin to a pet, but the difference between a horses and cattle is there is a ready market for cattle.

According to Senator Thayer, the movement to end the availability of slaughter and the poor economy has created a "perfect storm" in the horse industry.

Next, the subcommittee heard from Ms. Rogers, who said the Horse Council maintains a welfare hotline, has created a donation fund called "Save Our Horses," (SoHo) undertakes networking for horse rescue organizations, offers equine abuse training, and is developing minimum standards of care for horse rescue groups.

According to Ms. Rogers, many local authorities are reluctant to investigate or prosecute equine abuse cases because of little knowledge about the problem, lack of funding, lack of resources, or concern about loss of popularity among their constituents.

She said the SoHo fund offers short term assistance to cover the cost of feed and veterinary care for confiscated horse, and feed for privately owned horses due to recent job loss, injury, or the like.

The networking involves meeting with equine rescue organizations, encouraging the development of standards of care, education, and support, according to the speaker.

She went on to describe the equine abuse investigation training. In 2008, they have trained 50 law enforcement and animal control officers. She said they also are working on additional training and support for veterinarians, county judges and attorneys, concerned citizens, and Horse Council members.

As for minimum standards of care, she said they want to define more precisely what "adequate" means in the context of the criteria set out in the animal cruelty statutes.

Responding to Representative Adams, Ms. Rogers explained to volunteerism exists, but in "pockets" in some counties, but not others. According to the speakers, the SoHo fund is not large enough to take care of the needs that exist.

Representative Adams noted that some rescue groups may take in horses, but are unable to provide the care needed.

Next, the subcommittee heard from Ms. Neagle, who indicated the Kentucky Equine Humane Center opened its 72-acre Jessamine County facility in April 2007. The facility has the capacity to house 50 horses and accepts breeds of all types, even donkeys and mules. The horses that are taken in must be owned by Kentuckians or stabled in Kentucky, which is often the case with thoroughbreds. The facility requires that a horse have a valid Coggins test. The owner must provide transportation to the facility. The center does not require donations when taking horses in, but accepts them.

Horses come to the facility under a variety of circumstances, according to Ms. Neagle, including animal control agencies, volunteer surrender from people who can no longer care for the horses for economic reasons, their children have grown, or they are moving, or become sick. They also have a surrender process at race tracks that allows owners there to give up their horses. Sometimes, she said, people will wake up one morning to find horses abandoned on their property and are in no position to care for them.

Once horses arrive at the center, they are examined and vaccinated. A determination is made whether a horse is a candidate for adoption or should be euthanized.

In terms of adoption, Ms. Neagle said they have a process that people must abide by and they must check back with the center twice a year. She said there is no standard regarding how long horses remain at the center. Also, they

periodically discuss euthanasia with their veterinarian. She said euthanasia is considered as an alternative for horses that have been underfed or mistreated.

Ms. Neagle said the center relies on grants and fund-raising and has a budget of about \$300,000 per year. She mentioned that Texas and Illinois have state-funded programs similar to center.

When Ms. Neagle finished her presentation, Senator Thayer mentioned a bill that he had drafted concerning the agister's lien and planned to work with Representative Adams on introduction of the measure.

Next, the subcommittee heard an update on the North American Racing Academy (NARA) from Mr. Chris McCarron, Executive Director of the NARA and a Hall of Fame jockey.

Mr. McCarron updated the subcommittee on the progress being made by the academy, which is affiliated with the Kentucky Community and Technical College System (KCTCS). According to his report, the eight students graduated in the academy's first class; four of those graduates are now riding competitively. The second class had six jockey trainees. In the current class, 30 students were accepted and 25 enrolled. Of the 25, 17 are pursuing the jockey education path with the remainder working a degree enabling them to work in the horse racing industry. Students who finish the two-year program receive a degree in applied equine science. According to his report, the academy stresses "life skills," teaching the students riding skills, but also teaching them how to handle the finances, nutrition, fitness, communications that are a part of being a jockey.

Mr. McCarron told the subcommittee that it was mind-boggling that the United States offers the finest horse racing in the world, yet, before formation of NARA, had no jockey training academy as do other countries.

According to Mr. McCarron, students begin their academic work at the Kentucky Horse Park in the first year, and then shift to the Thoroughbred Training Center on Paris Pike for the second year because the Horse Park does not have a race training track. He said their long-term goal is to have a 6-7 furlong track at the Horse Park with 50-60 barns and academic buildings. He also mentioned having the academy offer remedial training for jockeys who are plying their trade.

Responding to Representative McKee, Mr. McCarron indicated his KCTCS budget currently allows him to have 20 horses, which limits the number of students to about 25. He reiterated his long-term goal of having a 50-60 building campus. Mr. McCarron said jockey schools in other countries require their students to care for their horses, as well as riding them. Representative McKee said Kentucky is fortunate in having someone of Mr. McCarron's stature in the industry teaching the sport.

Responding to Representative Pasley, Mr. McCarron described his and students' reactions to being on hand for the return of thoroughbred champion Alysheba to Kentucky from Saudi Arabia, where he was retired from breeding. Alysheba will be housed at the Kentucky Horse Park.

Documents distributed during the subcommittee are available with meeting materials in the LRC Library. The meeting ended at approximately 11:45 a.m.

**INTERIM JOINT
COMMITTEE ON
AGRICULTURE AND
NATURAL RESOURCES
Subcommittee on Natural Resources
Minutes of the 2nd Meeting
of the 2008 Interim
October 8, 2008**

The 2nd meeting of the Subcommittee on Natural Resources of the Interim Joint Committee on Agriculture and Natural Resources was held on Wednesday, October 8, 2008, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Keith Hall, Co-Chair; Senator David E. Boswell; Representatives Hubert Collins, Jim Gooch Jr., and Tanya Pullin.

Guests: Commissioner Carl Campbell, Department of Natural Resources; Johnny Greene, Office of Mine Safety and Licensing; Bill Caylor, Kentucky Coal Association; Joe Jacobs, Jacobs Risk Management; Paul Corbin, Corbin Mining; David Gooch, Coal Operators and Associates; and Bruce Williams, Kentucky Conservation Committee.

LRC Staff: Stefan Kasacavage and Kelly Blevins.

Representative Hall called the meeting to order. A quorum was not present. Representative Hall invited all of the guests to the table to discuss changes in the implementation and enforcement of mine safety law made by HB 207 of 2007.

Mr. Caylor began with a power point presentation on coal production and mine safety in Kentucky. He stated that Kentucky ranked 3rd nationally in coal production behind Wyoming and West Virginia. Coal also accounts for 93% of Kentucky's electricity production and contributes to Kentucky's relatively low cost of electricity – 5.43 cents/kWh, 4th lowest in the United States. 17, 893 people are employed as coal miners in Kentucky making an average of \$58,600 per year. Mr. Caylor continued his presentation with Kentucky mine safety statistics. Mine fatality rates continuously fell throughout the 20th century,

from around 160 average annual fatalities in the early part of the century to around 12 average annual fatalities at the end. In 2007, for the first time since 1890, there were no underground fatalities and only 2 surface fatalities. There have been 4 coal mining related fatalities to date in 2008 in Kentucky, 3 surfaces and 1 underground.

Mr. Caylor closed his remarks by discussing the major impacts of HB 207 on the mining industry. Among the major impacts he listed were: all electrical work must be performed by a certified electrician, two medical emergency technicians (METs) must be onsite for underground mines, six additional hours of retraining for mine foreman were mandated (he stated that there were already 16 hours of retraining mandated, which was 8 hours more than any other state in the nation), the mine fan must be in continuous operation, which could have a negative effect on small mining operations where it would be necessary to shut the mine fan off from time to time, and duplication of many MSHA duties such as roof control plans, mine seal construction plans, and electrical inspections. Mr. Caylor's suggestions for improving mine safety conditions included focusing on "behavior modification" – observing a miner working onsite and teaching him/her safer working techniques and getting away from duplicative safety requirements that are already in effect under MSHA.

Representative Pullin commented that coal was not mined in her district, but that her district did benefit from coal production through lower electricity rates and the transportation of coal. She asked how competition from coal produced outside of the United States affected coal prices within the state.

Mr. Caylor responded that a large amount of coal was being imported mainly from South America to the southeastern region of the US, which created competition for Kentucky coal in that market. The coal produced in those countries could be provided at a lower cost because of the lax safety and environmental conditions under which it was produced.

Representative Pullin then asked what it meant that surface mining was 27% more efficient than underground mining. Mr. Caylor responded that 27% more tons of coal per worker were produced through surface mining.

Senator Boswell complemented the presentation and asked Mr. Caylor about why Kentucky had fallen from the lowest electricity costs in the nation to fourth lowest. Is it the cost of regulation? He also asked what impact the initiatives passed in House Bill 1 of 2007 on coal to liquid issues had on Kentucky coal.

Mr. Caylor responded that Kentucky was in competition with states that relied on hydroelectric power, which provided more consistently low electricity costs. Additionally, we are competing

with Wyoming and West Virginia, which are the two states that produce more coal than Kentucky.

On coal to liquid, the technology has been around a long time, and if we pursue it as an energy source, it could produce liquid fuel at a price of around \$1.50 per gallon plus taxes. This development would not reduce the price of gasoline, although it would help stabilize cost increases in the future. Electric hybrid cars are the most promising development for the use of Kentucky coal in the future. A serious commercial-sized coal to liquid plant would require an investment of \$4-6 billion, and until we can guarantee the price of the fuel, it will be difficult to convince someone to build such a plant. Mr. Caylor believes that the demand does exist from the US Air Force to purchase large quantities of fuel produced by a coal to liquid plant.

Senator Boswell commented that the Illinois Basin was one of the locations proposed by the US Department of Defense for a coal to liquid plant. He then asked about the Clean Air Act. Phase I compliance had an impact on the Western Kentucky coal plants and that Phase II impacted the Eastern Kentucky coal fields. Have these compliance requirements increased the demand for out of state coal, such as coal from Wyoming?

Mr. Caylor responded that they had. Phase I offered utilities the option of either installing a scrubber or switching to low-sulfur coal. Most utilities chose to switch to low sulfur coal, like the kind that is abundant in Wyoming. Under Phase II, utilities have to reduce sulfur dioxide, nitrogen oxides, and particulate matter emissions. In order to do this, they have to install scrubbers. The installation of the scrubbers allows the plants to use coal with a higher sulfur content, which undermines the demand for out-of-state, low-sulfur coal that was originally imported to meet Phase I compliance. Wyoming coal still offers competition because of the low cost of production there.

Senator Boswell commented that nations importing coal to compete on the US market were not playing on a level playing field, because of the lack of safety and environmental regulation under which their coal was produced. These concerns can be applied to other imports from countries such as China where labor and environmental regulation is very lax.

Representative Collins asked if the percentage of the coal used by Kentucky utilities that was produced in Kentucky had increased, or had it decreased in the face of cheap coal imported into the state. Mr. Caylor responded that the percentage was about the same. Representative Collins then asked specifically about the coal imported from foreign countries. Mr. Caylor responded that most of that imported coal went to other southeastern states, and that there was very little

if any coming into Kentucky from foreign countries. Representative Collins then asked if there were areas that had exposed coal seams as large as those found in the Powder River Basin area, like perhaps in the Illinois Basin. Mr. Caylor responded that there were not. Representative Collins then commented that few positive aspects of coal production were well reported by the media, and that they seem to focus on the more negative aspects of coal production. Representative Collins also wondered what new information the foremen could be learning from the further training requirements.

Senator Harris asked what the current spot price of coal was. Mr. Caylor responded that it was anywhere from \$50-\$100 per ton. Some metallurgical coal could be \$200 per ton.

Senator Pullin commented that four years ago, the General Assembly passed a resolution expressing its full support for the Air Force's Assured Fuels Initiative, and that the General Assembly continues to support it.

Representative Hall commented on the positive trend in mine safety in Kentucky and that the positive aspects of coal production in Kentucky were not reported enough. He went on to state that the MET requirements were too burdensome on small coal producers, and that there should be an exception to the requirement for small operators. Coal severance revenues are up 23%, and Kentucky needs as much of this money as it can get. However, production is being stymied by the MET requirement, especially for small producers who are having a hard time finding two METs and ensuring that they always show up onsite for every work day.

Mr. Jacobs expressed the need for common sense in applying the mine safety regulations. He stated that the Office of Mine Safety and Licensing has one of the best mine rescue teams in the US and without it the small operator would have vanished from the face of the Earth. The analyst program was a forerunner to the behavior modification program, which is one of the best things that the General Assembly passed to promote mine safety in the state. The behavior modification program allowed experienced miners to teach miners onsite safety techniques. This onsite teaching program is more effective than the current requirement under HB 207 that the foreman receive further training in a classroom. The foreman should be trained onsite by an analyst program specialist. We had a program called FACE in the past that accomplished this type of safety training.

Mr. Jacobs further stated that the requirement that two METs be onsite was just too burdensome for small operators. Practical conditions must be considered in requiring two METs to be onsite. There are not enough miners trained as METs, and the competition is too great from other operators to hire

the METs that are available.

Representative Hall stated that underground miners are required to have 48 hours training. He went on to express the need for some flexibility in the MET requirement for small operators.

Mr. Greene stated his job was to enforce the law, and that the law stated that one MET was required to be onsite for a nonproduction shift and two were required to be onsite for a production shift. He tried to be as fair as possible in enforcing the law to the operators, while at the same time staying true to the intent of the law. Representative Hall asked Mr. Greene what size operator he would consider a “small operator” for the purposes of making an exception to the MET requirement, so as to require that only one MET be onsite for small operators. Mr. Greene responded that he would consider a small operator to be one that had 15 employees or less. Representative Hall then asked whether there was a difference in training between surface and underground METs. Mr. Greene responded that there was not. However, the law requires that an underground MET must be an underground coal miner. Representative Hall then reiterated his belief that there needed to be an exception in the MET requirement for small operators.

Representative Hall then suggested allowing the MET training requirement to be satisfied as long as the miner was currently participating in the certification process. Mr. Greene responded that the law required that the miner complete the MET certification training before he or she is considered an MET. Representative Hall then expressed his concern that he was recently cited for a violation for having a satellite phone as the means of external communication at a mining site instead of a landline phone. Mr. Greene responded that it was his opinion, as a matter of enforcement policy, that a hard landline phone was the most reliable form of communication in an emergency and that it was the kind of phone required by the law. Representative Hall expressed his belief that satellite phones were just as safe and reliable.

Representative Hall then asked what was the job title of a surface mine inspector with the Office of Mine Safety and Licensing. Mr. Greene responded that they were called regular inspectors, and that they inspected both surface and underground mines. Additionally, there are surface safety analysts. Representative Hall said that he heard that there was a pay discrepancy between surface inspectors and underground inspectors. Mr. Jacobs then stated that the discrepancy was between a surface reclamation and enforcement employee and an underground inspector. The surface reclamation and enforcement employee makes about \$10,000 less than the underground inspector. Representative Hall stated that the statistics show that surface mining is just as hazardous as

underground mining, so they should be paid the same. Mr. Greene replied that the regular inspectors are also members of the mine rescue team, whereas the surface reclamation people are not.

Mr. Campbell stated that they would be happy to provide for the increase in pay for surface reclamation inspectors, if the General Assembly would provide funding for it.

Representative Hall stated that it was important that everyone work together to increase production along with safety and that the MET requirement should be lowered for small operators.

Representative Gooch expressed his appreciation for the mine safety improvements that have been made. He went on to state that the media did not adequately report positive news stories involving coal production, while emphasizing the negative ones. He was also concerned with the more stringent MSHA enforcement that was raising costs for Kentucky operators. He feared that the increased enforcement was not improving safety conditions, but that it was increasing costs.

Representative Hall thanked the panel for the productive discussion.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 3rd Meeting of the 2008 Interim October 23, 2008

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 23, 2008, at 10:30 AM, in Building #4 at Bluegrass Station. Representative Harry Moberly Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Charlie Borders, Co-Chair; Representative Harry Moberly Jr., Co-Chair; Senators David E. Boswell, Tom Buford, Denise Harper Angel, Ernie Harris, Alice Forgy Kerr, Bob Leeper, R.J. Palmer II, Brandon Smith, and Johnny Ray Turner; Representatives Royce W. Adams, Scott W. Brinkman, Dwight D. Butler, Larry Clark, James R. Comer Jr., Mike Denham, Danny Ford, Derrick Graham, Keith Hall, Jimmie Lee, Lonnie Napier, Rick G. Nelson, Don Pasley, Charles Siler, Arnold Simpson, John Will Stacy, Tommy Turner, Robin L. Webb, and Brent Yonts.

Guests: Mayor Jim Newberry, Lexington; Mayor Ed Burtner, Winchester; Judge Henry Branham, Clark County; Major General Edward Tonini, Adjutant General, Kentucky National Guard; Dr. Lee Todd, University of Kentucky.

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

Representative Pasley moved that the minutes from the previous meeting

be approved as written. The motion was seconded by Representative Yonts. The motion carried by voice vote.

Mayor Jim Newberry of Lexington, Mayor Ed Burtner of Winchester, and Judge Executive Henry Branham of Clark County welcomed the committee to Bluegrass Station. Then Major General Edward Tonini, Adjutant General of the Kentucky National Guard, gave a presentation regarding Bluegrass Station. He discussed the historical background, tenants, and economic impact of the facility.

Dr. Lee Todd updated the committee on the University of Kentucky's progress towards becoming a top 20 research institution by 2020. Dr. Todd briefly highlighted the importance of becoming a state with a top 20 university. He stated that the median household income of states with a top 20 institution is \$12,000 per year higher than Kentucky's average. Also, children living below the poverty line decreases 7.5% in those same top 20 states.

Dr. Todd discussed the re-calibration of the university's business plan to include the number of masters degrees awarded, professional doctorates, and number of faculty publications. With this re-calibration, the University of Kentucky ranks #36 out of 92 public research universities. He also discussed various efficiency efforts being undertaken by the university, including changing the administrative structure, outsourcing office supply contracts, and removing phones from residence halls.

Next, Dr. Todd discussed the university's undergraduate program. He discussed the importance of increasing ACT/SAT scores in the state. He stated that top 20 university scores average 1248, while the University of Kentucky's average is 1096, and the statewide average is 990. The retention rate for undergraduates is 92% in the 20th ranked university and currently 81% for University of Kentucky. The student to faculty ratio at the university is two students higher than the 20th ranked institution, and the graduation rate is 16.1% less than the 20th ranked university.

Dr. Todd discussed the importance of increasing undergraduate enrollment and retention. He stated that the undergraduate enrollment at the university is 18,995, but the average enrollment for top 20 universities is 27,261. He also said that the university now awards 3,775 bachelor's degrees, but undergraduate degrees awarded at top 20 institutions average 6,299. Dr. Todd also discussed the increases in undergraduate applications, and enrollment of African-American freshmen, Governor's Scholars freshmen, and transfer students at the university.

Dr. Todd discussed the need to increase faculty at the university. He stated that the university now has 1,998 positions, down by 71 positions which were eliminated due to budget constraints.

The average number of faculty for a top 20 university is 2,724. The elimination of those 71 faculty positions represented a loss of \$10.6 million in external research funding for the university.

Next, Dr. Todd discussed funding for the university, stating that the current level of support from the state is \$316,853,500. He then discussed the current year level for in-state undergraduate tuition, which is \$7,736. He then provided examples of in-state undergraduate tuition for several institutions in the regions, with Pennsylvania State University being the highest at \$13,706 and the University of Florida being the lowest at \$3,777.

Finally, Dr. Todd discussed the level of state financial support the University of Kentucky needs to reach the goal of becoming a top 20 university. He stated that the university needs an increase of 5.8% between 2006 and 2012, and 3.5% thereafter to reach the top 20 goal.

Representative Moberly thanked the speakers and Bluegrass Station for hosting the committee. Being no further business, the meeting was adjourned at 11:55 a.m. A tape of this meeting and all meeting materials is available in the Legislative Research Commission library.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Minutes of the 2nd Meeting of the 2008 Interim November 13, 2008

The 2nd meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, November 13, 2008, at 10:30 AM, in Room 125 of the Capitol Annex. Representative John A. Arnold Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John A. Arnold Jr., Co-Chair; Representatives Larry Clark, Tim Firkins, Dennis Keene, Lonnie Napier, Marie Rader, Jimmy Higdon, and Ruth Ann Palumbo.

Guests: Dr. Len Peters, Secretary, Energy and Environment Cabinet

LRC Staff: Perry Papka, Melissa Hagan, and Matt Ellis.

Chairman Arnold called the meeting to order at 10:35 A.M. He welcomed guests and introduced Dr. Len Peters, Secretary of the Energy and Environment Cabinet, for an overview of the Cabinet's initiatives.

Dr. Peters thanked the committee and called attention to the Cabinet being created due to reorganization. Upon completing the presentation, Dr. Peters

opened the floor for questions and/or comments.

Chairman Arnold made a motion to approve the minutes from the previous meeting. Representative Clark seconded the motion and the minutes were approved.

Representative Firkins commended Dr. Peters for an impressive presentation, adding that the subject of energy is a critical area for both the state and the country.

Representative Clark suggested that the Cabinet prepare a package to bring before the General Assembly in the upcoming session to provide the tools to aid in the further research and implementation of energy incentives. He added thanks for the work the Cabinet is doing in this area. Dr. Peters replied that the Cabinet is working with the Governor's Office to prepare a legislative agenda, adding that the state cannot wait until 2010 to act on these issues.

Chairman Arnold asked Dr. Peters to explain the process of growing algae to produce fuel. Dr. Peters explained that certain types of algae contain up to 60% of its weight in oil that can be used to create biodiesel fuel. The production of algae on a commercial scale requires the development of a photoreactor to create "vertical ponds." The Cabinet has an informal agreement with a utility company to provide a slipstream to demonstrate the process. This would provide a complete energy cycle from coal energy creating carbon dioxide, which helps create the algae, which creates more energy. He added that though the process is carbon neutral, the federal government does not provide as much funding for bio-research as it does for geo-related research.

Representative Keene asked if the energy efficiency methods used in Kenton County schools will be used as a footprint for other schools in the state. Dr. Peters replied in the affirmative, adding that the model will be expanded to other schools.

Representative Keene asked if there has been energy saved from the implementation of a four day work week in some state offices. Dr. Peters replied that, since the four day work week is only an option and not mandatory, there are no statistics to show if energy is saved or not.

Chairman Arnold asked how the state is working with other coal producing states to encourage and educate the federal government regarding the importance of using coal energy. Dr. Peters replied that the Cabinet is working closely with the Kentucky delegation to get additional testimony on the federal level to show that coal energy is cleaner and better for the country, adding that the focus is to bring attention to coal energy on a national level.

Chairman Arnold thanked Dr. Peters for appearing before the committee and there being no further business, adjourned the meeting at 11:05 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE
Budget Review Subcommittee on General Government, Finance, and Public Protection
Minutes of the 1st Meeting of the 2008 Interim November 13, 2008

The 1st meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, November 13, 2008, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Royce W. Adams, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John A. Arnold Jr., Co-Chair; Representatives Larry Clark, Tim Firkins, Dennis Keene, Lonnie Napier, Marie Rader, Jimmy Higdon, and Ruth Ann Palumbo.

Guests: Dr. Len Peters, Secretary, Energy and Environment Cabinet

LRC Staff: Perry Papka, Melissa Hagan, and Matt Ellis.

Chairman Arnold called the meeting to order at 10:35 A.M. He welcomed guests and introduced Dr. Len Peters, Secretary of the Energy and Environment Cabinet, for an overview of the Cabinet's initiatives.

Dr. Peters thanked the committee and called attention to the Cabinet being created due to reorganization. Upon completing the presentation, Dr. Peters opened the floor for questions and/or comments.

Chairman Arnold made a motion to approve the minutes from the previous meeting. Representative Clark seconded the motion and the minutes were approved.

Representative Firkins commended Dr. Peters for an impressive presentation, adding that the subject of energy is a critical area for both the state and the country.

Representative Clark suggested that the Cabinet prepare a package to bring before the General Assembly in the upcoming session to provide the tools to aid in the further research and implementation of energy incentives. He added thanks for the work the Cabinet is doing in this area. Dr. Peters replied that the Cabinet is working with the Governor's Office to prepare a legislative agenda, adding that the state cannot wait until 2010 to act on these issues.

Chairman Arnold asked Dr. Peters to explain the process of growing algae to produce fuel. Dr. Peters explained that certain types of algae contain up to 60% of its weight in oil that can be used to create biodiesel fuel. The production of algae on a commercial scale requires the development of a photoreactor to create "vertical ponds." The Cabinet has an in-

formal agreement with a utility company to provide a slipstream to demonstrate the process. This would provide a complete energy cycle from coal energy creating carbon dioxide, which helps create the algae, which creates more energy. He added that though the process is carbon neutral, the federal government does not provide as much funding for bio-research as it does for geo-related research.

Representative Keene asked if the energy efficiency methods used in Kenton County schools will be used as a footprint for other schools in the state. Dr. Peters replied in the affirmative, adding that the model will be expanded to other schools.

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Chairman Arnold thanked Dr. Peters for appearing before the committee and there being no further business, adjourned the meeting at 11:05 A.M.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE
Minutes of the 4th Meeting of the 2008 Interim October 29, 2008

The 4th meeting of the Interim Joint Committee on Banking and Insurance was held on Wednesday, October 29, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Fred Nelson, Commissioner, Tim Longmeyer, Deputy Commissioner, and Joe Cowles, General Counsel, Personnel Cabinet; Dr. Susan Zepeda, Executive Director, Foundation for a

Healthy Kentucky.

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

The minutes of the September 23, 2008, meeting were approved.

Representatives of the Personnel Cabinet presented a PowerPoint presentation regarding the 2009 Kentucky Employees Health Plan. Deputy Secretary Tim Longmeyer stated that there were many challenges in the negotiation of the 2009 plan. He said the following things contributed to the challenges: continuing health plan inflation; the 2008 contributions were artificially lowered; health benefit plans have not changed in years; the highly used plans lack diversity; consumer complacency; the lack of a meaningful wellness plan; and, little utilization of the HRA based plan.

Mr. Longmeyer stated that the principles of the 2009 Health Plan are: to provide uniform coverage across the Commonwealth; encourage wellness and healthy lifestyles; provide preventive care at little or no cost; improve chronic disease care; educate members about plans that are more appropriate for their health needs; provide plan alternatives that are accessible for retirees; provide a quality PPO option; provide an improved subsidy for family and dependent coverage; and, provide plans with unlimited lifetime maximums. He gave the committee an overview of the medical plan and pharmacy alternatives. He stated that also in 2009 there will be two additional programs available: implementation Virgin Health Miles walking program; and improved disease management programs. He stated the main goals of the 2009 plan are to: maintain comparable benefits for 2009; continue to provide benefits option with \$0 contribution for employees; reduced contribution increases for dependents', continue to provide an unlimited lifetime maximum for benefits options; and, begin wellness initiatives and improve disease management.

Senator Julian Carroll stated that he feels the Personnel Cabinet is doing a superb job and is very impressed with the wellness program.

Deputy Secretary Longmeyer stated that the wellness program is voluntary at this time. But he hopes many employees will utilize the program.

Senator Tom Buford asked how much the state pays Express Scripts to be the third-party pharmacy benefit administrator.

Commissioner Fred Nelson stated that they did not have that information with them and would get that information back to the committee.

Dr. Susan Zepeda, Executive Director, Foundation for a Healthy Kentucky, gave the committee an overview of the foundation and the programs and grants they administer as well as numerous polls they have conducted regarding insurance status, Medicaid, access to healthcare, and quality of healthcare.

Senator Julian Carroll stated that he was glad to have this information and was impressed with the programs and surveys the foundation conducts.

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

**INTERIM JOINT COMMITTEE
ON
ECONOMIC DEVELOPMENT
AND TOURISM
Minutes of the 5th Meeting
of the 2008 Interim
October 23, 2008**

The 5th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, October 23, 2008, at 9:00 AM, at Bluegrass Station, Lexington. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Eddie Ballard, Co-Chair; Senators Julie Denton, Denise Harper Angel, and Gary Tapp; Representatives Royce W. Adams, Kevin D. Bratcher, Larry Clark, Will Coursey, Mike Denham, Ted Edmonds, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Dennis Horlander, Joni L. Jenkins, Dennis Keene, Thomas Kerr, Adam Koenig, Brad Montell, Tim Moore, Ruth Ann Palumbo, Don Pasley, Ancel Smith, John Will Stacy, Tommy Thompson, Robin L. Webb, and Alecia Webb-Edgington.

Guests: Major General Stephen Collins (Retired), Director, Bluegrass Station; Roger Fries, President and Chief Executive Officer, Kentucky Employers' Mutual Insurance Authority; Bob Quick, President and Chief Executive Officer, Commerce Lexington, Inc.; Len Heller, Vice President, Commercialization and Economic Development, University of Kentucky; Anthony Wright, Economic Development Officer, Lexington/Fayette Urban County Government; and Tony DeName, Director, Division of Unemployment Insurance.

LRC Staff: John Buckner, Committee Staff Administrator; Karen Armstrong-Cummings; Louis Pierce; and Dawn Johnson.

A quorum being present, the meeting was called to order. A motion and second by Representative Palumbo and Representative Harmon to approve the minutes of the September 18, 2008 meeting passed by voice vote.

Co-chair Kerr and Co-chair Ballard thanked all those involved for the use of Bluegrass Station and welcomed everyone to the joint meeting of the Interim Joint Committee on Economic Development and Tourism and the Interim Joint Committee on Labor and Industry.

Major General (MG) Stephen Collins (Retired), Director of Bluegrass Station, welcomed members and provided background information on the facility. The mission of Bluegrass Station (BGS) is to contribute to the socioeconomic impact on central Kentucky. Built in the 1940s,

the 13-building, 2.2 million square foot facility sits on 291 acres, with approximately 274 acres available for future use. Formerly an army depot, the facility was turned over to the Commonwealth in 1994 and re-named Bluegrass Station. This year, the final deed relinquishing all buildings and land to the state will be recorded. The facility is self-funded by tenants and receives no state funds. Eighty percent of the facility is occupied by government agencies. BGS leases to 27 commercial and eight residential tenants, with three anchor tenants generating 80 percent of the revenue. The occupancy rate is 130 percent with BGS leasing off-site space to meet demands. MG Collins said there are 2,040 tenant jobs with an annual payroll of \$102 million.

MG Collins said BGS recently invested \$11 million in new hangers. He noted that the original infrastructure is aging and must be replaced. State guaranteed infrastructure bonds of \$4.4 million were issued for this purpose. MG Collins noted that any capital construction projects over \$600,000 are overseen by the state. He explained that current challenges facing BGS include increasing facility size for customers to avoid off-site leasing, improving security, repair and renovation of roofs, bringing sprinkler systems up to code, completing the infrastructure upgrade, improving energy usage, and creating the Information Enterprise for BGS.

Next, Bob Quick, President and CEO of Commerce Lexington, Inc., Len Heller, Vice President, Commercialization and Economic Development, University of Kentucky, and Anthony Wright, Economic Development Officer, Lexington Fayette Urban County Government discussed the Bluegrass Business Development Partnership. Mr. Quick announced that the group recently received an award for "Partnership of the Year" from the International Economic Development Council.

Mr. Quick explained that although most economic development efforts previously were funded primarily by the private sector, in 2008, the city increased funding efforts dramatically. Mr. Quick provided an overview of the partnership. He said that it is a one-stop source for business and financial plans, loan program and tax incentive information, funding source assistance, access to service providers (accountants, lawyers, marketing, public relations, and advertising), real estate information, mentoring and university commercialization opportunities. For existing business retention and expansion, the partnership calls on 150 businesses annually to foster relationships and build trust. Workforce development initiatives include connecting businesses with higher education institutions to increase graduate retention in the Commonwealth and promoting minority business development. Mr. Quick explained that 60 percent of the group's efforts are focused on entrepreneurial

support through expanding venture and angel capital, creating clusters to retain and attract the best workers, promoting technology start-ups and supporting UK's Entrepreneurs' Club. The partnership also focuses on business recruitment through select trade shows, direct mail, and advertising. Emphasis is placed on strategic economic development partnerships and marketing Blue Grass Business Park. He said the Cabinet for Economic Development is also an instrumental partner.

Mr. Quick said the BBBD targets university alumni networks, automotive parts suppliers, high-tech manufacturing, technology-based businesses, equine associations, biotech and pharmaceutical companies. Mr. Quick noted that in fiscal year 2007-2008, 932 clients were served, \$49,050,000 was received in funding with \$25,000,000 in capital investments, 730 jobs were created, and 2,840 attended conferences.

Len Heller, Vice President, Commercialization and Economic Development, University of Kentucky, provided an overview of the process of intellectual property development. He explained that Dr. Lee Todd's vision for UK is moving research to the marketplace which, in return, will drive statewide economic development. Mr. Heller said the university currently has 300 active patents in areas such as drug development and design, plant biotechnology, equine health, and medicine. Mr. Heller said that the highly successful state SBIR/STTR program, which provides funding matches for the commercialization of scientific projects that come from UK, has already depleted its funds for the current fiscal year.

Mr. Heller stressed the importance of venture capital in growing and keeping jobs in Kentucky. He said venture capital firms in other states, including California and New York, seek potentially successful start-ups here, invest millions, and then move them out of state. He explained that the BBBD links central venture capital funds and large funds on the east and west coast.

Mr. Heller explained the history of venture capital and angel investment. He said angel investors are private investors who look at all types of promising ventures for investment opportunities. Because angel investors and venture capital firms provide capital infusion to businesses in their earliest inception, they are invaluable in that they provide assistance where traditional lending institutions may be reluctant to do so.

Mr. Heller then discussed the growing importance of university research to businesses. He explained that Hewlett-Packard recently purchased Extreme Software in Coldstream Research Park and has plans to move more staff to the Coldstream location. He explained that Coldstream is 80 percent occupied with over 50 companies and approximately 1,000 employees. He said 600,000 square feet are leased and construction

of 230,000 square feet of additional space is underway. Coldstream is funded through private investors and developers. The ultimate goal is to obtain funding through the private sector and avoid using university funds.

Anthony Wright said Lexington/Fayette County Economic Development Office understands that speed to market is important and this is accomplished through working with the BBBD and the Chamber to serve clients.

Representative Moore asked if companies reimburse the universities for R&D costs. Mr. Heller said there are contractual agreements. Mr. Quick added that the University of Kentucky is known worldwide for their quality and extensive research.

A motion was made and seconded to adjourn, and the meeting concluded at 10:30 a.m.

**INTERIM JOINT COMMITTEE
ON
ECONOMIC DEVELOPMENT
AND TOURISM
Minutes of the 6th Meeting
of the 2008 Interim
November 20, 2008**

The 6th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, November 20, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Eddie Ballard, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Eddie Ballard, Co-Chair; Senators Julie Denton, Denise Harper Angel, Richie Sanders Jr, Katie Stine, Gary Tapp, and Jack Westwood; Representatives Kevin D. Bratcher, Larry Clark, Leslie Combs, Jesse Crenshaw, Jim DeCesare, Mike Denham, Bob M. DeWeese, Myron Dossett, Keith Hall, Mike Harmon, Dennis Keene, Thomas Kerr, Tom McKee, Brad Montell, Fred Nesler, David Osborne, Don Pasley, Ancel Smith, John Will Stacy, Alecia Webb-Edgington, Ron Weston, and Adia Wuchner.

Guests: Commissioner George Burgess, Department for Existing Business Development, Cabinet for Economic Development; Janey Moores, President and Chief Executive Officer, BJM and Associates, Inc. and President-Elect, Lexington Chapter, National Association of Women Business Owners; Adrienne Grizzell, President, MANAGEMENT, Inc.; and Justin Maxson, President, Mountain Association for Community Economic Development.

LRC Staff: John Buckner, Committee Staff Administrator; Karen Armstrong-Cummings; Louis Pierce; and Dawn Johnson.

The Commissioner George Burgess of the Department for Existing Business Development, Cabinet for Economic Development, began the meeting with an

overview of the department in terms of its staffing and mission. The primary focus of the department is to assist small businesses by providing customer-driven counseling and assistance that will contribute directly to economic growth and long-term viability. The department provides a variety of services, including “one-stop shopping” for permits and licenses needed by businesses. By providing this service, which is available either on-site at their office or through an 800-number, the commissioner said that businesses can access all permitting and license applications at one location, be advised on any additional permits or licenses that may be needed, and receive counseling and immediate answers to any questions that an owner may have regarding these applications.

The department also offers a micro-loan program, which is now being operated through a contract with Community Ventures, Inc. The department received \$300,000 for the program through appropriations, and Community Ventures was able to leverage that money to obtain an additional \$1.5 million from the Small Business Administration. Micro loans are offered to small businesses that have fewer than five employees and may be for a maximum of \$35,000. The commissioner noted that this program is not available in all counties, but that they look forward to expanding it at a later date.

A motion and second by Representatives Pasley and Hall to approve the minutes of the October 23, 2008, meeting passed by voice vote.

Next, Janey Moores, President and Chief Executive Officer of BJM and Associates, Inc. and the president-elect of the Lexington chapter of the National Association of Women Business Owners; and Adrienne Grizzell, President of MANAGEMENT, Inc. addressed the committee about some of the problems faced by small businesses in Kentucky. A slide presentation was given and showed that Kentucky has very high workers’ compensation rates and is also one of the “high tax” states. She also said that the alternative minimum tax was particularly onerous and burdensome, particularly to new businesses that have yet to establish a consistent cash flow. Finally, she said that Kentucky is not a “right to work” state, which means that employees can be forced to join a union against their will. Because of these and other factors, Kentucky’s “curb appeal” for start-up firms is very low—the combination of high workers’ compensation and health insurance rates, high state taxes and the alternative minimum tax, and a poorly educated work force results in Kentucky being the 46th worst state in which to do business.

She stated that a better work force was needed, and to do so she recommended a repeal of the alternative minimum tax, more incentives to help businesses, a reduction in “paperwork

requirements,” teaching students the importance of business skills and the need for a clean criminal record, expanded drug testing, including drug testing for state employees, a repeal of prevailing wage laws, legislation that would make Kentucky a “right to work” state, a reduction in government spending and a freeze on hiring, using “just in time” temporary employees, and drug testing for welfare recipients. She also said that the state should stop competing with private businesses, and gave examples of state-owned marinas competing with private docks, and universities selling pizzas and providing delivery to dorm rooms. She said that the general rule should be that if a service is provided by a business, then it should not be by government.

Finally, Justin Maxson, President of the Mountain Association of Community Economic Development talked to the committee about the structure of the organization and some of its functions, which includes providing business counseling and loans to small businesses. To foster small business development, he suggested that the role of the Commission on Small Business Advocacy be expanded and that a study be undertaken to examine underserved areas in Kentucky, expand investment and entrepreneurial support, and to better coordinate the provision of services by various agencies.

There being no further business, the meeting adjourned at 2:30 PM.

**INTERIM JOINT COMMITTEE
ON EDUCATION
Minutes of the 5th Meeting
of the 2008 Interim
October 13, 2008**

The fifth meeting of the Interim Joint Committee on Education was held on Monday, October 13, 2008, at 10:00 AM, CDT, at the Carol Martin Gatton Academy of Mathematics and Science, Schneider Hall, Western Kentucky University, Bowling Green, Kentucky. Representative Hubert Collins presided over the meeting. He called the meeting to order, and the secretary called the roll.

Present were:
Members: Senator Ken Winters, Co-Chair; Senators Brett Guthrie, Dan Kelly, and Elizabeth Tori; Representatives Hubert Collins, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Tim Firkins, Jim Glenn, Derrick Graham, Jeff Greer, Jimmy Higdon, Charles Miller, Harry Moberly Jr., Tom Riner, Carl Rollins II, Charles Siler, Dottie Sims, Alecia Webb-Edgington, and Addia Wuchner.

Guests: Representative Jody Richards, Speaker of the House; Jonathan Lowe, LRC Budget Review Office; Kelly Jenkins, Family Resources and Youth Services Coalition of Kentucky (FRYSKY); Shannon Morgan, General Counsel, Education and Workforce Development Cabinet; Wilson Sears, Kentucky Association of School Superintendents; Linda Krutza,

FRYSC-BGISD; Frank Rasche, Legislative Liaison, Kentucky Department of Education; and Ruth Webb, Deputy Commissioner, Kentucky Department of Education.

LRC Staff: Audrey Carr, Sandy Deaton, Janet Stevens, and Janet Oliver.

Representative Collins asked for approval of the minutes of the September 8, 2008, meeting. Upon motion by Senator Winters, seconded by Senator Guthrie, the minutes were approved by voice vote.

Representative Collins recognized Representative Jody Richards, Speaker of the House. Speaker Richards expressed his appreciation to the committee for meeting at Western Kentucky University and touring the Gatton Academy. He also thanked Representative Collins for agreeing to preside over the meeting and acknowledged the great leadership that Frank Rasche, who was in the audience, had provided during his tenure as chair of the House Education Committee. Speaker Richards thanked President Gary Ransdell of Western Kentucky University for hosting the meeting.

Representative Collins asked Senator Ken Winters, Co-Chair of the Education Committee, to make brief comments. Senator Winters said he is pleased with the progress being made at the Academy and looked forward to the tour and meeting with the students from his district.

Representative Collins asked the members to observe a moment of silence in memory and respect of Representative Larry Belcher who tragically died in an automobile accident on October 5, 2008. He said that Representative Belcher had been a dedicated member of the General Assembly and the House Education Committee.

President Ransdell welcomed committee members to Western Kentucky University (WKU). He introduced Tim Gott, Director of the Gatton Academy of Mathematics and Science, and Corey Alderdice, Assistant Director of the Academy. President Ransdell said that the Academy is named in honor of the C. M. Bill Gatton, a philanthropist who provided a \$4 million gift to be paid over a 10 year period at \$400,000 a year in direct support of programming for the students of the Academy. He said the gift complemented the General Assembly’s appropriation to establish an academy for mathematics and science in Kentucky which could provide an opportunity for gifted and talented students to accelerate their education in a challenging learning environment. President Ransdell said the Academy is also part of WKU’s economic development strategy which is already producing dividends.

Committee members were provided a folder of information regarding the Gatton Academy that included the Power-Point presentation used by Mr. Gott and Mr. Alderdice to discuss the Academy.

Mr. Gott explained that the Acad-

emy has coined the phrase “Innervation Through Innovation” to describe the Academy’s goal of providing stimulation to its students so they will achieve a higher level of learning and to bring out their full potential. Mr. Gott said the Academy’s mission is to provide a residential program for students who have a desire to excel in math and science and pursue careers in the science, technology, engineering, and mathematics (STEM) fields. He said in addition to providing a challenging learning environment for exceptional students, the Academy is also an economic development tool for Kentucky and serves as a beacon of excellence. Mr. Gott said the Academy surrounds the students with a companionship of peers and encourages creativity, curiosity, reasoning and self-discipline that lead to independent thought and action.

Mr. Alderdice said Kentucky is the 14th state to have a state funded residential program and other cohort institutions in Texas, Missouri, and Georgia are located on university campuses. He said numerous partnerships developed on the WKU campus ensure success of Academy students, including the Center for Gifted Studies, the Honors College, the Applied Research and Technology Program, and the Ogden College of Science and Engineering. He said the Honors College has traditional undergraduate students who act as the Academy students’ peers to provide academic, social, and emotional support.

Mr. Alderdice said that 81 counties have been represented during the first three admission cycles at the Academy and 131 applications were received from 61 counties for the 2010 class of which 63 students have been accepted. He said the 29 male and 34 female students accepted for 2010 have an average ACT Composite Score of 28.75 with an average ACT Math of 29.14. He said the Academy’s core curriculum includes 12 university courses in math and science taught by WKU professors and all students must complete Computational Problem Solving, Trigonometry, Calculus I and II, Biology, Chemistry, Physics, and four other science and math electives. He said that the Computational Problem Solving course was developed specifically for Academy students and is based on real world problem solving strategies and integrated technology. He said the students must also take any additional courses they may need to meet all pre-college requirements.

Mr. Gott said one of the most exciting components offered to the students is research available through the Ogden College of Science and Engineering in such fields as physics, chemistry, biology, geology, architecture, meteorology, and agriculture, including cutting edge work being done in new alternative fuels, cancer research, origins of the universe, and other projects. He said some Academy students have already presented

at national conferences, published research with professors, and won honors on campus in undergraduate research symposiums. As an example, students presented at the Gerontology National Convention in Atlanta and one student was selected for one of 75 slots at Massachusetts Institute of Technology (MIT) as a junior to do particular research for the Department of Defense resulting in a published work. He said MIT is now actively recruiting Gatton Academy students.

Mr. Gott said that Academy students also have a balanced living and learning environment and have participated in many extra-curricular activities, such as YMCA, student government, Kentucky United Nations Assembly (KUNA), and Kentucky Youth Assembly (KYA); and students have logged 2871 hours of community service.

Mr. Alderdice explained that students are admitted through a competitive admissions process and the application includes high school transcripts, ACT or SAT scores, letters of recommendation, and personal interviews. He said the applications are reviewed and approximately 100 students are invited to campus in the spring to interview for the program and that 60 students are selected each year. He said the Academy conducts information sessions throughout the state to publicize the tremendous opportunity the Academy provides for gifted students.

Mr. Gott said that 54 students graduated in the inaugural Class of 2008 and those students accepted \$2.6 million in scholarships and six were National Merit finalists. He said 25 of the 54 have continued their undergraduate studies at Western Kentucky University, 12 are attending the University of Kentucky, 5 are attending the University of Louisville, 3 are attending Centre College, one is attending Northern Kentucky University, and the remaining students are attending out-of-state universities.

Mr. Gott said that Academy students have an average composite ACT of 28.3 compared to a state average of 18.3; and their CATS scores are also considerably higher than the state average.

Representative Collins asked how many students are accepted. Mr. Gott replied that the 2008 class was comprised of 55 seniors and 65 juniors and that 54 of the 55 seniors graduated. Representative Collins asked about the timeframe for submission of the application and when it is accepted. Mr. Alderdice responded that students apply in their sophomore year with a postmark deadline of February 13; the interviews are conducted in early March; and students are notified in late April of their sophomore if they have been accepted to the program.

Senator Kelly asked what foreign language opportunities are available for the students. Mr. Gott responded that current students are taking Spanish,

French, German, Chinese, or Japanese, and they also may take Arabic, Greek, and Hebrew.

Senator Guthrie asked the committee to applaud Dr. Julia Roberts, Director, Center for Gifted Studies, Western Kentucky University, on her vision for the Academy and perseverance in its creation. He said that the facilities have been greatly improved to accommodate the Academy and the Academy has excellent staff. Senator Guthrie asked how the 16 and 17 year old students interact socially with college students and what oversight is provided. Mr. Gott responded that they seem to easily acclimate to the environment and residential staff provides oversight.

Representative DeCesare welcomed the committee members to Warren County and said that Dr. Roberts and Speaker Richards were instrumental in spearheading the Academy effort. He said the Academy is not only having a positive impact on WKU but also on Warren County and the entire state. He asked Speaker Richards if he could give a brief history of the development of the Academy.

Speaker Richards said that he learned of similar efforts after attending a Southern Regional Educational Board meeting more than ten years ago and that he and Dr. Roberts began discussions about the benefits such an institution would bring to Kentucky, but the idea really took hold when President Ransdell came to the university. He said numerous legislators, educators, and citizens across the state also assisted in the effort. Speaker Richards asked Mr. Gott if he would inform the members of the impressive research efforts in which the students are involved. Mr. Gott said that two students are working with scientists in the Astronomy Department studying star fields; one student is researching metal diffusion and his work will be submitted to Siemens Westinghouse competition in early Spring; one student is working with scientists in the Chemistry Department on how to make semi-conductors work more efficiently; two students are working with bovine eye cells to find ways to cause those to heal faster using certain chemicals; and one student studying raccoon feces has found that a specific parasite is prevalent in the region which may lead to health issues and will assist with prevention of certain diseases in the area.

Representative DeCesare asked if any of the Academy students had participated in the Super Saturday program to which Mr. Alderdice replied that in the first group of 120 students in the inaugural class at the Academy 30 students had either participated in Super Saturdays or other programs offered by the Center for Gifted Studies. He said that KDE also allocated funds to assist the Academy in publicizing its program to an underrepresented population of students.

Representative Miller said that he is

a WKU alumnus and is very impressed with the tremendous improvements that have occurred under President Ransdell's leadership. He said he believes it is important to provide special programs for the gifted and talented. Representative Miller asked why so many counties have no representation at the Academy, in particular his district, where there are many gifted students; and he asked how students are selected to attend the program. Mr. Alderdice said many districts, including Jefferson County, have excellent programs for gifted students, and the students who seem most eager to attend the Academy are those who do not have those same opportunities. Representative Miller asked if school counselors have been informed about the Academy. Mr. Alderdice said they work with various school personnel including counselors, math teachers, and others and they also do direct mailings to over 7500 students. He said the Academy is also represented at various professional conferences for school personnel to publicize the program. Representative Miller asked if at least a majority of the high schools in Kentucky are familiar with the program. Mr. Alderdice said greater effort is now being made, especially in Eastern Kentucky where there is a lower density of population, to publicize the program. Representative Miller asked if county representation is a criterion when all other criteria is equal to which Mr. Gott responded that geographical diversity would be taken into consideration. Dr. Ransdell said that the number of students accepted into the Academy is limited by facility space, which currently is 120 beds. He said Schneider Hall was built in 1926 and that approximately \$10 million in renovation was required with half the funding from a state appropriation and half from WKU's budget. He said only the existing facility was renovated and it is hoped in the future that new construction wings may be added to increase capacity by 80 beds to 200, if the Academy continues to prove successful.

Representative Graham asked what a typical day would be for a student at the Academy, if the student takes a college equivalent of classes, and how many credits a student typically earns. Mr. Gott said that curriculum information is provided on Pages 10 and 11 of the brochure given to committee members. He said a typical student takes approximately 16 hours each semester and must take other required courses to complete high school and pre-college curriculum. He said the Academy provides residential staff to coordinate student activities; first year students have a required two hour study time each weekday evening; and all students have a 10:30 PM curfew Sunday-Thursday and a midnight curfew on Friday and Saturday. Representative Graham asked how a student's social interaction with college students is monitored. Mr. Gott said that the Academy

provides residential counselors, academic counselors, and a coordinator for research and internships, all of whom monitor student activity. He said that each student is also required to carry a student identity card which also serves as a security key that must be scanned for entry into dormitory halls and rooms and the Academy building enabling faculty and staff to monitor student activity.

Senator Kelly asked how many college credits a student will earn while in the program and Mr. Gott responded that on average at least 60 college credits.

Representative Moberly asked what percentage of classes the students take with other college students. Mr. Gott said that 30% of the classes are just Gatton Academy students and the remainder of their classes is with students from the Honors College and the general population. Representative Moberly asked if students are allowed visitation between the two wings during the day at any time. Mr. Gott responded that male and females are not allowed to enter each other's respective dormitory areas although there are common areas where students may interact as a general population. Representative Moberly asked what tuition or fees are paid by the student. Mr. Gott said that tuition, room, and board are paid through a state appropriation and the students pay for their books, course fees, labs, and incidentals. He said some of the home school districts help pay the book fees with the student's SEEK funding because the student is jointly enrolled in the home county school and the Academy, although it is not a requirement. Representative Moberly asked if all the classes are taught by WKU faculty and Mr. Gott responded yes.

Representative Collins said that his home district of Johnson County has many outstanding academic teams although no one from that county is enrolled and he hopes they will be represented in the future at the Academy.

Senator Winters asked about Super Saturday activities. Dr. Roberts said Super Saturday activities were initiated during the inaugural pre-season as a means to disseminate information about the program. She said that although the geographic home of a student is considered, the most important requirement is for the student to have the qualities necessary to ensure success at the Academy. Senator Winters said he would never want an unqualified applicant accepted in the program but he said it is fair that when there are more than sufficient qualified applicants location should enter into the criteria for acceptance.

Representative Collins recessed the meeting at 11:15 AM for a tour of the facilities and lunch with the students. The meeting reconvened at 1:00 PM.

Mr. Gott introduced the following students: Ellen Boswell from Henderson County, an Academy graduate currently

enrolled at Western Kentucky University; Matthew Kirk, an Academy senior from Ohio County; and Manuel Cortez, an Academy junior from Graves County.

Mr. Cortez said he heard about the Academy from his school guidance counselor and obtained more information from an informational session held at his high school. He said that the curriculum is very rigorous but the Academy does offer services of tutors to assist them. He said he was at the top of his class in Graves County but the courses offered there were extremely easy and he welcomed the challenge of more rigorous classes and the opportunity to be surrounded by other students who also have a desire to excel.

Mr. Kirk, a second year student at the Academy, said his transition to the Academy was initially difficult. He said that his high school classes had been so easy for him that he had not developed good study habits and was lacking in self-discipline and time management skills. He said the challenges have caused him to grow overall into a better student and person. He said one significant difference is that high school teachers are readily available to assist and are concerned about a student's test scores but at the Academy a student must seek out college professors for assistance. Mr. Kirk said he currently plans to remain at WKU to pursue a master's degree in biology and then apply for medical school at the University of Louisville. He said there is only one physician in his home county who is nearing retirement and he hopes to return there to practice medicine.

Ms. Boswell said that attending the Academy helped her discover her own strengths and weaknesses, in which situations she can be a leader, and how to study for tests. She said she has gained quality research skills that will help in completing a thesis and possibly pursuing a doctorate degree, although she has not yet chosen a career field. Ms. Boswell said she is on an excellent scholarship and remained at WKU because all of her credit hours count toward the degree she is pursuing in math and because of the abundant research opportunities available at the university. She related she is actively involved in extracurricular activities, such as the Baptist Campus Ministry of which she is a member of the leadership council.

Representative Glenn asked if the Academy has an ambassador program that allows students to speak with freshmen and sophomores throughout the state to give them incentives to improve test scores and academics so they may apply to the Academy. Mr. Kirk responded that the Academy does have a program and he personally serves as an Academy ambassador. Representative Glenn asked if the graduation certificate or diploma is from the Academy or a student's home high school. Ms. Boswell said that she had been dually enrolled

and therefore she was able to graduate with her home high school class and also from the Academy and she has a diploma from both.

Representative Graham asked if the dual enrollment situation has changed. Mr. Gott said that school districts still have the option to allow a student to have dual enrollment but it will no longer be a requirement. He said several Academy students were home schooled or in parochial schools and those students will only receive an Academy certificate. Representative Graham said he hopes that all districts will provide the option for students to remain connected to their home schools. Mr. Gott said that all districts represented at the Academy have been supportive of the program.

Senator Guthrie said that legislation was passed that allowed the CATS scores of the students attending the Academy to be reflected in the school district's scores. Dr. Roberts said one of the benefits to the home district is the CATS scores and the district also gets to claim the honors, such as scholarships awarded to Academy students.

Senator Winters and Representative Collins thanked the students for their presentations and encouraged them to pursue their promising futures.

Representative Collins asked President Ransdell to give his presentation. A copy of the PowerPoint presentation used by President Ransdell was provided to each committee member.

Presidential Ransdell provided information on WKU enrollment and said that, since the passage of House Bill 1 in 1997, WKU has been the fastest growing university in Kentucky. He said the average ACT score for incoming freshmen is 22 and the average high school GPA is 3.2, so they continue to attract Kentucky's best and brightest students. He said that WKU has experienced a 34% growth in enrollment since 1997 and has a current enrollment of 19,555. He said WKU and all the other state universities and colleges are dedicated to higher education reform and achieving the "Double the Numbers" goal.

President Ransdell provided information on the number of applications received, actual enrollments, and the number of students from underserved counties showing an upward trend in all categories, even though tuition has continued to increase. He said, in an effort to offset increased tuition, the state is assisting with financial aid and the state along with WKU is provided merit based scholarships. President Ransdell related that Kentucky's tuition is in the median of surrounding states and it is important that they receive consistent state funding to maintain a reasonable tuition, which is currently \$3,465.

President Ransdell said that the number of Baccalaureate degrees has increased 39% since 1997 with 2,391 degrees awarded in 2008, the second highest in Kentucky. He said WKU's location

along the I-65 corridor has been important in the growth of enrollment and the strong economy and a good partnership with city and county government have also been factors. He said that Master and Specialist degrees have increased by 58% since 1997. President Ransdell provided information on retention and graduation statistics showing the rate has remained constant since 1997 at 72%, although the percentage is of a much larger enrollment today than in 1997 and is consistent with the national average; and the six-year graduation rate has increased by 10 percentage points since 1997 to 49.1%.

President Ransdell said the university has instituted several initiatives to improve retention and graduation rates and discussed three in particular: the University Experience course designed for freshmen to orient them to the university experience with focus on study habits, time management, financial management, social relationships, etc., the four-day MASTER plan program that all incoming students may take to help them form an identity and focus toward graduation in a given year, prior to arrival of upper classmen; and Living/Learning communities and the Gateway Program provided in the residence halls that are dedicated to specific disciplines, i.e., nursing students live on a floor of a certain residence hall and their faculty are engaged with them in that living/learning community. President Ransdell said Western also has a Student Success Center to provide undergraduate advisement functions, such as peer tutoring, career planning and placement offices, to help students graduate in a timely manner. He said the Alice Rowe Learning Assistance Center located at Bowling Green Community College also teaches students study skills, provides workshops on special topics, and has a program for at-risk students. He said the community college in Bowling Green has over 2,000 students enrolled and houses most of the associate degree programs and is the location of students who wish to enroll at WKU but have not yet met admission standards. He said the community college is under the university's accreditation.

President Ransdell said that the number of freshmen needing developmental education is still significant although the percentage has shown some decline. He said WKU has been working with the Kentucky Community and Technical College System (KCTCS) on core curriculum credits although the number of transfer students has declined somewhat because many students enroll in community colleges just to obtain an associate degree. He said most of WKU's transfers come from Owensboro and Elizabethtown because of dual enrollment/dual credit curriculum with those community colleges.

President Ransdell said that WKU is focusing on science, technology, en-

gineering and mathematics (STEM) disciplines and provided information on the various degree programs offered at WKU, including Baccalaureate programs in electrical, mechanical and civil engineering, which have had a significant impact on economic development in the area. He said the second largest Major degree program at Western is nursing. President Ransdell said 4,159 STEM Major degrees were earned in 2008, and the number of first year students seeking STEM majors has doubled since 1997 and the number of degrees by residency has increased 33%.

President Ransdell said WKU has been very aggressive in having its students pursue major national and international scholarships providing as an example that four students have received the highly competitive Barry M. Goldwater scholarships in the last two years, 20 students were accepted to medical school last year, 8 were accepted to dental school, and 26 students are now attending pharmacy school. He said that WKU students are generally the largest number accepted at the 35 slots allotted for Kentucky at Auburn University for veterinary school.

President Ransdell also discussed the Southern Kentucky (SKy) Teach Program, explaining that it is a dimension of the University of Texas, Austin (UTeach) program. He said WKU is one of only 12 institutions to receive a \$2.5 million grant from Exxon Mobil Foundation to fund the program designed to train teachers in STEM disciplines and place them in public schools.

President Ransdell said WKU's Applied Research and Technology Program is another important economic development strategy and committee members were provided a brochure explaining the program. He said funding provided by the legislature was used to convert a vacant shopping mall close to the south campus community college into the Center for Research and Development that houses the Applied Physics Institute, the Institute for Combustion Science and Environmental Technology, and Materials Characterization Center, resulting in the creation of 20 companies, such as Northwest Nuclear and Electronic Warfare Associates, employing 591 highly paid employees with an annual payroll of nearly \$7 million dollars, and that large companies are growing out of the satellite companies at the Center. He said the original \$2 million dollar investment made several years ago has returned many times that amount to the region's economy.

President Ransdell provided information on student financial assistance, stating that an exceedingly large number of WKU students receive financial aid of one form or another, with the largest percentage being student loans. He said loans are a cause for concern although a home mortgage and college loan may be the most important loans an individual

or family will ever undertake. He said that a combination of merit-based aid by universities and need-based aid by state funding warrants more discussion in the future.

President Ransdell discussed the Council on Postsecondary Education's (CPE) Kentucky Project Graduate program aimed at former students who have 90 plus hours but have not yet received a degree. He said WKU created its own version and has begun to make significant progress even though the project is only a year old. He said more than 1,800 former WKU students have been contacted, of which 800 have requested more information and 61 are now enrolled.

President Ransdell said that the Division of Extended Learning and Outreach is the umbrella for WKU's regional campuses in Owensboro, Elizabethtown and Glasgow with a total enrollment of 4,244, representing a 50% increase in enrollment since 2001. He said WKU also offers nearly 30 Majors completely online and has approximately 2,000 students currently taking online classes. He said online programs will never be the panacea to solve all of the learning issues and will never be the primary means by which a WKU learning experience is delivered but it is an important delivery method for many students who can only access WKU online and some full-time students on campus also access some online courses.

President Ransdell said the Glasgow campus has the largest enrollment and is currently using modular units to house classes because of lack of space. He said the Elizabethtown/Radcliff/Ft. Knox Regional Campus has over a 1,000 enrollments and that WKU is using its own funds for construction, renovation, and equipment at this campus primarily to accommodate an influx of relocated employees and to provide training for local residents in jobs associated with Base Realignment and Closing (BRAC) demographics at Ft. Knox. President Ransdell said the Owensboro campus also has over a 1,000 enrollments and is important to the economic development of Owensboro. He said that the Daviess County Fiscal Court is actually investing in a building that will be leased to WKU to allow the university services to grow in partnership with Owensboro Community and Technical College.

President Ransdell said WKU is pleased with the investment being made in gifted students by funding of the Gatton Academy. He said that WKU has created a new three year scholarship which Academy students can apply for to fund a Baccalaureate degree, a Master's degree, have a semester abroad, and an undergraduate research stipend. He said the WKU Board took action in 1997 to create the only independent Honors College on a public university campus in Kentucky where a student can actually come to WKU and have a dual degree,

one from the College of Science and Engineering or Business or Education and a degree from the Honors College.

President Ransdell said the Doctoral program in education was created in the summer which offers a Doctoral Degree in Education Leadership and consist of four strands: one for P-12 administrative leadership; one for teacher leader; one for postsecondary leadership; and one for organizational leadership.

President Ransdell said he greatly appreciated the opportunity to share information and data with the committee members. He said he was extremely proud of having been selected as president of Western Kentucky University and related that he attended Jefferson County Public Schools and Western is his alma mater. He said his roots in Kentucky instill in him the passion and personal resolve to ensure ongoing success and accountability for WKU. He said the governing board is also very focused on the transformation of Western to national prominence as evidenced by the many banners around campus that read, "A Leading American University with International Reach." He said progress is being made even during difficult economic times with an ongoing effort to keep morale of faculty high without significant increases in salary. President Randall thanked the committee for their continuing support and investment in higher education.

Representative Moberly asked if he understood correctly that WKU now has 30 majors completely available online. President Ransdell said it is in the 28 to 30 range and that WKU has the largest number of online enrollments and number of students enrolled in an online context among the eight universities. Representative Moberly asked if the online numbers are reflected in the total enrollment to which President Ransdell replied yes. Representative Moberly asked how many students are just enrolled online and President Ransdell said it is in the 2,000 range and most of those are on the extended campuses. Representative Moberly asked what incentives are provided to faculty to produce online courses. President Ransdell said online courses are not inexpensive and that online enrollment tuition is approximately 20% higher than traditional courses and the additional revenue generated goes back into both the technology and to the faculty who deliver the courses. He said online courses generally require a heavy workload by the faculty member because a student taking an online course typically has more interaction with their professors than they would in a traditional classroom format. President Ransdell said that personally he believes that the hallmark of the WKU experience will always be the human exchange of ideas and ideals and WKU will never become a predominantly online institution. He said the main campus has 4,996 beds in the residential halls, but most students

commute. He said the extended campuses also offer excellent programs and online classes and every aspect is important in achieving "Double the Numbers" goals. Representative Moberly asked if the enrollment at the extended campuses is continuing to rise. President Ransdell said it is increasing, especially at the Elizabethtown campus, but not as rapidly as on the main campus. He said enrollment at the Glasgow campus is at capacity because of insufficient facility space and he will be requesting funding for facilities at Glasgow.

Speaker Richards asked about growth at the Owensboro campus. President Ransdell responded that it is anticipated that Owensboro enrollment will increase to meet economic development needs in Daviess County, although data from the 2000-2005 census shows that Daviess County lost nearly 1,000 Baccalaureate and Graduate degree holders while several other counties grew dramatically in the same degree holders. He said the census data has been one of the reasons the Daviess County government is investing in the community campus.

Representative Moberly asked if WKU has full-time faculty at the extension campuses. President Ransdell said there are full time faculty, mostly in Glasgow and to a lesser extent in Owensboro and Elizabethtown. Representative Moberly asked what WKU's program of distinction is. President Ransdell replied it is the Applied Research and Technology Program in the life and physical sciences, although the School of Journalism and Broadcasting has been ranked number one in American Higher Education three times since 2000. Representative Moberly asked if the second program had to be approved by CPE and President Ransdell responded that it did require approval.

Representative Moberly thanked President Ransdell and said that his record at WKU is extremely impressive.

Representative Collins asked Dr. Philip Rogers, Executive Director, Education Professional Standards Board (EPSB), to discuss Regulation 16 KAR 3:050, Professional certificate for instructional leadership – school principal, all grades. Dr. Rogers said that, in 2006, the General Assembly passed House Joint Resolution 14, creating a task force that was co-chaired by the executive director of EPSB, the commissioner of education, and the president of the Council on Postsecondary Education. He said the task force convened in August 2006 with 30 members and presented its findings in a report to EPSB in October 2007. He said the findings were presented to the Interim Joint Committee on Education on November 5, 2007, and was translated into regulatory language by EPSB in January 2008. He said the regulation essentially provides for the redesign of the principal preparation program with very clear regulatory language with the purpose of producing principals who have already

demonstrated their leadership abilities in the classroom and prepares them to be leaders of leaders in their schools. Representative Miller moved for approval of the regulation. Representative Embry seconded the motion and the motion was approved by voice vote.

Representative Collins thanked President Ransdell, Dr. Roberts, Mr. Gott and Mr. Alderdice for excellent presentations and informative tours.

Representative Collins said the next meeting of the committee will be November 17th in Frankfort with subcommittees meeting at 10:00 AM and the full committee meeting at 1:00 PM.

There being no further business to discuss, the meeting adjourned at 2:40 PM.

INTERIM JOINT COMMITTEE ON EDUCATION Minutes of the 6th Meeting of the 2008 Interim November 17, 2008

The sixth meeting of the Interim Joint Committee on Education was held on Monday, November 17, 2008, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Vernie McGaha, Presiding Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Alice Forgy Kerr, Gerald A. Neal, R.J. Palmer II, Tim Shaughnessy, Johnny Ray Turner, and Jack Westwood; Representatives Mike Cherry, Hubert Collins, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Bill Farmer, Tim Firkins, Jim Glenn, Derrick Graham, Jeff Greer, Jimmy Higdon, Charles Miller, Harry Moberly Jr., Marie Rader, Tom Riner, Carl Rollins II, Charles Siler, Dottie Sims, Alecia Webb-Edgington, Ron Weston, and Adia Wuchner.

Guests: R. Larry Taylor, Leah Ellis, Ray Corns, Michael Miller, and Frank Rasche, Kentucky Department of Education; Adrienne Gilbert, citizen; Rhonda Caldwell, Kentucky Association of School Administrators; Cindy Heine, Prichard Committee for Academic Excellence.

LRC Staff: Audrey Carr, Janet Stevens, and Lisa Moore.

Senator McGaha asked for approval of the minutes of the October 13, 2008, meeting. Upon a motion by Representative Sims, seconded by Representative Siler, the minutes were approved by voice vote.

Representative Edmonds briefed the committee on the meeting of the Subcommittee on Elementary and Secondary Education. He said the subcommittee met and heard discussion related to the extended school services program, commonly known as ESS. He said every school district is provided funding to operate an ESS program for students who are having academic problems in one or more of their core classes. The ESS pro-

gram allows struggling students to be given extra instructional time outside their regular class time.

Representative Edmonds said that in December 2006, a research agenda was approved for the Office of Education Accountability (OEA) that included a review of the state's ESS program. While OEA staff observed a number of schools using ESS funds in ways proven to increase student academic achievement, they also observed schools using funds in ways that have not been proven to raise student achievement. He said a major conclusion of the study is that the current ESS program is fragmented and lacks focus. The report suggests that a more structured ESS program should be followed to reach the maximum benefit for students and that the Kentucky Department of Education (KDE) should take a stronger administrative role that helps schools and districts link data, resources, and best practice.

Representative Edmonds said the KDE staff presented a response to OEA's review and gave a brief summary of the actions taken by KDE to address the recommendations. They explained proposed changes to existing administrative regulations that will strengthen the program.

Representative Edmonds said the KDE staff reported that elementary schools use Title I funds together with ESS funds to help struggling students. However, since most high schools do not receive Title I funds, they depend on ESS funds to provide students with this extra help. He noted that cuts made to the ESS budget will result in a potential decrease of approximately 90,000 students served in the current school year, as compared to the number served in the 2007-2008 school year.

Representative Rollins said the Subcommittee on Postsecondary Education reviewed reports on how various institutions of higher education are coping with revenue shortfalls. The subcommittee heard from Dr. Richard Crofts, Interim President, Council on Postsecondary Education; Dr. Kumble Subbaswamy, Provost, University of Kentucky; Dr. James Votruba, President, Northern Kentucky University; Dr. Michael B. McCall, President, Kentucky Community and Technical College System; and Dr. Mary Evans Sias, President, Kentucky State University.

Representative Rollins said the reports reflect the challenges to and the creativity of the universities and colleges as they attempt to maintain high quality programs, facilities and staff during times of economic fluctuation and unpredictable revenue sources. He said these issues impact on affordability, access, and program choice for students.

Representative Rollins said the most common cost containment strategies reported are: reduction of faculty and staff positions through attrition; implementation of a hiring freeze; reor-

ganization of university administrative functions eliminating or combining roles and functions; delaying the addition of planned new programs and courses; and restrictions on staff travel and conference attendance.

Representative Rollins explained the options that some universities are implementing to offset the current financial situation. These options included: salary freezes; faculty layoffs; and reducing the number of academic program and course offerings, which limits the students' schedule flexibility. He noted the reports suggest that many of these measures negatively impact the morale of staff and the ability of the institutions to maintain a stable dependable workforce.

Representative Rollins noted that some institutions have implemented some type of efficiency strategy. This includes: locking in fuel contracts; delaying facility maintenance schedules; reduction of mailing and printing costs; utilization of web-based technologies and eliminating printing of textbooks; outsourcing printing and copying services; and terminating residence hall telephone services and using Voice Over Internet Protocol system. He said these strategies represent a significant financial savings, but the reports suggest that continued investment in technology systems will be necessary for some of these strategies to be effective over time.

Chairman McGaha accepted the reports on behalf of the committee with no objections.

Chairman McGaha introduced Ms. Elaine Farris, Deputy Commissioner, Bureau of Learning and Result Services; Dr. Ken Draut, Associate Commissioner, Office of Assessment and Accountability; and Ms. Rhonda Sims, Director, Division of Assessment Support, KDE. The panel from KDE reported to the committee on the 2008 test scores for the Commonwealth Accountability Testing System (CATS), No Child Left Behind (NCLB), and ACT; and gave a progress report of the Task Force on Assessment and Accountability.

Mr. Draut began the PowerPoint presentation by defining the state and federal accountability systems in Kentucky. He noted that the federal NCLB accountability requirement has annual measurable objectives that include the percentage of proficient and distinguished students in reading and mathematics and targets for all students and populations of sufficient size. He said other academic indicators in NCLB include CATS classifications in elementary and middle school and graduation rates in high school. He also said NCLB requires a participation rate to test 95 percent of all students and populations of sufficient size and Kentucky meets that goal every year.

Mr. Draut said the CATS state testing system has an academic index that includes the percentage of novice, apprentice, proficient and distinguished

students in seven content areas. The nonacademic indexes in CATS includes attendance, graduation rates, including retention and dropouts, and transition to adult life. The ACT high school index also requires administering the PLAN in grade 10 and the ACT in grade 11 for all students with each accounting for 2.5 percent in the accountability index.

Mr. Draut discussed the NCLB annual measurable objectives and the starting points and yearly targets of the percent of students enrolled for a full academic year and scoring proficient and distinguished. He noted Kentucky met 20 out of 25 target goals in 2008, which equals 80 percent of its target goals. A detailed table is included in the meeting folder located in the Legislative Research Commission (LRC) library.

Mr. Draut said based on the NCLB public release on August 5, 2008, 820 schools met 100 percent of NCLB adequate yearly progress goals, which is 70.9 percent of all schools. Other figures reported included: 89.0 percent of all elementary schools met 100 percent of goals; 44.4 percent of middle schools met 100 percent of goals; 33.3 percent of high schools met 100 percent of its goals; and 103 out of 175 school districts, 58.9 percent, met 100 percent of NCLB adequate yearly progress goals. He also discussed the summary of tiers and consequences for Title I schools and districts.

Mr. Draut discussed concordance in CATS reporting in Kentucky. He said multiple changes to CATS in 2007 required a statistical process to link data from the old system used in 1998-2006 to the new one established in 2007-2008. He said concordance is a statistical process used to establish the link. The concordance table relates the scores on similar assessments by lining up the percentile ranks. A school's adjusted score does depend on the rank order of other schools in Kentucky. The concordance table set in 2007 established the link between old and new CATS accountability index scores. He said the same table was used for the last time in 2008, and content area and individual student scores were not adjusted.

Ms. Sims explained the growth chart for Kentucky. She said schools have different starting points, but all schools have a goal to reach 100 in the accountability index. She noted 594 schools are meeting their goals, 537 schools are progressing toward their goals, and 26 schools are in the assistance category. A detailed adjusted accountability index calculated with the concordance table at each level of elementary, middle, and high school is available in the meeting folder in the LRC library.

Ms. Sims said elementary school students score higher on the CATS test with middle and high school students performing lower on the CATS assessment across the entire Commonwealth. She also said female students tend to

score higher than males and African-American and Hispanic students score the lowest in the academic index. She noted that the KDE will continue to work to close the achievement gaps in the test scores among these different sub-groups of students.

Ms. Sims said other items in the 2008 disaggregated academic index show that free and reduced lunch students score lower on the CATS than students who are not approved for free and reduced lunch. Students with English proficiency score higher than students identified with limited English proficiency. Finally, students with no disabilities score higher than students identified with a disability, while students receiving accommodations for their disability score higher on the test than students who receive no accommodations for their disability.

Mr. Draut explained the distribution of scores for the PLAN and ACT tests in 2007 and 2008. He said the scores are placed in ranges of novice low, novice medium, proficient and distinguished and then a formula is used that creates the index for the ACT and PLAN. He said the score range percentages establish a starting point for the high school ACT academic index. Kentucky has an average ACT index of 73.8 in 2008.

Mr. Draut said the composite score for Kentucky juniors completing the ACT is 18.3. He said the ACT provides college ready benchmark scores for the core subject areas of English, mathematics, reading, and science. He said 46% of Kentucky students are meeting the ACT benchmark score in English; 20% in mathematics; 33% in reading; 15% in science; and 10% of Kentucky students are meeting all four ACT benchmarks. African-American and Hispanic students are scoring lower than Caucasian and Asian Americans on the ACT, which is following the scoring trend in the CATS testing.

Mr. Draut said transitioning from 2008 to 2014 will include a data review and appeals process with revised Kentucky Performance Reports posted in the fall of 2008. A new growth chart will be created from the nonadjusted 2007 and 2008 accountability indices and the new growth charts will be released in late 2008.

Representative DeCesare asked if the percentage numbers on the NCLB annual measurable objectives chart were reflective of actual scores or yearly targets of percentages of all participants. Mr. Draut said the percentage numbers are goals.

Representative DeCesare asked for an explanation about the scale used in the Kentucky Performance Report in accountability cycle 2008. He noted the 2008 biennial goal is 85.0 percent, and this is a concern as meeting the target goal of 85 on a scale of 0-140 is equivalent to 60 percent, which is not even a passing grade in the classroom. He said

even if the biennial goal is moved up to 100, this is still on the borderline of receiving a passing grade in the classroom. He feels this scale sets up Kentucky's students to achieve mediocrity and Kentucky needs to strive to do better for its students.

Mr. Draut said he receives similar concerns about the scale of 0-140 from school staff. He said points are distributed in the CATS system to students identified as novice, apprentice or proficient, and students reaching proficiency are given 100 percent of the points. Students who reach distinguished receive a bonus of 140 points. He noted that the goal for Kentucky students is reaching the proficient level, while reaching distinguished is considered a bonus that very few students can meet.

Representative DeCesare said the CATS scores determine accountability for the schools and not individual students. He is anxiously awaiting the findings of the Taskforce of Assessment and Accountability and hopes their recommended changes will be implemented promptly as 2014 is rapidly approaching and Kentucky is not on target to meet its performance goals for students.

Representative Sims asked if teachers are teaching students the content of the CATS test questions in the classroom. Ms. Farris said some teachers probably do design their instruction around the assessment, but she would not call it teaching to the test. It makes good instructional sense for teachers to align their instruction along with their assessments.

Representative Sims asked if there were more dropouts before or after the implementation of the Kentucky Education Reform Act (KERA). Ms. Farris said data indicates the dropout rate has decreased since KERA.

Representative Sims asked if KDE kept data to reflect how many students have to take remedial courses upon being accepted into college. Ms. Farris said KDE does not have that data at this time as there is no longitudinal data available from Kentucky colleges to its high schools. She said KDE is working to find a way to begin collecting the data as the information is critical for the Commonwealth. Mr. Draut noted that KDE is currently beginning a P-16 data effort initiative to link college data back to secondary, middle, and elementary schools. When the system gets into place, it should provide KDE with the data of how many students need remedial courses upon entering college.

Representative Graham said the previous commissioner of the KDE had said the state board could reevaluate the number of days and the number of tests that Kentucky junior high school students are being tested. He asked if the KDE is still evaluating whether or not some of the junior year assessment can be moved to other years or eliminated.

Ms. Farris said there is on-going

discussion about how much and what grade levels to administer student assessments. Representative Graham asked if there was any movement towards changing the assessment in the junior year of high school. Mr. Draut said there are a testing expert and a small group looking at the ACT and the KCCT to see if there are common items that can be merged to ease the testing burdens on students.

Representative Graham suggested moving an assessment to the high school freshman year since there is no evaluation currently in place. He also believes the junior year is too late to find problems and students need to be tested entering into high school in order to access and apply appropriate interventions. He said a new evaluation system should be put in place because students are suffering from test fatigue in their junior year. Ms. Farris said high schools are looking at testing students in their freshman year to ensure the curriculum and courses are meeting their needs in high school.

Representative Webb-Edgington asked if the dropout numbers being reported in Kentucky are accurate. Ms. Farris said Kentucky's definition of calculating dropouts differs from the national definition. Mr. Draut said school districts are implementing a total student information system called Infinite Campus, which will provide consistency and accurate data concerning student dropouts.

Representative Webb-Edgington asked what the current definition is for a dropout. Mr. Draut said the dropout rate is calculated year-to-year by the number of students who leave school during the school year and how many have returned to school the following year. He said if a student has not returned to school by October 1st the following year, he or she is considered a dropout. He said the graduation rate follows a cohort of students from 9th through 12th grade. NCLB actually uses the graduation rate to track dropouts.

Representative Webb-Edgington said African-American children score 20 points below other children on state standards and asked what KDE is doing to close this achievement gap. Ms. Farris responded that a concerted effort is being made to track individual student progress. She said all high, middle, and elementary schools are being asked to provide individual plans for improvement for each individual student in their school. She said customized strategies are being developed to improve learning for all Kentucky students. She is aware that there is a large achievement gap for Kentucky's African-American and disability students. She feels the key to closing the gap is to provide equal access to the core curriculum for all students. She is asking leadership within schools to ensure that there is an accountability system in every school and every classroom and that all children are held accountable to high expectations and standards.

Chairman McGaha asked what Kentucky's dropout rate was the past year as calculated by CATS. Mr. Draut said 2.2 percent. Senator McGaha asked what Kentucky's graduation rate was as calculated by NCLB, which is evaluated over a four-year period. Mr. Draut said it was 82 percent.

Senator Westwood asked why Kentucky uses the dropout rate instead of the graduation rate formula that NCLB utilizes. Mr. Draut said the dropout rate is used for CATS and the graduation rate is used for NCLB. Senator Westwood asked if NCLB allows states to use the dropout rate that Kentucky uses. Mr. Draut said they do not. Senator Westwood feels CATS should follow the NCLB guidelines instead of having two different numbers that are dramatically different. Ms. Farris said it is a state decision and KDE will discuss the issue.

Senator Shaughnessy asked for clarification about all students not having access to core content classes. Ms. Farris said students with disabilities and African-American students are often not enrolled in classes that are teaching the core content on a regular basis. She said they may be in self-contained classrooms or they may have been pulled out of those classes to have lower level types of content taught. It also can depend on the school and the resources available to provide teachers and offer a sufficient number of courses for all students. Ms. Farris said it is a local school decision on what type of classes to offer at each school.

Senator Shaughnessy asked if KDE has a breakdown of ACT scores among students who have completed core content curriculum and those who have not. She said KDE has not looked at this component, but they have looked at ACT standards and aligned those with Kentucky's standards.

Senator Shaughnessy said he is very concerned that 90 percent of Kentucky high school graduates are not ready for college according to the ACT guidelines. Mr. Draut explained that is the percentage of students who do not meet all four benchmarks under the ACT criteria in English, mathematics, reading, and science.

Ms. Sims clarified to Senator Shaughnessy that the 90 percent pertains to Kentucky high school juniors who are taking the ACT, and not high school graduates. Senator Shaughnessy said this statistic is alarming and Ms. Farris agreed. She said there are 56 assist teams working with high and middle schools across the state to prepare students for college. Focus of the assist teams is to help schools provide a support system and get students in intervention programs at least by tenth grade. She noted that research has proven that courses selected and rigor of the classes is more important to student learning than what score they make on a test. She also said Kentucky has received sev-

eral grants to offer AP classes in more schools and expose students to the rigor they need to be successful.

Senator Shaughnessy said he is a big proponent of the AP program. He noted that if teachers and school personnel are not directing students into the core curriculum courses, then they certainly are not directing them into the AP curriculum. Ms. Farris said it is a challenge and a subject that needs to be discussed in the middle and high schools across the Commonwealth.

Representative Moberly said he is disappointed in these results and wants to know what KDE's strategy is to fix it. He said Kentucky has made progress since the implementation of KERA due to the hard work of Kentucky teachers and educators, but there is still much work to do in the disaggregated academic index. It is evident Kentucky will not meet its goals in 2014 if improvement is not made.

Ms. Farris said KDE is working with the Kentucky Board of Education who has voiced similar concerns with the assessment results. She said the biggest challenges and the most concerted effort will be focused on improving middle and high schools across the Commonwealth. She said more accountability will be placed on individual students and the types of programs and courses needed in schools to improve student performance.

Representative Moberly said there absolutely has to be more collaboration between the Council on Postsecondary Education (CPE) and the KDE. He said colleges and universities must become involved with the public school system or college readiness will not improve. Ms. Farris said KDE is working with CPE, the Education Professional Standards Board (EPSB), and some university deans to determine future policy and changes that need to be made in Kentucky classrooms. She said they are also discussing teacher preparation at the college level.

Senator Neal said he is almost speechless and is depressed by the results. He realizes that it is a national trend for elementary schools to outperform middle and high schools. He asked if the achievement gaps in Kentucky were also indicative of national trends. Ms. Farris said the achievement gaps in student performance in Kentucky do mirror national data.

Senator Neal asked if there is trending data within the KDE to track if the achievement gaps are narrowing. Mr. Draut said KDE sees achievement gaps closing and all student scores going up, but not fast enough. He said since 1995, all student groups have improved on test scores, but not fast enough to meet the goals in Kentucky.

Senator Neal asked if demographic information had been analyzed to determine the profiles of schools that produce these particular results. Ms. Farris said KDE has that information and Senator Neal asked that the information be dis-

seminated to committee members.

Senator Neal asked if there are schools in the state that are doing a good job of closing the achievement gaps with their students. Ms. Farris said there are some, but there are more schools that have done a very good job with closing the achievement gap with children living in poverty and children not living in poverty. She said fewer schools have been able to close the achievement gap with African-American students, although some elementary schools have done a good job. She will identify the model schools and get the information to Senator Neal.

Senator Neal would like to see what types of methodologies the schools are using that are having more success closing achievement gaps among student populations in comparison to the profile of the school. Ms. Farris said the Blue Ribbon Panel Commission has compiled this type of information and she will get it to committee members. Chairman McGaha asked Ms. Farris to deliver the information to the Education Committee staff and they will distribute it to the members.

Representative Riner asked what percentage of Kentucky's junior students with learning disabilities applied and received extra time for taking the ACT test. Mr. Draut said they would get the information for him.

Representative Riner asked who is responsible for helping students with disabilities make application to the College Board to receive the extra time. Ms. Sims said each school that administers the ACT follows a process that identifies a test supervisor, a back-up test supervisor, and a test accommodations coordinator. She said the test accommodations coordinator would be the person to complete the necessary paperwork to qualify students to receive extra time on the ACT.

Representative Riner said there is a child psychologist in Jefferson County that has worked with students with disabilities for the past 30 years, and she has been very unsuccessful in obtaining the students extra time to complete the test. The average child psychologist ends up writing 14-18 page reports before extra time is granted. He said it takes a real advocate pushing to get these students the help they need and this has been a real problem for decades. Ms. Sims said if Representative Riner will give her the specifics, she will follow-up with the school and get some assistance.

Representative Graham believes ACT has a guideline that students must have documented in their individual education plans that their disability requires extra time for testing prior to arriving to high school. He also believes input is needed from postsecondary education in order to help design the curriculum to have students prepared for college upon graduation. He reiterated that high school juniors are fatigued from testing

when they take the CATS test and do not have an incentive to take it seriously.

Senator McGaha asked Representative Graham if he is suggesting implementing a form of student accountability. Representative Graham said most students feel that they should do well on the ACT because it directly affects in they get into college or not. He feels KERA needs to be reevaluated to see what is working and what is not, and make needed adjustments in the system. He also mentioned the technology advancement that has occurred since KERA.

Senator McGaha announced that due to time constraints the OEA report on Special Education in Kentucky would have to be heard in another meeting. He said if the committee meets in January, he hopes to have OEA on the agenda to give them ample time to share the findings of the report. He also said he has received very positive comments about the report.

Representative Rollins asked why the benchmarks were set so high for science and mathematics. Mr. Draut said the ACT college readiness benchmarks are set by the ACT company based upon comparisons of students who take the ACT in high school and what kind of grades they are making in college a few years later. Representative Rollins asked if Kentucky had any voice in determining the benchmarks, and Mr. Draut said it was strictly the vendor that determines the numbers. Representative Rollins said the benchmarks in science and mathematics seem to be pretty high and the nationwide ACT scores in science and mathematics are well below these benchmarks of 22 and 24. He believes it is wrong minded to indict Kentucky because of not meeting the benchmarks and says it wrong to report that 90 percent of Kentucky students are not receiving an adequate education because of not meeting the benchmarks. He also reminded the committee that the ACT test is designed for seniors, and Kentucky's students are taking the test a year ahead of time. He said he reminds students that the ACT they take their junior year is practice, and the test they take in the senior year is the pivotal score because more coursework has been completed. He said Kentucky juniors who take the ACT should only be compared to other juniors completing the test nationally, and any other comparison skews the results.

Representative Miller said Kentucky places more emphasis on testing in schools than providing solid education programs. He discussed the advanced program versus the advanced placement program and said good education programs drive student scores higher. The advanced program consisted of elementary, middle, and high school students and was very successful. He said advanced placement only caters to the very elite students and Kentucky needs

to focus on improving education for all its students. He also said vocational programs are crucial to the workplace and many of these programs are being eliminated in the schools.

Representative Wuchner said it is time for dramatic reform of the reform. She said the CPE indicates that 35 to 78 percent of Kentucky students enrolling into college need two or more remedial courses. She said stronger language needs to be directed from the General Assembly to require better communication between postsecondary and secondary education.

Representative Collins said more improvements need to be made in the testing window within schools. He said after students complete testing in the spring, they lose motivation to learn for the rest of the school year. He also said students that miss school due to a lot of snow days are at a disadvantage because they do not get the same number of instruction days as other groups, and probably score lower on the assessments. He would like to find solutions to make testing schedules equitable in all schools.

Representative Glenn said the tracking program in the high schools can determine what courses students are allowed to take. He said specific tracking programs can prohibit a student from taking an Algebra class, but this student will still be tested on Algebra on the ACT. Ms. Farris said most schools across the Commonwealth are moving away from tracking systems within schools. She said there are prerequisites or policies within schools that can unintentionally give students access to only certain classes.

Chairman McGaha asked about the eighteen percent increase in the on-demand writing scores. Mr. Draut explained the increase was due to new standards being implemented in on-demand writing for 12th graders. He explained the change brings the system in-line with the changes that occurred between elementary and middle schools in 2007. Chairman McGaha said the 2006-2007 data is not included in the handout and it is hard to see that connection.

Chairman McGaha said the adjusted accountability index calculated with the concordance table was 82.2, and asked if the KDE calculated the number without using the concordance table. Mr. Draut said he would get the information to him.

Chairman McGaha asked Ms. Farris to provide the committee with a progress report of the Task Force on Assessment and Accountability. Ms. Farris said the task force was charged with reviewing Kentucky's public school assessment and accountability system (CATS) to ensure that it meets the best interests of Kentucky's public school students. The four goals of the task force are as follows: to keep the trend line from 2008-2014 intact with no major changes; to

consider modifying arts and humanities, writing portfolio, on-demand writing, and alternate assessments; to generate a list of potential changes to be considered after 2014; and to develop a legislative package and submit for consideration during the 2009 General Assembly.

Ms. Farris said members were selected to the task force from letters that were sent to major stakeholder groups asking them to choose an individual to serve on the task force. She also said the President of the Senate and the Speaker of the House of Representatives were asked to select legislative representation. A complete listing of the members of the task force is provided in the meeting materials located in the Legislative Research Commission (LRC) library.

Ms. Farris said there were a total of seven meetings, ending in November, to allow for the preparation of legislative proposals for the 2009 General Assembly. She gave a brief summary of each of the meetings. The summary is located in the meeting materials in the LRC library.

Ms. Farris said recommendations from the Task Force on Assessment and Accountability include the following: expand a pilot program evaluation model for assessment of the arts; encourage formative assessments; work toward concise standards and balanced assessments; and provide teacher training and preparation related to assessment.

Ms. Farris said Commissioner Draut plans to establish a work group to discuss and make recommendations for the assessment program for 2014 and beyond. She said an Arts and Humanities Program Evaluation will be submitted to the Kentucky Board of Education for possible inclusion in their legislative agenda.

Representative Graham asked why classroom teachers were not included on the task force. Ms. Farris said teachers were represented on the task force by the Kentucky Education Association. Representative Graham felt that actual classroom teachers should have been a part of the task force. Ms. Farris said teachers will be included in the work group that is being formed who will actually be doing the hands-on work.

Chairman McGaha informed the committee that resolutions had been prepared for Senator Brett Guthrie and Representative Milward Dedman who are leaving the committee. Upon a motion by Representative Collins, seconded by Representative Sims, the resolutions were adopted by voice vote.

With no further business before the committee, the meeting adjourned at 3:15 p.m.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 5th Meeting of the 2008 Interim October 24, 2008

The 5th meeting of the Special Subcommittee on Energy was held on Friday, October 24, 2008, at 10:00 AM, in Lexington, Kentucky. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Charlie Borders, Tom Buford, Denise Harper Angel, Ernie Harris, and Johnny Ray Turner; Representatives Royce W. Adams, Rocky Adkins, Eddie Ballard, Leslie Combs, Tim Couch, Jim Gooch Jr., Sannie Overly, Tom Riner, and Brent Yonts.

Guests: Representative Robin Webb; Fitz Steel, newly elected member to the House of Representatives; Steve Byers, Legislative Liaison, University of Kentucky; Dennis Rohrer, General Partner of Interstate Gas Company; Judith Casalino, President, American Clean Air Partners; Jim Tracy, University of Kentucky Vice President for Research; Anthony Robertson, student, UK College of Engineering; Robert Daniel Ampleford, Chemical Engineering Co-op Student, Center for Applied Energy Research; Ying Shu, Chemistry, Center for Applied Energy Research; John Dosker, General Counsel, Stand Energy Corporation and Mark Ward, Vice President of Regulatory, Stand Energy Corporation.

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

The September 19, 2008 minutes were approved, without objection, by voice vote, upon motion made by Representative Rick Nelson and seconded by Representative Royce Adams.

Steve Byers, Legislative Liaison, University of Kentucky, welcomed members to the E.S. Good Barn, University of Kentucky.

Dennis Rohrer, Interstate Gas Company and Judith Casalino, President, American Clean Air Partners discussed the role of natural gas in meeting the critical issue of our state and nation's domestic energy crisis.

Mr. Rohrer explained that natural gas is a vital component of the world's supply of energy and is one of the cleanest, safest, and most useful of all energy sources. He said that natural gas, in the form of compressed natural gas (CNG), has been used as a transportation fuel in vehicles for more than 100 years around the world. The clean burning properties, abundant supply and relatively low cost have made it a popular and environ-

mentally sensitive fuel choice for drivers in Europe, Russia, South American, Australia and New Zealand, the United States and Canada. There are over 8 million natural gas vehicles (NGVs) on the road worldwide with thousands of public, fast-fill refueling stations to support them. Canada has approximately 120 refueling stations that serve 20,000 NGVs.

He said that vehicle applications for NGVs include:

- Transit buses;
- Taxi cabs;
- heavy duty trucks
- Commuters;
- Small and large commercial fleets;
- Light duty trucks and vans;
- Forklifts, and
- Ice resurfacers.

Mr. Rohrer stated that energy from natural gas accounts for 24 percent of total energy consumed in the United States. Deregulation and the move toward cleaner burning fuels have created an enormous market for natural gas across the county. New technology is continually being developed allowing Americans to use natural gas in new and exciting ways.

Judith Casalino explained that the American Clean Air Partners, LLC, is a Kentucky corporation formed to promote and establish alternative fuels with a focus on natural gas for vehicles. She stated that high gasoline prices have had and will continue to have a devastating effect on the economy.

The issue of oil is becoming more critical with each passing year. The wealth of OPEC nations is growing at an alarming rate. Between 2000 and 2007 the oil revenues for OPEC went from \$243 billion to \$688 billion, not including the price spikes in November and December of 2007, or the revenues from 2008.

The United States ranks 11th in oil reserves with 39.9 billion barrels. Saudi Arabia, Iran, Iraq, Kuwait, and the United Arab Emirates have a total of 716 billion barrels. The U.S. ranks #1 in the world for oil consumption, buying an estimated 82% of its oil from these countries.

She said that historically, until February 17, 2008, oil had been traded in U.S. dollars. Iran opened its own trading exchange in which oil is brokered in Euros instead of dollars, further threatening the U.S. dollar and economy.

Natural gas for vehicles is available, but for unexplained reasons, the U.S. has not maximized its vast natural gas resources to fuel its vehicles. Even at increased natural gas prices, natural gas for vehicles is about half the price of gasoline. Compared to diesel it is even cheaper. It is the cleanest burning alternative fuel today.

Mr. Rohrer stated that natural gas can and should be the driving force to free our country from the grip of high oil prices. To convert just 10% of American cars to CNG would take less than 8 years

and would only require an increase in the U.S. natural gas consumption by slightly over 1% per year. There is plenty of natural gas to make electricity, heat our homes and to make chemicals and plastics, and there is plenty of natural gas to convert our transportation fleet from dirty expensive imported oil to clean burning, affordable, abundant, available, American natural gas. Other states are developing infrastructure, but Kentucky has no CNG facilities. Kentucky should be leading this effort because of our abundant resources.

Included in the presentation of Mr. Rohrer and Ms. Casalino there were sixteen initiatives to help promote Compressed Natural Gas (CNG) for vehicles, a copy of which can be found in the LRC Library file.

Sen. Smith asked if the Honda Accord offered a CNG fuel vehicle.

Ms. Casalino stated that it does and there is six month waiting period.

Mr. Rohrer stated that Toyota is in the process of making a CNG vehicle but it will only be offered in California.

Sen. Borders asked if there was some safety from rising prices of natural gas.

Mr. Rohrer and Ms. Casalino stated that there were no assurances for heating costs, but hopefully long-term contracts for the price would help stabilize prices.

Sen. Borders asked how much storage space the CNG fuel cell takes up in a vehicle.

Mr. Rohrer stated that the cells do take up more additional space.

Sen. Borders asked if it would be worth putting our efforts and money into developing the needed infrastructure for CNG vehicles.

Ms. Casalino stated that because supplies are limited, it would take a long time to convert vehicles to CNG.

Rep. Riner asked if CNG would be dangerous in a vehicular accident.

Mr. Rohrer stated that natural gas is the safest fuel available.

Sen. Buford asked how much natural gas was imported.

Mr. Rohrer stated that 1.5% of the natural gas consumed in the U.S. is imported from outside North America.

Sen. Buford asked if the United States would be able to keep up with the demand of natural gas without importing.

Mr. Rohrer and Ms. Casaloni stated that most of the natural gas comes from the western part of the U.S., but due to the absence of infrastructure, we are not able to keep up with the demand. Data shows that there are enough natural gas reserves to keep up with demand, but the biggest problem is transporting natural gas. However, natural gas still costs less than oil on a per-btu basis.

Rep. Gooch stated that 1% of the gas comes from Mexico and Canada and asked about LNG.

Mr. Rohrer stated that he did not

know how much imported LNG is used in the U.S., but added that LNG is not lucrative in the U.S. due to the price and demand.

Rep. Gooch stated that he agreed we have a good natural gas industry and that we should become independent of foreign oil, but assurances would be needed that electricity demand would not be met with natural gas. That shot prices up and we can't have enough gas for all those uses without price volatility.

Ms. Casalino stated that natural gas reserves are up, productivity is up and tremendous quantities will be available. Electric generation plants can store LNG for peak periods. American Clean Air Partners is working with utilities and others to get LNG for the transport sector.

Rep. Smith asked how much a fuel station would cost to build.

Mr. Rohrer stated that orders for such stations were 36 weeks out in the future in Wisconsin, but most are going to foreign countries. Conversion stations and equipment are not here because of low demand.

Ms. Casalino stated that it would cost \$2.1 million to convert a fueling station to CNG, which would include 6 fast-fueling pumps, on a turnkey basis, except for the cost of putting gas lines in. Conversion technology for new vehicles – \$12,000 for a car up to \$25,000 for large fleet vehicles – are eligible for a \$4,000 federal tax credit for conversions for cars, or a \$32,000 credit for large trucks.

Rep. Adkins stated that Casalino's and Rohrer's testimony shows Kentucky has vast resources. HB 1 includes language to encourage the conversion of 50% of the state's fleet vehicles to alternative fuels, but with specificity on fuel type.

Mr. Rohrer stated that natural gas continues to be cheaper than petroleum and the investment stays in the United States.

Mr. Jim Tracy, University of Kentucky Vice President for Research stated that energy research is a core mission at UK coming from a variety of sources. He generally described the different types of energy research being performed.

Anthony Robertson, a student at the UK College of Engineering stated that he is the mechanical project manager for the solar car team. Since 1999, the mission has been to finance, design, build and race solar-powered cars. He described the vehicle's history including the mechanical and electrical systems.

He said that the UK Solar Car Team raced in the North American Solar Car Challenge earlier this year traveling 2400 miles from Dallas, Texas to Calgary, Alberta, Canada. The only power source used was the sun. Twenty-four teams from the USA, Canada and Europe entered the race, but only 15 completed the race. He said that the University of

Michigan had a budget of \$2.4 million and placed 1st; Kentucky placed 11th with a budget of \$120,000.

Rep. Smith asked how the solar powered car worked in cloudy weather.

Mr. Robertson stated that it drives slower. But energy is stored in a battery pack.

Rep. Adkins asked about the storage of solar power.

Mr. Robertson stated that silicon cells used for houses are 20% efficient. New cells are approximately 29% efficient and NASA gallium arsenide cells are 35% efficient. Solar storage in Kentucky is not good because the Commonwealth does not have enough sunny days.

Rep. Adkins asked if we could have a project to tie into the grid.

Mr. Robertson stated that we could, especially with net metering and combined with another generation source like wind. Another area is energy farms and expanded research and development at the university standpoint.

Rep. Smith noted the potential impact of renewable energy sources on the use of coal.

Daniel Ampleford from the Center for Applied Energy Research discussed post combustion CO2 capture – impact and future impact.

Ying Shu presented results of her research on high-value carbon materials for energy generation and efficiency, including their potential use as conductors and energy storage devices.

Mark Ward, Vice President of Regulatory Affairs, Stand Energy Corporation, and John Dosker, General Counsel, Stand Energy Corporation, discussed proposed changes to the tariffs of Kentucky's major natural gas utilities that would allow Kentucky's smaller commercial and industrial companies, including school systems and government facilities, the choice to purchase natural gas supplies through an open, competitive market.

Mr. Ward and Mr. Dosker asked that the Kentucky Public Service Commission review and remove the current volumetric thresholds required in order to transport gas, daily or annually, or economic barriers such as high administration fees, meter fees or mandatory capacity assignments. These barriers preclude small customers from using gas transportation services. Removing these barriers would open up the market to other competitors giving consumers a choice.

Rep. Smith stated that he would ask the Public Service Commission to address the issues as requested by Stand Energy. He also asked that the PSC respond, in writing, to Stand Energy and the Special Subcommittee on Energy.

Stephanie Bell, a representative from the Kentucky Public Service Commission stated that she would ask the appropriate colleagues at the PSC to develop a response and perhaps address the committee at a future meeting.

Rep. Robin Webb stated that she has asked Energy staff to request a cost

savings analysis for schools and agencies, based on today's testimony.

Meeting adjourned at 12:00 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Subcommittee on Families and Children

Minutes of the 3rd Meeting of the 2008 Interim October 15, 2008

The 3rd meeting of the Subcommittee on Families and Children of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 15, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Tom Burch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Stine, Co-Chair; Representative Tom Burch, Co-Chair; Senators Charlie Borders, Tom Buford, Perry B. Clark, and Johnny Ray Turner; Representatives Scott W. Brinkman and James R. Comer, Jr.

Guests: Rebecca Grau, Interim Director, and Tina Bernstein, Kentucky Autism Training Center, University of Louisville; Anne Swinford, Commission for Children with Special Health Care Needs; Dr. Joseph Hersh, Director, STAR Program, and Professor of Pediatrics, University of Louisville; and Heidi Schissler.

LRC Staff: Ben Payne, Jonathan Scott, and Marlene Rutherford.

The minutes of the September 5, 2008 meeting were approved without objection.

First on the agenda was the discussion of a neurological disorder called Apraxia, also known as DAS. Christine Gedling, along with her daughter Lara, a child with Apraxia, and their family members, Tina Radford and Leslie Beam testified on the issue. Apraxia is a severe communication disorder that results from dysfunction of the cerebral hemispheres of the brain and is characterized by the loss of ability to carry out skilled movements and gestures, such as speaking properly. The guests had first-hand knowledge and exposure to this disorder in their family and wanted to make the committee aware of the disorder in children and the need to address it early. They said that children with this disorder would benefit from intensive speech and language therapy from pre-school through first grade. They also stated that a speech pathologist is helpful; however they are not trained to deal with Apraxic children. It is difficult to determine the number of children affected by this disorder because it is included in the category of speech and language disabilities. Some medical professionals do not recognize Apraxia as a disability but the diagnosis of this disability is made by a neurologist.

Senator Buford asked how many children in Kentucky have Apraxia. Ms. Gedling did not know the number af-

fected in Kentucky; however she was aware of ten children in Louisville who not only have Apraxia diagnosed by a neurologist, but may have another disability as well. Senator Buford also asked for recommendations on what could be done to address this issue. Ms. Gedling indicated early intervention, beginning at least at three years of age. Senator Buford also asked how children with this disorder could be identified if parents do not come forward. Ms. Gedling said the media would be a good source or if funding for the program was available, parents would not have to use the school system to identify the disorder. Senator Buford suggested that the family meet with Dr. Sheldon Berman, Superintendent of the Jefferson County Schools, to develop a plan that could be recommended to assistant in identifying children with this disorder to get them in the proper programs. Senator Buford suggested that staff send a letter to Dr. Berman encouraging a meeting to talk with Ms. Radford, Ms. Beam, and Ms. Gelding of recommendations to present to the General Assembly.

Next on the agenda was Rebecca Grau, Interim Director of the Kentucky Autism Training Center. She gave an overview of the School-Based Training and Technical Assistance Services. The Center is a special education cooperative that provides direct consultation and coaching to a team of educators to address specific needs of students with autism. This includes training on creating a structured environment for the student, curriculum modification, promoting communication, and addressing behavior issues. The Center pointed out the need to address the training needs of the different professionals that work with autistic children in a more systematic way. The Center began working with the Department of Education and other universities on how to be more systematic in working with these special needs children. In the process of investigating how the Center could serve those individuals more effectively, they were invited to submit an application to partner with the National Professional Development Center on Autism Spectrum Disorders. These schools are studying technical assistance and conducting research on how to build a state-wide system of technical assistance for educators. The National Center was impressed with the state's special education cooperative system. They will help the Kentucky Autism Training Center set up model classrooms across diverse settings and implementing research and studies that indicate that teachers need direct coaching.

Senator Buford asked if the Center has an office at the University of Kentucky or other centralized area so individuals can seek the Center's assistance. Ms. Grau said that the Center is housed at the University of Louisville but travels statewide. She said the Center meets

directly with parents in a public setting. Ms. Grau did state that an on-line database has been created that is voluntary for providers to be listed which would help facilitate parents. This list currently has over 300 providers.

Senator Stine inquired about the number of autistic children in Northern Kentucky and what services are provided for training in that area. Ms. Grau said there are approximately 26,000.

Representative Brinkman pointed out that the Kentucky Commission on Autism Spectrum Disorders recognized that autism affects all 120 counties. The Commission is trying to create an Office of Autism within the Kentucky Department of Education because it is important for parents throughout the Commonwealth to have the ability to contact the cabinet and have someone in the cabinet who is focused strictly on autism to help them understand what services are available in their region. He noted that there is already a lot of structure in place such as the Comprehensive Care Centers, the Education Cooperatives, and the universities; however there is not much coordination with the Kentucky Department of Education and the Cabinet for Health and Family Services.

Senator Clark asked what was occurring with the adult autism population. Ms. Grau indicated that there were no services for the aging autism individual, although the need for core services carries throughout their lifetime. She pointed out that the Center is working with the University of Louisville Pediatric Department to develop a family guide for autism that will outline different services, and provide strategies in the home on dealing with autism.

Representative Burch said it is important to get the message out into the communities about autism and what is being done.

Next, the subcommittee heard testimony from Dr. Joseph Hersh, Director of the Weisskopf Child Evaluation Center (WCEC), Professor of Pediatrics at the University of Louisville, and Director of Systematic Treatment of Autism and Related Disorders (STAR).

At the outset Dr. Hersh commented on childhood Apraxia speech. He said that WCEC has a diverse role in addressing the needs of children that have developmental disorders and it has a close partnership with Dr. Steve Davis and Dr. Ruth Ann Shepherd, of the Kentucky Department for Public Health. In recent years when modifications were made within the First Steps Program, a ceiling was placed on the number of services a child could receive if he or she qualified based on established risk or on scores on standardized tests. One of the concerns at that time was if there was a child diagnosed with autism at the age of two or a child diagnosed with Apraxia speech at two or two-half years of age. A service exception program was created. The WCEC is actively involved with that

program, working closely with Dr. Shepherd's group. With greater awareness by speech and language pathologists of a diagnosis or being referred for intense evaluation at the WCEC to help establish that diagnosis, the child has the potential to access much greater, intensive services at a very young age. The American Academy of Pediatrics has recommended that simple screenings be completed by parents at eighteen months of age at a regular office visit and a repeat screening at twenty-four months of age.

Dr. Hersh also said the Weisskopf Child Evaluation Center was established to help children who have special needs realize their full potential. The Center has a comprehensive, developmental program and other programs for children that have genetic disorders and birth defects. The primary funding for the Center comes from the Department for Public Health, Division of Adult and Child Health Improvement, Maternal and Child Health Branch. It has been strongly supported for the past 40 years by the WHAS Crusade for Children. Since the creation of the program in 1966, the number of children diagnosed with autism spectrum disorders has increased dramatically.

One of the challenges of the WCEC following a diagnosis is the limited resources for intervention. Dr. Hersh indicated that he had been approached by families and others regarding the necessity for creating an autism treatment program that is comprehensive in nature and could address the cognitive, social, educational, behavioral, and communication needs of a child with that diagnosis. In 2002, the WHAS Crusade for Children was approached about start-up funds for creating the STAR Program and the WCBC did receive a grant from them that enabled it to hire a small number of professionals who could develop a program and provide intervention services. The mission of the program was to empower families by sharing knowledge and enhancing skills of the child. The focus was to develop an individualized program, looking at the child's needs and use a variety of evidence-based treatments, such as applied behavioral analysis, and incorporate that with the families' priorities. One of the key goals in research was to look at treatment approaches and outcomes to determine what worked best for a child with a specific characteristic. STAR's focus is on behavior management and a biomedical program that evaluates medical issues that families with an autistic child may have. It also evaluates the efficacy of alternative and complementary medicine approaches. Currently they are recruiting families to start a double blind study, looking at an antioxidant that may help the child's behavior and allow them to function in everyday settings.

STAR also has an early childhood program that helps families and pre-school programs to maximize pro-

gramming and strategies for that child. Working with families, they provide occupational therapy services and consultations in schools to address clinical concerns about the child. They will be partnering with the Kentucky Autism Training Center (KATC) to provide a more comprehensive training and treatment program. STAR also addresses the social skills needs of the child. Since 2002 STAR has served over 400 children in 50 counties in Kentucky as well as other states. It is a goal of STAR to create a network or satellite system that involves both universities and community agencies to provide quality diagnosis and some direct treatment and training for professionals in those communities to upgrade the services for diagnosis of the child.

The University of Louisville Autism Center developed a partnership with the Departments of Pediatrics (WCEC and STAR), Psychiatry in the School of Medicine (Bingham Clinic) and the College of Education and Human Development (KATC and Department of Teaching and Learning) to provide a more comprehensive program. The goal is to become the primary resource for state-of-the-art assessment and treatment of autism; to provide cutting edge research, training, and support for families; and education and training of professionals from a number of healthcare and educational disciplines throughout the state which results in the residents of the state having a single source for providing evidence based diagnosis and intervention and have the ability to access the information from research. One of the benefits, as seen by Dr. Hersh, in working with the various partners, is the potential of combining the clinical service role with the training and technical assistance role provided by KATC to provide a more comprehensive approach statewide.

Representative Burch asked how Kentucky compares with other states in terms of what is being done for autism. Dr. Hersh indicated Kentucky is moving in the right direction because the state is enhancing its ability to diagnose children at a younger age. There are other states that are providing more enhanced services.

Next, the committee heard from Rebecca Cecil, Executive Director, Commission for Children with Special Health Care Needs. She said that the Commission has thirteen regional offices throughout the state. It was founded in 1924 and provides care for children with physical disabilities. Its mission is to enhance the quality of life for children with special needs through direct service, leadership, education, and collaboration. There are various clinical programs and services offered by the Commission. Over 8,000 children are treated in their clinics. As a result of legislation passed in 2000, she said that 98 percent of all children leaving the hospital have had a hearing screening. The Commission col-

lects that data to determine how many children are at risk for a hearing disorder. She discussed the Commission's relationship with the Department for Community Based Services (DCBS). She indicated that a pilot program was conducted with DCBS and identified 130-150 children deemed to be medically fragile. She said there had been 1,010 home visits.

Senator Borders asked why the percentage of children being born and tested prior to leaving the hospital was not 100 percent. Ms. Cecil indicated that due to the way the legislation was written, hospitals that have over 40 births per year are required to report. There was not a requirement that mandates that at-risk children be reported.

Ms. Cecil also discussed drug costs. The Commission is working to deal with drug interactions from various drugs a patient may be on as well as mail order drugs. The Commission is utilizing many of the strategies used in the private sector to deal with escalating healthcare costs.

Dr. Kraig E. Humbaugh, M.P.H., State Epidemiologist and Department of the Division of Epidemiology and Health Planning in the Department for Public Health, Cabinet for Health and Family Services, discussed childhood infectious diseases in Kentucky. He said that infectious diseases are reported to local and state public health departments by clinicians, hospitals, and laboratories across the state. Due to limited resources, infectious disease reporting is confined to public health significance. There are three criteria used to determine whether diseases are reportable. Some diseases meet all three of the criteria. Depending on the disease, some are reportable within twenty-four hours, others within a few days. He said that Salmonella and Shigellosis show an upward trend because they are on the rise in childcare settings. The number one strategy in preventing infectious disease is through immunization. Other strategies are promoting healthy behaviors and discouraging risky behaviors.

Senator Stine asked what the incidence of tuberculosis in Kentucky has been and if there is a resurgence of that disease. Dr. Humbaugh indicated there are more cases being reported than in the past. Two years ago there were only eighty seven active cases of tuberculosis in Kentucky, but there were over one hundred last year. Senator Stine also asked whether it was a good decision to not have routine tuberculosis testing of all students in schools. Dr. Humbaugh felt that it was a good idea.

He said that seasonal influenza vaccination can be given September through May. New recommendations this flu season expand the vaccination to children ages six months to eighteen years. He said that between 10 and 25 percent of the school children in Kentucky are

vaccinated against influenza.

The meeting adjourned at 12:05 p.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Subcommittee on Health Issues Minutes of the 3rd Meeting of the 2008 Interim October 15, 2008

The 3rd meeting of the Subcommittee on Health Issues of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 15, 2008, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Julie Denton, Co-Chair, called the meeting to order, and the secretary called the roll at 10:20 AM.

Present were:

Members: Senator Julie Denton, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Denise Harper Angel and Dick Roeding; Representatives David Watkins, and Addia Wuchner.

Guests: Donna Hillman, Director and Rita Ruggles, Project Director, Division of Mental Health and Substance Abuse, Department for Mental Health, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services; Honorable Karen Thomas, Chief District Judge, Campbell County; Dr. Ruth Ann Shepherd, Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services; Joy Hoskins, RN, BA, Assistant Division Director, Division of Women's Health, Department for Public Health, Cabinet for Health and Family Services; Dr. Torrie Harris, Dr.P.H., Director, Office of Minority Health, Department for Public Health, Cabinet for Health and Family Services; Ayana Anderson, Department for Public Health, Cabinet for Health and Family Services; Sherri Stover, Administrative Office of the Courts; Marsha Hockensmith, Protection and Advocacy; Susan Duvall White, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services; Steve Shannon, Kentucky Association of Mental Health-Mental Retardation Programs; Jim Kimbrough, Advocates for Reforming Medicaid; and, Sarah Nicholson, Kentucky Hospital Association.

LRC Staff: Miriam Fordham, Mike Bossick, and Gina Rigsby.

The subcommittee heard a presentation on the behavioral health and criminal justice grant program by Donna Hillman, Director and Rita Ruggles, Project Director, Division of Mental Health and Substance Abuse, Department for Mental Health, Developmental Disabilities and Addiction Services, Cabinet for Health and Family Services, and the Honorable Karen Thomas, Chief District Judge, Campbell County. The program seeks to "decriminalize" individuals with mental illness who interface with the criminal justice system. A pilot project is underway in Northern Kentucky to identify ways to intercept individuals

with severe mental illness and co-occurring disorders to ensure that they have prompt access to treatment; opportunities for diversion; timely movement through the criminal justice system; and, linkage to community resources. The program is working to coordinate the activities and responses of local law enforcement, jails, courts, and the community and is working with state and local partners. The recidivism rate is high among mentally ill individuals; and, the hope is that efforts like this project will help reduce costs and overcrowding in the jails. The project is funded by a planning grant from the Health Foundation of Greater Cincinnati. The grant will fund a conference to be held in April 2009 and a strategic planning meeting to include national experts.

As part of the project, a regional mental health court has been established that includes Boone, Kenton, and Campbell counties. Judge Karen Thomas spoke about how the mental health court will function and the planning that went into getting the court set up. In this pilot phase, the mental health court will handle approximately 30 cases.

Senator Denton asked about the location and funding amount of the grant. Ms. Hillman stated that the \$50,000 grant would be utilized in Northern Kentucky. Senator Denton asked how the grant funds would be used. Ms. Ruggles stated that the purpose of the \$50,000 grant is to establish a state level advisory committee, in partnership with local Health Foundation Criminal Justice/Behavioral Health grantees that will focus on the Sequential Intercept Model and how each of the programs fits into this model. The advisory committee will address cross-training needs in each program, data sharing among stakeholders; and, outcome measures for this specialized system of care. The advisory committee will plan a statewide conference for key stakeholders. National experts in program development and implementations utilizing the Sequential Intercept Model as a framework will be invited. Following the conference, the National GAINS Center will host a two-day strategic planning retreat to conduct a systems mapping exercise and to develop an action plan for future program developments designed to reduce the numbers of persons with behavioral health disorders who are inappropriately incarcerated.

Senator Denton asked about the criteria for the mental health courts. Judge Thomas stated that in order to appear before the mental health court, a person would have to be a non-violent offender, a non-sex offender, or someone who does not have a diagnosis of true psychotic issues. An evaluation of an individual would be conducted to determine the most appropriate action. The Northern Kentucky mental health court can only take 30 cases because of a lack of funds and the personal involvement with each offender.

Senator Roeding stated that the data system should be statewide and able to cross state lines. He said that HealthRidge in Northern Kentucky is an example of the ability to utilize data between hospitals in Northern Kentucky and the greater Cincinnati area. He likes the stabilizing period and follow-up with the individual.

Representative Marzian stated that the Justice Cabinet should spend more funds for community programs because individuals need a place to go for resources. Judge Thomas said that more funds need to be spent initially instead of waiting for the problems to escalate. Ms. Hillman stated that there is national data that indicates there are savings when programs are in place to help individuals. Senator Denton stated that the Justice Cabinet should be included in the partnership, and Ms. Hillman stated that the Kentucky State Police; Department of Corrections; and, the Department of Criminal Justice Training are all state partners. Senator Denton stated that the mental health courts would save up-front funds. Ms. Ruggles said that it is a cost savings to the community, and it identifies individuals who utilize the most programs.

Representative Wuchner stated that case management is a crucial component. The state loses money for incarceration. Judge Thomas said that an individual does not have to be in jail to receive services, just somewhere in the justice system.

The subcommittee also had an update on the newly established Office of Minority Health by Dr. Ruth Ann Shepherd, Division Director, Division of Maternal and Child Health, Department for Public Health, Cabinet for Health and Family Services; Joy Hoskins, RN, BA, Assistant Division Director, Division of Women's Health, Department for Public Health, Cabinet for Health and Family Services. The state has received a grant from the federal Department of Health and Human Services to establish the office in order to address health disparities and health needs of racial and ethnic minorities in Kentucky. One of the objectives with establishing the Office of Minority Health is to improve statewide communication and collaboration regarding minority health issues. The Office of Minority Health will also seek to identify and establish collaborations for dissemination of minority health information, including the Kentucky Committee of the National Partnership for Action to Eliminate Health Disparities. Initially, the priority area for the office will be to implement a project to reduce health disparities in infant mortality, including alignment with the federal Health and Human Services Blueprint for Action on Infant Mortality. The grant funding is for one year.

Representative Marzian asked if infant mortality would be the only issue to be considered. Ms. Hoskins stated that

the federal Office of Minority Health application requires Kentucky to propose and implement a project which addresses at least one of the Office of Minority Health expectations; addresses an Office of Minority Health priority area; and, focuses on improving coordination and linkages. She stated that the priority area that was chosen was infant mortality; but, other issues would be also be addressed. Dr. Shepherd stated that Kentucky chose infant mortality because it is on the rise again.

A motion to adjourn at 11:38 a.m. was made by Senator Roeding, seconded by Senator Denton, and adopted by voice vote.

INTERIM JOINT COMMITTEE ON JUDICIARY Minutes of the 4th Meeting of the 2008 Interim October 21, 2008

The 4th meeting of the Interim Joint Committee on Judiciary was held on Tuesday, October 21, 2008, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Kathy W. Stein, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Rep. Kathy W. Stein, Co-Chair; Rep. Greg Stumbo, Vice-Chair; Sen. Perry B. Clark, Sen. Carroll Gibson, Sen. Ray S. Jones II, Sen. Jerry P. Rhoads, Sen. Dick Roeding, Rep. Kevin D. Bratcher, Rep. Joseph M. Fischer, Rep. Mary Lou Marzian, Rep. Darryl T. Owens, Rep. Steven Rudy, Rep. Robin L. Webb and Rep. Brent Yonts.

Guests: J. Michael Brown, Secretary of the Justice and Public Safety Cabinet; Mike Davis, President of Appriss; Trey Grayson, Secretary of State; Jason Underwood, National Notaries Association; Gatewood Galbraith, Attorney at Law; Professor Robert G. Lawson, University of Kentucky College of Law and Ray Larson, Fayette County Commonwealth Attorney.

LRC Staff: Norman W. Lawson, Committee Staff Administrator, Ray DeBolt, Joanna Decker, Jon Grate, Carolyn Gaines, Secretary, and Andrew Howell.

Chairman Stein moved to the first presentation on the agenda, regarding the Justice and Public Safety Cabinet's Public Safety First initiative. The two invited speakers were J. Michael Brown, Secretary of the Justice and Public Safety Cabinet, and Mike Davis, President of Appriss.

Secretary Brown began his presentation by stating that in April 2008, he noticed that some of the law enforcement programs that Appriss provided the state were being utilized under federal grants provided by Homeland Security, some of which would be drying up in the near future. He also learned that the programs were being used in a piecemeal fashion by many different agencies. The Secretary saw an opportunity to create a

virtual net of protection and information with greater access to statistics and information across many different agencies than had ever been possible before. As one example, he cited the problem that existed when corrections released an individual. If that individual crossed paths with the criminal justice system again, corrections would not know this until after a conviction. There was no way to access information on individuals who had been released and their current status. Kentucky is the first and only state in which all of this type of information is under one umbrella. Bringing all of the contracts under one in the Justice Cabinet allowed the realization of more efficiency under the Justice Cabinet budget. Secretary Brown introduced Mike Davis.

Mike Davis, the President of Appriss, stated that this company started in Jefferson County with VINE, the victim notification program in Kentucky, and has grown in the last 15 years. Now, 39 states have followed Kentucky's lead in victim notification, and the company has grown from a two-person company to 300 employees in order to service all of these states. The first three programs involved victim notification. VINE keeps victims informed about offenders in custody. VINE Courts informs victims about upcoming court hearings, and VINE Protective Order alerts victims when protective orders are served, as this can be the most dangerous time for the victim. Mr. Davis stated that this program would have lost its funding under a federal grant if Public Safety First had not stepped in.

Another program Appriss offers is the JusticeXchange, which shares offender information from throughout the country with law enforcement. This program monitors over 80% of all inmates in the U.S. that are in jails or prisons, making it the only center that has this information in real time, and over 40 states are participating in this program. This program is very valuable to law enforcement, particularly when officers are attempting to locate an offender. Another program, MethCheck, helps to identify in real time when cold medicines are sold so law enforcement can identify meth labs. SONAR is a program that improves the management of sex offenders and improves the accuracy of information regarding public notification about sex offenders. Finally, AlertXpress is a program that provides rapid emergency notification for people living near custodial institutions.

When Secretary Brown began with the Cabinet, the programs used by the state were scattered throughout different agencies. The Department of Corrections, the Department of Homeland Security, Kentucky State Police, and the Office of Drug Control Policy all had some of these programs. Public Safety First was an initiative to combine all of the programs to offer more technology for less cost and bring all of the programs under one umbrella at the Cabinet

level. All of these services are currently functioning in the state. In the first 12 months, \$545,000 in service fees have been reduced and negotiated based on expanded services, and over the first two years, there will be more than \$835,000 in fee reductions.

Mr. Davis spoke next regarding the JusticeXchange program. Before Public Safety First, the state had procured 600 licenses to be used among local and state law enforcement agencies to use this program. These licenses had to be used carefully because there were not enough to go around. Under the Public Safety First initiative, the license program was renegotiated into an unlimited enterprise license, with a savings of 22% in fiscal 2009 year, with as many users as the Cabinet wishes. Some of the real world uses for this program are: collecting child support, locating sex offenders, serving warrants, locating missing persons, and finding murder suspects who are located in other states. By expanding the program's availability to more law enforcement, this program will help solve a lot of crimes and locate offenders. Federal funds for this program will not have been available in the near future, and Kentucky would have lost all access to this information had it not been for Public Safety First.

Next, Mr. Davis spoke about the SONAR program. Kentucky's current sex offender notification program allows people to sign up to be notified if a sex offender moves into a specified zip code. A zip code is a large geographic area, and notification that a sex offender has moved into a specific zip code may not be very helpful to the public. The Public Safety First improvements include mapping of the offender address and email notification based on a specified radius from the citizen's home. This program also sends out automated reminder calls to sex offenders when they are supposed to register according to state and federal law.

Regarding MethCheck, Mr. Davis informed the committee that this program was deployed June 1, 2008, and had already blocked the attempted purchases of illegal amounts of pseudoephedrine, enough to produce more than 12,000 grams of meth with a street value of \$1.2 million.

Rep. Webb asked where the cost savings came from and what is intended over the next biennium. Mr. Davis responded that the cost savings originated from the renegotiation of the contracts the state already had and cost reductions to the state. For example, the JusticeXchange program was reduced about \$100,000. Rep. Webb asked Secretary Brown to describe how this would impact the state's budget. Secretary Brown responded by saying that these programs will be funded and implemented via savings and initiatives in other parts of the Cabinet, so there would be no necessary budget increase.

Rep. Webb raised concerns about unlimited access to the technology and information offered by these programs and wanted to know if there would be any safeguards that would be created to guard against abuse. Secretary Brown clarified the phrase unlimited access to mean that the state would not be limited to 600 licenses; it did not mean unlimited access to anyone who is not within the law enforcement community. Rep. Webb wanted to know if there is some way to track the access to information. Mr. Davis responded that anytime information is accessed from the programs, it is recorded.

Rep. Webb asked if there were any administrative criteria to accommodate the tracking of the access to these programs. Secretary Brown responded that no new regulations would be necessary, as there was no change in the access, as pass codes, usage, and training were already in place. The Cabinet can get reports on who has been on the system and what they were looking for.

Rep. Webb asked if access would be limited to law enforcement. Mr. Davis responded that some prosecutors have access to it, but it is mostly used by law enforcement and investigative agencies with the state.

Rep. Webb said she would like to see this technology taken to Congress for legislation to help track prescription pills through commerce to help deal with prescription drug abuse.

For the next presentation, Rep. Stein introduced Secretary of State Trey Grayson for his presentation on legislative proposals for 2009.

Secretary Grayson began his presentation by referencing the bill proposed by his office in the previous session, SB62 that provided for address confidentiality for victims of domestic violence. His office is working to improve the bill for reintroduction in 2009. This bill would allow crime victims and their families to engage in common activities, such as voting, without fear of being tracked down by the offender. Voter registration lists are public record, and in some cases, certain information is searchable online. An offender could type in a person's birth date and name and get the corresponding address. The bill would create a program to provide a substitute address to be used by governmental entities for voting and mail purposes. Secretary Grayson noted that 23 states currently have a similar program and that his office is working to improve the bill to clear up language regarding program eligibility, among other things. The Secretary of State is considering the possibility of initiating this as a pilot program. Secretary Grayson pointed out that this program would create no financial impact on current budgeted funds, and that his office currently has the staff and structure to maintain this program.

The second legislative proposal presented by Secretary Grayson is a notary

bill that was introduced by Rep. Simpson during the last session. He stated that the goal of this bill is to strengthen Kentucky's notary laws for the 21st century. The current version of the bill would heighten eligibility requirements for notaries. The Secretary noted that there is no current requirement for a notary to be a United States citizen, and there is no definition for "good character." Also, the bill would require the utilization of a unique identifier for each notary so they are easier to track down, and the bill would require each notary to use a seal as well as a journal to record all notarizations.

Secretary Grayson then introduced Jason Underwood, who represents the National Notaries Association, to discuss electronic notarization, which is not in the current version of the bill. Mr. Underwood began his presentation by noting that the County Clerks' Association and other groups were also interested in e-notarization as a way to modernize the system and promote the ease of transferring instruments across state lines. He stated that e-notarization consists of two parts: the electronic signature and the electronic journal. The electronic signature is to be unique to each notary, independently verifiable, and tamper evident. Licensed attorneys would be exempt unless they opt in. The electronic journal would be under the control of the Secretary of State as a centralized database. Next, Mr. Underwood gave some reasons why e-notarization was needed. Secure e-notarization allows electronic documents to be proved in court because documents can be tested for alterations. This e-signature would be encrypted and difficult to tamper with. E-notarization also provides trustworthiness, efficiency, and forgery protection.

Rep. Stein asked for an example of a unique identifier for each notary. Secretary Grayson responded that this will be an identification number assigned to a notary which would also create a way to distinguish between notaries with similar names.

In response to questions and concerns from Rep. Yonts regarding the criminal penalties surrounding the journal requirement, Secretary Grayson informed him that the penalty for failure to keep a journal was a misdemeanor and explained that attorneys are exempt from this requirement because attorneys have a heightened burden under the Code of Professional Responsibility to refrain from notarizing improper documents. Rep. Yonts continued to express concern for the misdemeanor penalty and the effect that might have on the costs of incarceration for local jails. He recommended changing the penalty to a fine, and Secretary Grayson agreed to consider that suggestion.

Rep. Owens asked why there should be a requirement for a seal if each notary has a unique identifying number. Secre-

tary Grayson stated that the seal looks more official and offers greater protection. Mr. Underwood pointed out that under the e-notary provisions, there may not need to be a seal requirement.

Rep. Webb expressed concern that additional requirements imposed on notaries may pose problems in rural areas, where it would be more difficult to have access to notaries. She questioned the impetus for this legislation and wanted to know if there had been more fraud or undesirable notaries. Mr. Underwood pointed out that in Kentucky there is no centralized database for determining who is a notary, as this is a county responsibility. In response to comments from Rep. Webb, Secretary Grayson replied that a centralized database could not be created, as he could not require counties to do that. Rep. Webb commented that creating a database would be a better place to start rather than imposing new requirements on notaries. Mr. Underwood replied that his group is considering a pilot program for the electronic portion of the bill for counties that have the capability for this. Secretary Grayson commented that they have been working to strike the proper balance of strengthening the requirement by making it more meaningful to the consumer as a consumer protection device without being too burdensome for notaries and individuals protected by notaries.

Rep. Owens asked whether there would be two different types of notaries, the usual notary and the e-notary. Secretary Grayson replied that there would be two different categories, and that there would be an extra step to be an e-notary. Rep. Owens expressed concern that this may be a slippery slope in that the e-notary may also be required eventually.

Rep. Stein welcomed the newest member of the committee, Rep. Marzian.

The next speaker, Gatewood Galbraith, wished to speak on some things that were discussed in the Penal Code Subcommittee the day before. His advice on penal code reform was that the legislators should not listen to lobbyists for private prisons, as it is in the interest of the private prisons to keep as many people in prison as possible for a profit. Next, he said the subcommittee should look at changing the paraphernalia law. It is his opinion that a second time paraphernalia offense constitutes a felony and is absurd. The third issue he addressed was the PFO (Persistent Felony Offender) law. Mr. Galbraith believes that in order to charge someone as a persistent felony offender, there should be an initial violent act, not just any felony. Finally, he stated that marijuana should not be categorized as a Schedule I, no medical use drug. Fifteen states and the American Academy of Physicians have recognized its medical utility. He finished by saying that the legislators need to understand the true nature of addiction to deal with this problem.

The next topic of discussion was the PFO laws, and the speakers were Professor Robert G. Lawson from the University of Kentucky College of Law and Ray Larson, Commonwealth's Attorney of Fayette County. Professor Lawson suggested that there are too many people being incarcerated in the state, and Kentucky has the highest rate of increase in the inmate population in the nation. Over the last four years, the state has added approximately 5,000 to 6,000 inmates. The Penal Code has been modified many times over the years, usually with increases in penalties. He is concerned about the fairness of the penalties and the overcrowding of jails due to the fact that prisons are full. The current number of long-term inmates in Kentucky jails is approximately 7,500, and Professor Lawson expressed concern that rehabilitation efforts are inadequate and that the re-entry program is weak. Professor Lawson stated that he has undergone a major task of writing with regards to PFO (persistent felony offender) laws, receiving much opposition as a result. Professor Lawson said that the law has changed much since the first Penal Code was enacted in 1974.

Professor Lawson suggested selective reform, with a particular emphasis in two areas. First, the PFO laws contribute heavily to the increase in the inmate population. He called attention to an article he has written that focuses on the PFO law and how it has changed since 1974. The article also compares Kentucky's law with the laws in 15 other states and shows that Kentucky's law is broader. His particular concern is how the law is being used, especially against non-dangerous non-serious offenders. Second, his opinion is that the drug laws need a total overhaul.

Representative Yonts inquired as to what impact the Parole Board has had on the increasing inmate population and whether this needs reform. Professor Lawson replied that he looked at data since 1980 regarding statistics, hearings and annual Parole Board reports. Professor Lawson said that there had been a toughening of attitudes and that the number of granted paroles has dropped and there has been an increase in serve-out orders. It is his opinion that no reform of the laws will be quick or easy. He believes the sentencing laws need to be reexamined, as they are out of sync with attitudes of today. The current code was enacted with indeterminate sentencing, with the idea of rehabilitation at the top of the list. Today, punishment is at the top of the list. These tougher penalties are at odds with the rehabilitative model that is at the core of the indeterminate sentencing laws. There is a new model code by the American Law Institute that addresses this problem of sentencing laws being out of sync with philosophy. He suggested that the legislators examine this.

Professor Lawson also suggested that sentencing guidelines and sentencing commissions be examined. He also recommended reading "Unlocking America" by the JFA Institute. This new model contemplates almost a complete elimination of the parole system, like the federal system did in the 1980's. Professor Lawson does not necessarily agree with this aspect, as he feels that a release decision may sometimes best be made by someone with all of the pertinent facts and information on an inmate. However, the system today is so overloaded, that it would seem a heavy burden on the few Parole Board members that we have. Professor Lawson said his main problem with the current parole system is that state inmates incarcerated in jails do not see the Parole Board face-to-face. Rather, a decision regarding parole of these inmates is based on paper reports.

Professor Lawson further stated that it is most imperative for inmates to be rehabilitated and educated due to the fact that the average reading level of all inmates is on a mere sixth-grade level. Reducing the number of people the state is locking up will free up the funds for rehabilitating inmates. The last prison the state built cost about \$90 million.

Representative Owens said that there was an uneven manner with which individuals are charged with PFO. He asked whether it would make sense to require a PFO charge to be a higher level felony. Professor Lawson responded that there is a problem with justice by geography, which relates to the fact that where a person is prosecuted will dictate the application of the PFO law. Originally, the PFO law was to be for rare, extraordinary use. In 1974, the PFO law would not be used until there were three convictions, and the first two convictions required separate periods of imprisonment. At this point, rehabilitation was not the proper objective. Most other states' PFO laws require a previous "serious" or "violent" offense, and the PFO law still cannot be used unless there were multiple previous convictions. Professor Lawson stated that we need to get away from the routine use of the PFO law to jack up penalties against non-serious, non-violent offenders. This will have a great impact on the incarceration numbers. Professor Lawson stated that the original intent of the penalty ranges is to take into account what a defendant has done before, rather than just give the maximum amount.

Representative Bratcher said that most people prefer incarceration, not rehabilitation. Professor Lawson replied that he thought the public led the direction of the war on crime and that since the 1960's and 1970's, or for a period of approximately 35 years, the law has been tough on criminals. Thirty-five years ago, we had about 3,000 inmates, and at this time, we now have approximately 21,500, or over seven times as many. This has not served a public protection

service, as the crime rate is almost identical today as 35 years ago. Professor Lawson said that there are approximately 2.5 million inmates in the United States and that approximately 500,000 inmates are released yearly. These inmates are worse after being released from prison, and they are being released into an inadequate reentry system. This is a public safety issue.

Senator Jones commented about the explosion of drug-related offenses in Eastern Kentucky in recent years, and the fact that there is no end in sight. There are not enough probation or parole officers in place to monitor these people. He stated that the public wants to criminalize everything, but it might be better to find alternatives to incarceration. Senator Jones wanted to know how to go about gaining control of young individuals who are convicted of felonies, which leads to a whole host of other problems. He also asked how to deal with the drug epidemic. Professor Lawson stated that he believes the drug problem in Kentucky has been exaggerated and that, according to a recent University of Kentucky study, there is no methamphetamine epidemic in Kentucky. Professor Lawson reiterated that in order to improve treatment and rehabilitation efforts for addicts, it is imperative to reduce the number of persons incarcerated. Senator Jones further stated that Eastern Kentucky is being decimated by a high number of drug overdoses and wanted to know how to deal with the problem of drugs there.

The next speaker was Commonwealth's Attorney of Fayette County, Ray Larson, who addressed Senator Jones' concerns. Mr. Larson believes that the primary purpose of government is public safety. He is concerned that first-time offenders are not incarcerated and that 5% to 6% of offenders commit 50% to 80% of the crimes. These types of offenders are the ones against whom the PFO law should be used. Mr. Larson further stated that the Parole Board really determines the length of the incarceration of a convicted inmate. Commonwealth Attorney Larson indicated that crime has increased 15% in recent months in Fayette County. Three and a half years ago, Mr. Larson started a program that meets with parolees and probationers every other Tuesday. They meet with people in substance abuse programs, vocational education programs, and job assistance programs. Mr. Larson suggested that 67% of all prisoners in the United States who have been released from prison will return to prison within three years, and that 44% of prisoners who have been released from prison in Kentucky will return to prison in that time. In Fayette County, with the people involved in that program, that number goes down to 20%. Mr. Larson emphatically stated that there must be consequences the first time every time a crime is committed. He also stated that if a change is made in the PFO laws that it should not

be made in the budget bill.

Representative Webb suggested that rehabilitation will not work on those criminals with other factors, like mental illness, addiction or brain injuries. She then asked about Fayette County's application of the PFO law. Mr. Larson stated that his office has been utilizing a rapid disposition program for people charged with certain Class D felonies. For certain charges, his office will allow a person to plead guilty without being charged as a PFO. Rep. Webb finished her remarks by defending the language that was added to the budget bill as a type of pilot program, and that these initiatives were not novel, as they had been implemented in other states.

Representative Stumbo disagreed with Professor Lawson's hypothesis that the inmate population increase is mostly due to the application of the PFO law. He commented on the explosion of the inmate population and believes it is related to drugs and other factors. He asked that the Judiciary Committee staff draw parallels to the number of drug offenses to other crimes, stating that a boom in drugs is equal to a boom in crime and number of prisoners.

Representative Stein added that the public must be kept safe and that children must be educated at an early age with regards to drugs. Senator Rhoades stated that rehabilitation must be continued and that it is uplifting to attend a drug court graduation. Representative Stumbo suggested that there needs to be a program implemented to keep kids off drugs, and that funding is needed for the education and treatment of drug abusers.

The meeting was adjourned at approximately 12:40 P.M.

INTERIM JOINT COMMITTEE ON JUDICIARY Minutes of the 5th Meeting of the 2008 Interim November 18, 2008

The 5th meeting of the Interim Joint Committee on Judiciary was held on Tuesday, November 18, 2008, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, the secretary called the roll, a quorum was present, and the minutes were approved.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Kathy W. Stein, Co-Chair; Senators Perry B. Clark, Gerald A. Neal, Jerry P. Rhoads, Dan Seum, Katie Stine and Jack Westwood; Representatives Kevin D. Bratcher, Jesse Crenshaw, Stan Lee, Mary Lou Marzian, Darryl T. Owens, Steven Rudy, Greg Stumbo, John Vincent, Robin L. Webb and Brent Yonts.

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

Andrew Howell.

The first speaker was Chief Justice John Minton, Jr. of the Supreme Court of Kentucky. At Senator Stivers' request, each Justice of the Supreme Court of Kentucky introduced themselves and identified their respective district. The President of the Kentucky Association of Circuit Court Clerks and the Clerk of the Supreme Court were also introduced.

Chief Justice Minton began his presentation by stating that the duty of the Supreme Court is to separate itself from politics, but at the same time he wants a constructive relationship between the court and the General Assembly.

Chief Justice Minton then described the implementation of the pay improvements for Deputy Circuit Clerks authorized by 2008 HB 408. Chief Justice Minton indicated that the program authorized a one-time \$3,700 increase for deputies which helped to bring clerk salaries in line with what similar employees in county government were making. Other features of HB 408 which the court has implemented include: Raising the civil filing fee and associated fees to fund court operations which has brought in \$5 million and is on target; authorizing a request for proposals (RFP) to have a private collection agency attempt to collect unpaid fines, fees, and costs which are due the court system; and reported progress in the selection of a sculptor to create a bust of the late Justice McAnulty.

Chief Justice Minton next described a problem where County Attorneys were operating unauthorized traffic court and other diversion programs, charging fees, and using the funds to operate the County Attorneys offices. Chief Justice Minton described the statutory and court authorized diversion programs for felony cases and indicated that in any diversion program no funds should be paid to any outside source but should be paid to the court system directly.

Chief Justice Minton reported that during the last fiscal year that 1.23 million new cases were filed in Kentucky trial courts and that this filing level is increasing by 40,000 cases yearly and commented that this is an all time high. Chief Justice Minton observed that the operation of a fair, equitable and court system has risen from 25th priority goal to 9th priority goal in a recent report by the LRC Long Term Policy program.

Commenting on budget matters, Chief Justice Minton explained that the Court of Justice will use all of its restricted funds this year, that the impending deficit in 2011 will be \$37.5 million of which \$15 million in deficit relates to the opening of courthouses already authorized for construction. Chief Justice Minton explained that while the court system would like to avoid layoffs that reducing the personnel costs of the court system is one of his priorities since personnel costs involve 88% of the court budget. Chief Justice Minton comment-

ed that the court system has eliminated 73 positions at the headquarters of the Administrative Office of the Courts in Frankfort and elsewhere in the state. Additional cuts in personnel might be detrimental to such vital programs such as drug court programs and pretrial diversion programs which provide an alternative to incarceration, provide defendants with treatment, employment, and deter them from a life of further crime.

Chief Justice Minton then cited other new improvements and cost savings include an automated jury management program which selects jurors, sends notices, and pays costs in 77 counties; a felony mediation program which uses Senior Status Judges to come to a judicial circuit with high caseloads to assist in helping Commonwealth's Attorneys and defense attorneys to arrive at plea bargains for defendants which has resulted in an 88% plea bargain rate; the introduction of an E-Pay system whereby court filing fees, costs, and other monetary fees can be paid by the Internet or by telephone; an expansion of Jefferson County's E-Warrant system to a statewide system enabling law enforcement, prosecution, and the courts to easily determine whether a person has a warrant and which will allow judges to issue warrants through the computerized E-Warrant system by computer or I-phone, delete warrants, and make other needed changes by reducing paperwork and increasing the speed of the criminal justice system. Another improvement cited by Chief Justice Minton is the revitalization of the Judicial Council consisting of judges, legislators, lawyers, public officials, and citizens as a sounding board and strategic think tank with the goal of making the court system a model of accountability and service to the public. Chief Justice Minton commented that he wants to partner with the General Assembly to help the court system serve the public and to appear frequently before the appropriate committees of the General Assembly.

The floor was then opened for questions by members of the committee. Representative Webb praised the Chief Justice for his "Lincolnesque" style of management and then commented that she does not see a need for a felony mediation program since this matter is normally handled by direct negotiations between the defendant, defense attorney, and Commonwealth's Attorney without the necessity for intervention by a Senior Status Judge. Chief Justice Minton responded that the criminal mediation program is not utilized in a county unless it is requested by the Circuit Judge and the Commonwealth's Attorney. Representative Webb observed that while she is a drug court supporter that she is concerned that once a defendant enters the drug court program that the defense attorney is frequently shut out of further contact with the defendant, that this may become a due process

issue, and that the client's defense attorney needs to be a continued part of the drug court process. Representative Webb then commented that she objects to the use of Senior Status Judges to hear cases at the Court of Appeals level. Representative Webb observed that she felt that the purpose of the Senior Status Judge program was to provide a judge on an emergency or temporary basis when the normal judge was sick or injured, got indicted, or was otherwise unavailable. Representative Webb commented that she is opposed to a "hybrid" system of elected and unelected judges, that this creates the appearance of impropriety, and that nonelected judges are not accountable to the public.

Senator Stivers commented that the Drug Court program is a voluntary program entered into by a defendant with the advice of his counsel and, in his view, does not create a due process problem. Representative Crenshaw complimented the Chief Justice on his implementation of the salary increase for deputy clerks. Senator Seum indicated that he supports a team effort between the General Assembly and the court system but that actions of the General Assembly in creation of new crimes and requirements have resulted in unfunded mandates to the courts and to governments, that the government should be more tolerant of people's lifestyles, and that attempts to criminalize stupidity breed contempt for the criminal justice system and for the court system. Senator Seum complimented the Chief Justice and the Office of Homeland Security for implementing the E-Warrant system statewide and expressed the hope that the system would reduce the backlog of unserved warrants.

Representative Yonts asked about the Request for Proposals to collect costs, how much this would return in unpaid costs, the costs of collection, the methods of collection, whether the collectors would use civil suits or criminal proceedings to collect the funds, and how the program would work. Laurie Dudgeon, Deputy Director of the Administrative Office of the Courts, responded that the RFP is initially for a few pilot counties to see how the program will work, that an 11% collection rate is anticipated, that the amount collected depends on how far back attempts to collect unpaid funds extend, that civil actions and criminal proceedings are not contemplated and that the first contracts are expected to be let in mid-December. Representative Yonts then commented that he had heard that 45 additional judges may retire by the end of the year and seek Senior Status. Chief Justice Minton observed that he feels that the number is correct, that some judges will retire and not seek Senior Status, and that the Senior Status judge program is scheduled to sunset on January 31, 2009 unless the program is extended by the General Assembly. Chief Justice Minton

further observed that the judges who are retiring will place a heavy burden on the Judicial Retirement System but that the costs to the court system will remain the same because any new judge who is appointed or elected will receive the same salary and benefits as the retiring judge. Representative Stumbo indicated that he has heard rumors that there is an effort to save money by not replacing the retiring judges by not convening a Judicial Nominating Commission to give names to the Governor. Senator Stivers commented that the Chief Justice convenes the Judicial Nominating Commission in the case of a vacancy, that the Judicial Nominating Commission submits three names to the Governor, that the Governor selects a person from the list, and that if the Governor does not act within 60 days that the appointment is to be made by the Chief Justice. Representative Vincent observed that he, too, had heard that retiring judges may not be replaced and that the position would remain vacant filled by a Senior Status judge until a new judge is elected, and that a new judge would ultimately be elected as required by the Constitution. The Chief Justice responded that no decision has been made on this matter.

Representative Owens asked that if civil actions and criminal proceedings will not be used to collect monies due the court system, how will anything be collected? Ms. Dudgeon responded that ordinary collection practices will be used, that the RFP contains a code of conduct for collectors forbidding threatening civil or criminal action and similar matters. Discussion then returned to the matter of Senior Status judges and how many judges are expected to be in the program as of the end of the year to which the Chief Justice responded that he expected about 90 participants. Senator Westwood asked how many cases are traced to drug and alcohol abuse. The Chief Justice responded that he did not have an exact number but that alcohol and drugs are a factor in many civil, criminal, and family court cases, that drug intervention services are needed rather than incarceration. Senator Westwood commented that we need to concentrate our efforts on adolescents, immediate intervention, and avoiding these persons having a felony record. The Chief Justice responded that while Drug Court has been an adult program that it is now expanding to juvenile court. Senator Perry Clark asked Ms. Dudgeon if there was a program to "stifle" a backlog of cases before it became a problem. Ms. Dudgeon responded that this is one of the goals of the E-Warrant program which is being driven by the Office of Homeland Security as well as the caseload management, jury management, and other programs being implemented by the Administrative Office of the Courts to identify problems and solve them rapidly. Representative Stumbo asked if there will be enough work for 90 Senior Status judges. Ms.

Dudgeon replied that this was part of the challenge of her job and that the goal of the court system was to eliminate the backlog of cases in five years.

Senator Stivers then asked the Chief Justice about the American Bar Association standards for judicial caseloads and the need to redistribute judicial positions and observed that a Circuit Judge should have an annual caseload of 700 to 900 cases while a District Judge should have an annual caseload of 3,500 to 4,500 cases. Chief Justice Minton observed that the federal government has gone exclusively to E-filing of cases and that we need to look at reallocation of assets. Senator Stivers observed that 40 to 50 years ago Harlan County had 90,000 residents, a thriving coal business, and heavy caseloads and that this is not the situation today. Senator Stivers further observed that this creates a situation which might be ripe for a suit questioning the right to due process. Senator Stivers also recommended the use of mandatory bail in misdemeanor cases, that a \$500 bail bond in such cases is appropriate, but that a \$10,000 bail bond designed to keep a person in jail prior to trial was not. Chief Justice Minton responded that he favors studying where and how to best use current resources, but that it will take courage to reallocate the workload, that current judicial circuit lines are a “sacred cow”, and that he would like to talk further with the Senator and the committee about the issue.

Senator Neal, Senate Co-chair of the SJR 80 Subcommittee to Study the Penal Code and the Controlled Substances Act reported on the activities of the subcommittee which held two meetings, heard from former Chief Justice John S. Palmore, Professor Robert Lawson from the University of Kentucky College of Law who was an original drafter for the Penal Code and who has recently published several studies about the code and its use, Commonwealth’s Attorneys Chris Cohron and Ray Larson, current Public Advocate Ed Monahan, former Public Advocate Ernie Lewis, Justice and Public Safety Secretary J. Michael Brown, and several other persons including interested an citizen and their varying views of the Penal Code and Controlled Substances Act and needed changes to both. Senator Neal observed that Drug Court expansion is needed, that additional alternatives to incarceration are needed, and that this is “a large task” and that many “philosophical issues” must be resolved. Senator Neal reported that it was the view of the subcommittee that additional study was needed, that the subcommittee should be extended for at least one more year and perhaps for two years, and that if extension of the subcommittee was inappropriate that a legislative-based task force be created to continue the study and make further recommendations. Senator Neal moved and Representative Webb

seconded that the subcommittee report be received and adopted by the committee. The motion passed on a voice vote. Senator Neal then moved and Representative Webb seconded that the report of the subcommittee be transmitted to the Legislative Research Commission. The motion passed on a voice vote.

The meeting was adjourned at 11:45AM.

INTERIM JOINT COMMITTEE ON JUDICIARY Subcommittee on the Penal Code and Controlled Substance Act Minutes of the 1st Meeting of the 2008 Interim October 20, 2008

The 1st meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Monday, October 20, 2008, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Gerald A. Neal, Chair, called the meeting to order, and the secretary called the roll. A quorum was not present at the time the roll was called; however, a quorum was present later in the meeting.

Present were:

Members: Senator Gerald Neal, Co-Chair; Representative Jeff Hoover, Co-Chair; Representative Kathy Stein, ex officio; Senator Dick Roeding, Representative Joseph Fischer, Representative Darryl Owens, Representative Greg Stumbo and Representative Brent Yonts.

Guests: Chief Justice John S. Palmore, Supreme Court of Kentucky, Retired; Professor Robert G. Lawson, University of Kentucky, College of Law; Christopher Cohron, Warren County Commonwealth’s Attorney and President of the Commonwealth’s Attorneys Association; Ernie Lewis, Former Public Advocate and Ed Monahan, the New Public Advocate.

LRC Staff: Norman W. Lawson, Committee Staff Administrator; Ray Debolt, Jon Grate, Joanna Decker and Carolyn Gaines, Secretary.

Senator Neal presented opening remarks in which he detailed the history of the initial Penal Code Efforts and the history of the Controlled Substances Act. Senator Neal commented that the Penal Code was not added to in a rational way and needs to be revised to make more sense.

The first speaker was former Supreme Court of Kentucky Chief Justice John S. Palmore. Justice Palmore indicated that it has been 35 years since the Penal Code was first worked on and that the committee that created the original code met for three to 4 years. At that time 3,000 to 4,000 persons were in prison. Now 21,000 felons are in custody, with 7,400 of those being confined in county jails. Justice Palmore observed that Section 253 of the Constitution of Kentucky requires that persons convicted of a felony be confined within the walls

of the penitentiary and that it is unconstitutional to hold the 7,400 prisoners in county jails. Commenting on a 1988 Supreme Court of Kentucky opinion, Justice Palmore observed that the Supreme Court doesn’t have any more right to violate the constitution than he has. Justice Palmore suggested that more persons be released from prison and persons in jails be returned to prisons. Justice Palmore also suggested that private prisons also violate the constitution. Justice Palmore suggested several options to correct the situation: amend the constitution, build more prisons, or reduce the prison population. We now incarcerate 1,000 more prisoners each year than we release from prison. This resulted in the Patton administration using budget provisions enacted by the General Assembly releasing prisoners early to reduce overcrowding. Justice Palmore observed that the Persistent Felony Offender statutes have been tightened to lengthen sentences and commented that “longer sentences won’t do it anymore.”

Justice Palmore suggested that prisoners need to be moved from jails to prisons and revise the whole structure of the criminal law. Justice Palmore recommended that the General Assembly read the articles written by Professor Robert G. Lawson and pay attention to what Professor Lawson has to say. Justice Palmore, commenting on the effort which resulted in the adoption of the judicial article to the constitution, indicated that public support should be mobilized to effect the change. Justice Palmore asserted that the original rehabilitation goal of the Penal Code has been abandoned and urged a return to a rehabilitation model. Even if only 10% of them can be rehabilitated we should not give up on them. We need more trained counselors and other professionals in prisons to help inmates and need more probation and parole officers to help them when they are released. We need people who can analyze the problems and then fix them. Justice Palmore observed that Drug Court is working and needs to be expanded. The more people diverted from prison the better.

The next speaker was Professor Robert G. Lawson of the University of Kentucky College of Law. Professor Lawson indicated that he worked on the Penal Code for six years prior to its final enactment. The original drafting on the Penal Code was done under the auspices of the Kentucky Crime Commission and its director Charlie Owen. The drafters were assisted by an advisory committee under then Court of Appeals Judge John Palmore, circuit judges, defense attorneys, Commonwealth’s attorneys, and county attorneys. The advisory committee met every month and had tough give and take sessions with the drafters. The resulting draft repealed all of the prior criminal law and replaced it with a totally new revision. The draft was presented to the 1972 General Assembly but the

General Assembly would not enact the bill without a two year delay in its implementation for further study. The General Assembly directed the Governor to appoint a further advisory committee which revised the 1972 document which was subsequently enacted by the 1974 General Assembly.

The 1974 Penal Code had three segments. The first six chapters of the code contained general principles of criminal law, and Professor Lawson observed that these chapters have not changed very much over the years and do not need revision. The second segment consists of approximately 20 chapters which contain the actual criminal offenses arranged from the most serious offenses to the lesser offenses. The offenses of homicide, robbery, and kidnapping have changed little over the years but throughout the criminal offenses there has been a pattern of elevating misdemeanors to felonies and increasing felony levels for subsequent offenses. The third segment consisting of three chapters relates to sentencing and has changed the most. Professor Lawson observed that cohesion has been lost and penalties are longer than ever before.

Professor Lawson indicated that one of the most important changes was in the adoption of truth in sentencing legislation, the violent offender law, which is not in the Penal Code but which specifies that violent offenders and sex offenders must serve 85% of their sentences prior to being eligible for parole. The biggest change, according to Professor Lawson, is to the Persistent Felony Offender (PFO) law which originally called for a person to have served two separate prison sentences before being named as a PFO. Now this requirement has been eliminated and the penalties enhanced for each additional felony offense.

Professor Lawson observed that the initial drug law proposals were not part of the Penal Code and were not the product of the penal code committee. Drug offenders are notorious repeat offenders and the drug laws make second offenses higher levels of felony and this feature plus the PFO law have resulted in very lengthy sentences. Over the years, Professor Lawson observed that most misdemeanor penalties in the drug laws have been increased to felonies.

Professor Lawson also indicated that over the years the nonsupport statute has been amended to increase many nonsupport cases to felonies and now has resulted in the incarceration of hundreds of prisoners as felons. Professor Lawson further observed that Kentucky’s increase in the rate of incarceration is one of the highest in the nation.

Professor Lawson commented that what bothers him the most is the incarceration of state prisoners in county jails. Professor Lawson, after visiting seven jails and three prisons, commented that jails have insufficient services, shameful

treatment, as little as 40 square feet of space in which to live and that the prisoners come out worse than when they went in. Representative Owens asked if longer sentences were punitive in nature or served a legitimate purpose. Professor Lawson responded that a study by James Austin entitled "Unlocking America" showed that the crime rate has not changed significantly since the 1970's but that the number of persons in prison has increased dramatically. Professor Lawson indicated that the longer sentences had not reduced crime, that "we got mad at people and decided to get tougher." In the PFO area alone, Professor Lawson indicated that during this time the PFO population went from 79 inmates to over 400. Professor Lawson indicated that prosecutors have a significant role in this problem due to their discretion and that now persons are pleading guilty without trial to significantly higher length sentences due to the threat of the use of the PFO statute, that some prosecutors routinely charge repeat offenders as PFO's, and that the length of sentence does not deter criminal activity. Professor Lawson commented that what you get is incapacitation but not deterrence.

Professor Lawson commented that there are currently 5,000 persons in prison for drugs and non serious offenses. In the "War on Drugs", marijuana was originally the worst thing, then cocaine was the worst thing, now other drugs are the worst thing; yet the drug problem is worse. Citing various studies and previous Commissioners of Corrections, Professor Lawson indicated that we used to put "bad people" in prison and now we put people in prison because we are mad at them and should only incarcerate people we are afraid of. Representative Yonts commented that according to correspondence he has received that the Parole Board has become largely nonfunctional. Professor Lawson responded that his review of Parole Board Statistics from 1980 to 2003 indicated that the rate of granting parole went from 60% of cases to 30% of cases and that serve out's went from 6 % or 7% to 30%. This is a result of a change of attitude to "public protection" as a result of offenses committed by persons who had been paroled. Professor Lawson also commented that the number of Parole Board members has not kept pace with the increasing number of inmates who need to be seen by the board and that felons in jails are not seen by the Parole Board which decides whether or not to parole these inmates solely upon written records.

Professor Lawson commented that the Federal Government has done away with parole entirely, as have several states, but that in these systems the maximum sentences have generally been lowered to the average time served under prior parole systems so that overcrowding is reduced. Representative Stumbo suggested that the subcommittee exam-

ine changes that have been made in the Alabama and Texas statutes which make increased use of alternatives to incarceration. Professor Lawson responded that the philosophy of the Penal Code is out of synch with the current attitude of the public and suggested that the subcommittee study the American Law Institute's new Model Penal Code revisions. Professor Lawson urged sentence proportionality and that the subcommittee determine which sentence best fits the crime.

Professor Lawson observed that the latest early release of prisoners pursuant to budget act provisions has resulted in litigation. In the drug area Professor Lawson urged looking at statutes such as the one which elevates to a felony, any misdemeanor drug selling offense within 1,000 yards of a school, and which elevates any felony drug selling offense by one degree for the same conduct. Professor Lawson indicated that in 400 cases which he reviewed in Fayette County, the persons convicted in that county were not selling drugs to school children but were within that geographic area. Senator Neal observed that it may take some time to bring rationality to the Penal Code and drug laws.

Senator Neal observed that in other state PFO laws that elevation and PFO status was reserved for persons who committed serious offenses and asked if serious equated to our violent offenses. Professor Lawson responded that states used differing definitions but that ordinary nonviolent felony offenses were not eligible for PFO status in other states. Professor Lawson indicated that he had been studying drug offenses and is in the process of preparing an article on the subject. Professor Lawson commented that in the drug laws penalty ranges had been elevated significantly, that getting drug offenders off the street would do little to impact crime and that most users committed thefts and small scale drug trafficking to support their habits; what was needed was diversion, education programs, job skill programs, and treatment. With regard to the use of PFO statutes in drug cases, Professor Lawson suggested returning to the 1974 version of the PFO law.

The next speaker was Chris Cohron, President of the Commonwealth's Attorneys Association and Warren County Commonwealth's Attorney. Mr. Cohron indicated that the Criminal Justice Council and several of its subcommittees were studying the same matters as the legislative subcommittee and urged the subcommittee to look at what the council had been studying and the recommendations which will come from the council. Mr. Cohron indicated that his county had 1,400 felony indictments this year, that his county is the third busiest in the state, and that Commonwealth's attorneys know the defendants better than their defense attorneys. This is because the same defendants commit the same

offenses over and over. Mr. Cohron indicated that the failed 2006 and 2003 proposed revisions of the penal code had some good ideas.

With regard to the present situation, Mr. Cohron indicated that what was needed as a "snapshot" of who is in prison on any given day to look at why they are there now, how did they get there, what have they done in the past and then decide what would be the best way of dealing with these persons. Mr. Cohron observed that the purpose of government is to protect the citizenry and that it is the duty of prosecutors to aid in that effort by protecting the public from crime. Mr. Cohron asserted that present laws relating to violent offenders, sex offenders and similar offenders do not need change. Mr. Cohron indicated that prosecutors are willing to talk about laws relating to drug possession, the felony/misdemeanor theft limit, and other minor offenses. Mr. Cohron indicated that he favors increasing the felony/misdemeanor theft divide but also favors increasing the felony theft penalties for theft of larger amounts of money or property.

Mr. Cohron urged the adoption of the "rocket docket" pretrial and trial procedure throughout the state. Mr. Cohron asserted that the chances of rehabilitation decrease if punishment for a first offense is not swift and sure. In the rocket docket program, Mr. Cohron explained, immediately after a person's arrest the Commonwealth's attorney decides if the case is prosecutable as a felony, that there is a preliminary hearing within 10 days if bail is not granted and 20 days if it is granted, that arraignment is expedited, that there is an early discussion with the defendant's attorney about a plea bargain thus resolving the matter without lengthy pretrial incarceration, and the defendant making an early entry into prison where programs may be available. At the same time, the rocket docket provides for nonviolent offenses, many of which are drug related, that drug court, diversion, and other alternatives to incarceration programs can be utilized for the defendant. Mr. Cohron also indicated that the use of the rocket docket program also saves the counties vast amounts of money in the pretrial incarceration of prisoners, a cost which the county, and not the state, must bear. When asked where the rocket docket was in use Mr. Cohron indicated that Warren, Jefferson, and Hardin counties use it. In response to another question, Mr. Cohron indicated that county attorneys approve of the rocket docket program and the early participation of the Commonwealth's Attorney in the program.

Mr. Cohron urged the subcommittee not to examine the PFO laws, that they are very necessary, that the public wants it, and that lengthy incarceration is warranted in such cases. With regard to the nonsupport question Mr. Cohron

indicated that in many instances in Warren County that persons are not incarcerated for nonsupport and that incarceration is reserved for the most flagrant cases where a person could have paid, but refused to do so. Mr. Cohron indicated that in his county many of these cases were handled by the family court. Representative Stein commented that the problem is that most Commonwealth's attorneys do not exercise the discretion that Mr. Cohron does, preferring to incarcerate everyone for the longest period possible. Representative Stein indicated that she would like more information on their practices.

Senator Roeding asked whether there is a problem with the courts not collecting fines and costs, to which Mr. Cohron replied that there is a problem but that the problem stems primarily from persons not having the money to pay fines and costs. Representative Stein responded that in Jessamine County a woman was in jail and had a baby while incarcerated. The county had to pay the entire costs of the woman's and the baby's care. What was the offense? The woman had been jailed because she did not pay a fine on a previous offense.

The next speakers were Ernie Lewis, former Public Advocate and Ed Monahan, the current Public Advocate. Mr. Lewis indicated that he had been a public defender for 31 years and now will be assisting the Kentucky Academy of Criminal Defense Lawyers in legislative efforts. Mr. Lewis recommended that the subcommittee members obtain and read Professor Lawson's three law review articles on the penal code and jail incarceration. Mr. Lewis recommended that the subcommittee also hear from the criminal law professors at the other law schools in Kentucky to ascertain their views. Mr. Lewis indicated that modernization of the criminal law and the drug law should include modernizing the code by lowering the incarceration levels and a reexamination of the penalty and alternatives to incarceration provisions in KRS Chapters 532 and 533. Mr. Lewis also suggested that the subcommittee obtain and read copies of Professor Robinson's two volume suggested revision of the Penal Code funded by the Criminal Justice Council several years ago because there is "lots of good stuff there." Mr. Lewis observed that the original Penal Code was excellent, that KRS Chapters 500 to 506 are not in need of revision, that the crimes contained in KRS Chapters 507 through 515 are still good but the biggest problem is with sentencing. Originally judges decided the maximum while the executive branch decided how long the person was to remain in prison within that range and would release deserving persons on parole. Mr. Lewis indicated that the maximum sentence has now, in practice, become a determinate sentence. Mr. Lewis indicated that some states such as Virginia have gone to determinate sentencing and have abolished

parole but that the penalties have been significantly reduced in length. The former average length of sentence is now the maximum.

Mr. Lewis observed that the Penal Code has grown in size and harshness. The same has happened to the drug laws through the war on drugs beginning in the 1980's. Mr. Lewis commented that the Bureau of Justice Statistics asserts that 200,000 Kentuckians use illegal drugs and asked the committee if the state is willing to incarcerate all 200,000 people. Mr. Lewis commented that the people could not pay for this, that we are not ready to incarcerate 200,000 more people and that drugs are a medical problem and should be treated as such. Mr. Lewis asserted that other driving influences for the vast increase in prison population included Federal Megan's law, truth in sentencing laws, and tougher driving under the influence legislation, all of which came with federal demands and small amounts of money which were insufficient for the states to pay for the lengthened incarceration and other requirements of the law. The end result of these increases in the length of sentences, according to Mr. Lewis, has been geriatric prisons with an ever increasing number of 60, 70, and 80 year old prisoners.

Mr. Lewis observed that we have lost the momentum of HB 455 which called for the incarceration of violent offenders and the release of nonviolent offenders. Nonviolent offenders have born the lion's share of the impact of tough on crime culture wars. Mr. Lewis asserted that the 1968 Nixon law and order campaign has resulted in the same crime rate and exploding prison and jail populations and the need for new facilities. Mr. Lewis observed that the jury trial is disappearing, that only 1% of Department of Public Advocacy cases go to trial and that prosecutors are forcing defendants to plead guilty to lesser offenses as well as the primary offense, are forcing defendants to plead guilty to crimes which they didn't commit, and guilty to a higher level of incarceration. Mr. Lewis indicated that we have too many crimes and that minorities and the poor are disproportionately incarcerated which result in hundreds of thousands of new victims because these people cannot support their spouses and families while in prison in addition to the victims of the offenses they committed.

Mr. Lewis made the following suggestions. KRS Chapters 500 to 506 do not need change. KRS Chapters 507 through 532 are disjointed and in need of change. The PFO statutes and sentencing statutes are in need of change. The misdemeanor/felony theft limit should be raised to \$1,000. Nonsupport should be decriminalized and handled through the family court. A class E felony with a sentence of 1-2 years should be added for nonviolent felony offenses. All penalty ranges should be reduced in years.

A class C misdemeanor with lesser incarceration should be adopted. Eliminate enhancers for all drug offenses. Eliminate the guilty but mentally ill statute. In light of recent developments penalties in KRS Chapter 517 relating to business and commercial frauds and other business offenses need to be increased.

The final speaker was Ed Monahan, the present Public Advocate. Mr. Monahan started his presentation by reading from an article by Cal Thomas called "Three Strikes and You're Broke" which asserted that violent offenders were 49% of the system and that the focus for all other offenses should be restitution rather than retribution. Mr. Monahan then commented upon a National Center for State Courts opinion survey which he indicated showed a public support for rehabilitation, that prisons had been unsuccessful at rehabilitation, that the criminal justice system favored the rich, and that prisons are a warehouse for inmates. Mr. Monahan suggested that we help prisoners obtain jobs, that over incarceration without rehabilitation hamper other programs, and that Medicaid funding should be made available for persons with substance abuse problems so that they can be treated rather than incarcerated. Mr. Monahan indicated that he favors diversion programs in which the person does not get a felony record with all of its disabilities and that more social workers are needed by the Department for Public Advocacy so that alternative programs can become more effective. Mr. Monahan indicated that the Parole Board needs to return to paroling more prisoners who will need more probation and parole officers and continuing services to help them reenter society. When asked if the Department for Public Advocacy had objected to housing prisoners in county jails Mr. Monahan replied that the department was not in favor of the practice, but that with a limited budget and limited personnel that this was not an item that had been pursued. Mr. Monahan observed that over indicting and the use of the PFO statutes are routine practices by Commonwealth's attorneys. Representative Hoover commented that in his experience prison gets the attention of persons guilty of nonsupport and should be retained. Mr. Monahan commented that the use of community corrections programs and grants might be a better way of dealing with flagrant nonsupport rather than prison.

The meeting was adjourned at 1:00PM.

INTERIM JOINT COMMITTEE ON JUDICIARY

**Subcommittee on the Penal Code and Controlled Substance Act
Minutes of the 2nd Meeting
of the 2008 Interim
November 10, 2008**

The 2nd meeting of the Subcom-

mittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Monday, November 10, 2008, at 10:00 AM, in Room 171 of the Capitol Annex.

Present were:

Members: Senator Gerald A. Neal, Co-Chair; Senators Carroll Gibson, Ray S. Jones II, Jerry P. Rhoads, Dick Roeding and Katie Stine; Representatives Joseph M. Fischer, Kathy W. Stein, Greg Stumbo and Brent Yonts.

Guests:

LRC Staff: Norman W. Lawson, Chief Staff Administrator; Ray DeBolt, Joanna Decker, Jon Grate and Carolyn Gaines, Secretary.

The meeting was called to order by Co-Chair Senator Gerald Neal. The secretary called the roll, upon the presence of a quorum; the minutes of the first meeting of the subcommittee were approved.

The first speaker was J. Michael Brown, Secretary of the Justice and Public Safety Cabinet who was accompanied by Warren County Commonwealth's Attorney Chris Cohron and Dr. Thomas Wetstone, consultant to the Justice Cabinet.

Secretary Brown gave a short history of the Justice and Public Safety Cabinet's efforts with regard to making changes in the Kentucky Penal Code and the Controlled Substances Act. Secretary Brown indicated that the cabinet was charged with recommending changes in the January 29, 2008 budget address of Governor Steve Beshear to the General Assembly with a mandated report to the Governor due December 1, 2008. Secretary Brown indicated that a great deal of work had been done on these issues in the past, namely with a two-volume report in 2004 and a Blue Ribbon Panel report several years later. The actual study was assigned to the Criminal Justice Council which formed subcommittees on the Penal Code, the Controlled Substances Act, probation and parole, and pretrial release. The committees met independently and prepared reports containing recommendations which were transmitted to the Criminal Justice Council which is expected to take final action on the reports at a meeting of the Criminal Justice Council on November 24, 2008; after which the final recommendations will be transmitted to the Governor.

Warren County Commonwealth's Attorney Chris Cohron presented the report and recommendations made by the subcommittee on the Penal Code. These recommendations included: setting a statute of limitations for prosecution of selected Class D felonies at 5 years and Class C felonies at 10 years; increasing the felony theft limit from the present \$300 to \$500; increasing the penalty for theft of \$10,000 to \$60,000 to a Class C felony; increasing the penalty for theft of more than \$60,000 to a Class B felony; cumulate credit card offenses in order to

reach the \$500 limit; expand the "rocket docket" program to try felons within a shorter period after arrest and indictment; conduct a "snapshot" of prisoners to determine their past offense; provide counties funds for time felony charge prisoners spend in jail prior to conviction, which Mr. Cohron commented that this may not yet be possible due to financial considerations; pay counties for prisoners convicted of felony from the date of conviction rather than the date of sentencing to relieve the financial burden on counties; permit waiving of a presentence investigation for nonprobable offenses with defendant, prosecution, and court approval; increase parole restrictions on serious felony offenders; and expand the felony classifications, perhaps by creating a Class E felony offense.

Senator Gibson asked if any of the committees looked into the county jail structure and operations to which Secretary Brown replied "no" and explained that the committees looked at the reality of our crimes and the impact on incarceration and on the safety of the public. Senator Gibson responded that he feels such a study is necessary because some county jails operate at a profit while many others do not because best management practices are not used. Senator Gibson urged better standards for jail operation.

Senator Stine asked Mr. Cohron whether the increase in the felony theft limit would adversely impact the district courts and the county attorneys. Mr. Cohron indicated that while there may be some impact, that the district court frequently uses conditional discharge of prisoners in order to foster restitution and that merchants and other theft victims want their money back. Senator Stein then asked if the "rocket docket" program's expansion would create a need for additional forensic work and additional personnel at the state crime laboratory to which Mr. Cohron replied that many cases do not require forensic evidence, that such evidence may not need to be produced, and that expansion of the crime lab program has helped reduce the backlog of forensic cases.

Representative Stumbo commented that for the first time there was a real breakthrough in the attitude of prosecutors and others in producing real changes to the Penal Code and Controlled Substances Act and complimented Mr. Cohron for his efforts in achieving this goal. In response to a question relating to the increase in the felony theft limit potentially harming retailers, Mr. Cohron indicated that the merchants would probably support a program which utilized diversion program in which defendants would have to make restitution to the retailer or other victim of the value of the property or money stolen. Representative Stumbo then commented that county judge executives tell him that "my jailer is killing me" due to rising

costs for operation of jails; that the state is in need of standards for operation of jails and that the "rocket docket" programs in Jefferson County and counties saved the counties 20% in the pretrial incarceration of felons because of the lessened time from being jailed to being convicted because in many of these cases there is no issue of guilt. Representative Stumbo then observed that many persons convicted of trafficking in drugs are mere users who are "peddling" in order to support their drug habit and that without a meaningful rehabilitation program that they would continue to recidivate and continue to sell drugs to support their habit and urged expansion of rehabilitation programs.

Representative Fischer asked what other states are doing about statutes of limitations in felony cases to which Secretary Brown replied that he would provide that information to the subcommittee. Representative Yonts asked if the committee had made any recommendations on child support failures to which Secretary Brown replied "no", but that they were still working on this matter. Representative Yonts when asked "why not a \$1,000 felony theft" demarcation to which Mr. Cohron replied that a standard inflation calculator was used on the \$300 amount which resulted in slightly less than \$500 which was rounded up to \$500 for recommendation purposes and that the upper limits on felony offenses came from Tennessee law. With regard to diversion and probation with restitution for felony offenses, Mr. Cohron observed that some people with little income and little change to make large sums of money might be on probation or diversion for the remainder of their lives.

Senator Neal commented that the goal is to make the Penal Code more rational and asked Secretary Brown if there was a comprehensive review of the code to which Secretary Brown responded "no" but that the goal was more limited to identify the ill and then identify the appropriate sanction. Secretary Brown commented that some states have 8-10 levels of felony offenses although he was not recommending that for Kentucky. Senator Rhoads asked if the committees had discussed diversion programs to which the answer was "yes" and that diversion programs are in various recommendations.

Secretary Brown indicated that the Controlled Substances Committee had recommended: making possession of mere residue of some controlled substances such as cocaine a misdemeanor; setting quantity limits for various drugs; removing the felony enhancement for possession of drug paraphernalia on a second or subsequent offense; reducing the 1,000 yard distance where any drug offense within 1,000 yards of a school is a felony offense; pretrial diversion with treatment programs for lesser drug offenses; adjust levels of drug trafficking based on the quantity of drug trafficked;

expansion of substance abuse programs within jails which the Secretary indicated has been increased from 11 jails to 26 jails but is still short of the full goal; and implementation of reentry courts and day reporting programs for parolees with drug problems with other forms of follow-up monitoring.

Representative Yonts asked if there was alternative language in some of the proposals to which the reply was that there was not. Senator Stine asked what happened to a proposal to use seized drug money for drug treatment programs and whether this would hamper current distribution of funds for law enforcement and prosecution programs. Secretary Brown replied that the vote on that proposal was 4-3-1 and Mr. Cohron indicated that he opposed the measure and that it definitely would have a negative impact on law enforcement and prosecutors. Representative Yonts asked if consideration had been given to providing jail time credit for home incarceration prior to trial against any subsequent sentence to which Secretary Brown replied that he views home incarceration primarily as a post incarceration tool which can be enhanced by more reporting, use of GPS monitoring and other improvements.

Secretary Brown then reported that the Probation and Parole Committee recommended: expansion of medical parole through the use of risk level evaluations; that persons who are paroled to outside facilities because of medical conditions or advancing age would be entitled to Medicare benefits to which they are not entitled while in prison; increased support for substance abuse programs; review of the 1,000 foot residence restrictions on sex offenders involved in treatment programs; use of electronic monitoring for various sex offenders; and the return of Department of Corrections educational program money from KCTCS which receives the money now for providing programs in prisons; incentives for nursing homes and personal care facilities to take former inmates and parolees; enactment of the federally authorized prison industries enhancement program to expand vocational education programs in prisons; add members to the parole board; examine the use of presumptive parole standards; continue jail-time credit for persons on parole; a program where the department can use graduated sanctions for parole violators prior to returning them to the board for reincarceration; and the use of day care centers for parolees. Representative Yonts commented on the role of probation and parole officers and abuses in the operation of the Parole Board and in returning parolees to prison. Secretary Brown responded that the board has absolute power, no outside review and with no appeal from the decisions of the Parole Board under current law.

Secretary Brown reported that the pretrial release committee had looked favorably on the Supreme Court's proposed

changes to the pretrial release rules and the expansion of the uniform schedule of bail to selected felony offenses. Secretary Brown indicated that the committee has also recommended the use of evidence based tools to determine the likelihood of reoffending, dangerousness, versus the possibility of rehabilitation in the pretrial release of prisoners. Secretary Brown indicated that the Sentencing Committee has not yet filed a report.

Senator Neal commented that the piecemeal development of the Penal Code has detracted from the rationality of the code. Senator Neal indicated that the focus at the upcoming session of the General Assembly is to achieve some progression in correcting problems in the Penal Code and drug laws. "We don't want to be a repository of wish lists." Senator Neal further commented that the protection of the public and justice requires the need for continued study. Senator Stine commented that we owe Chris Cohron a gold star for his efforts as an excellent advocate for his representation of commonwealth's attorneys.

The next speaker was Mr. John Yuen from Louisville who indicated that he had operated a small business in downtown Louisville which was regularly burglarized, that the Louisville Police Department was able to do nothing about the situation, and that he was finally driven out of business. Mr. Yuen suggested that we put fear into the criminals and observed that every criminal knows that Ft. Knox is full of gold yet no criminal has ever robbed it for fear of being killed by the guards. Mr. Yuen suggested increasing the penalties for those who receive and distribute stolen goods and provide for taking the personal property of these persons and distributing the proceeds 40% to victims, 40% to the crime victim compensation fund, and 20% for law enforcement; allowing persons to install deadly devices in their homes and commercial property so that criminals will be caught and suggested that stun guns might be appropriate as well.

Mr. Yuen suggested that KRS 503.080 and KRS 503.055 are very confusing and that they be redrafted to clearly permit the use of deadly force in the protection of persons and protection of property whether the force is used in person or by an automated device. Mr. Yuen also suggested removal of the gradations of the use of force in self defense and property defense cases and authorize the immediate use of deadly force to clarify the situation where a citizen can be prosecuted for using too much force in a given situation. Mr. Yuen observed that jail is not a deterrent to criminals because jails provide shelter, food, beds, full medical and dental care, and that many criminals view jail as an acceptable alternative to life on the streets. After the laws are changed, Mr. Yuen suggested that a video be prepared for public education informing the citizens, and the criminals, that criminal acts may likely

result in the death of the perpetrator.

The next speaker was Mr. Charles Zoeller of Louisville who described various problems with the criminal justice system including cases not going to trial, overcharging by police and prosecutors, the addition of citizens to criminal justice councils, and an inflation rider on theft amounts to automatically adjust theft levels to inflation. Mr. Zoeller indicated that he would provide the committee with written comments and recommendations in the near future. Senator Neal agreed to have the comments distributed to the members.

Senator Neal then presented the final report of the subcommittee for transmission to the Interim Joint Committee on Judiciary and to the Legislative Research Commission. The report detailed the testimony and information received and recommended continuation of the subcommittee for at least one more year and perhaps for two years and that if a subcommittee was found to be inappropriate then that a legislatively-based task force with the ability to hold hearings would be appointed to accomplish the mission. Senator Rhoads moved adoption of the report and that copies of the minutes of the second meeting of the subcommittee also be forwarded to the Interim Joint Committee on Judiciary; Representative Yonts seconded the motion which passed.

The meeting was adjourned at 12:10PM.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 4th Meeting of the 2008 Interim October 23, 2008

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, October 23, 2008, at 9:00 AM, at Bluegrass Station in Avon. Senator Alice Forgy Kerr, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Mary Lou Marzian, Co-Chair; Representative Alice Forgy Kerr, Co-Chair; Senators Julie Denton, Denise Harper Angel, and Gary Tapp; Representatives Will Coursey, C. B. Embry Jr., Bill Farmer, Tim Firkins, Richard Henderson, Charlie Hoffman, Dennis Horlander, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Charles Miller, Rick G. Nelson, Tom Riner, Jim Stewart III, and Brent Yonts.

Guests: Major General Stephen Collins (Retired), Director, Bluegrass Station; Roger Fries, President and Chief Executive Officer, Kentucky Employers' Mutual Insurance Authority; Bob Quick, President and Chief Executive Officer, Commerce Lexington, Inc.; Len Heller, Vice President, Commercialization and Economic Development, University of Kentucky; Anthony Wright, Economic Development Officer, Lexington/Fayette Urban County Government; and Tony

DeName, Director, Division of Unemployment Insurance.

LRC Staff: Linda Bussell, Adanna Hydes, and Betsy Bailey.

A quorum being present, the meeting was called to order. A motion and second to approve the minutes of the September 9, 2008 meeting passed by voice vote.

Sen. Kerr introduced Roger Fries, President and CEO of Kentucky Employers' Mutual Insurance Authority (KEMI) to address the committee on KEMI's safety initiatives. Mr. Fries informed the members about KEMI's Mine Safety and Training Competition that was held in Pikeville, KY on August 13-14, 2008. The event included more than 300 competitors representing 30 commercial coal companies and 4 states, as well as more than 150 representatives from the Federal Mine Safety and Health Administration (MSHA) and the Kentucky Office of Mine Safety and Licensing. He introduced Jon Stewart, Chief Financial Officer for KEMI, who gave a brief overview of the event.

Mr. Stewart said the two day event, co-sponsored by MSHA and the Kentucky Office of Mine Safety and Licensing, was made available free of cost to the general public. The event featured competitions in mine rescue scenarios and pre-shift hazard eradicating scenarios. Due to the success of the event, the program is scheduled for July of 2009. A promotional video for the event was shown.

Rep. Marzian asked if KEMI offers any incentive for policy holders to take part in safety programs. Mr. Fries replied that participation in such events is taken into consideration in developing workers' compensation premiums.

Sen. Kerr introduced Tony DeName, Director of the Division of Unemployment Insurance, to provide a brief update on the Unemployment Insurance (UI) Trust Fund following news reports that Kentucky's Trust Fund, like many others in the nation, has been hit hard by the downturn in the economy. Rep. Marzian stressed the importance of Mr. DeName's testimony at the meeting and asked that he give full details.

Mr. DeName addressed the committee with regard to recent media attention given to Kentucky's UI Trust Fund and whether it is prepared to weather another recession after the recession of 2000. He stated that at the end of August 2000, the Trust Fund balance was at a record high of nearly \$725.8 million. As of the end of August 2008, the balance stood at \$229 million, a reduction of nearly half a billion dollars over the past eight years. He said that the Trust Fund does not have the reserves today that it did at the beginning of the decade, but this in itself does not address the issue of fund adequacy.

Mr. DeName said funds are considered to be "adequate" when they contain enough reserves to sustain one year of benefits at a historically high rate.

Kentucky's Trust Fund, along with many others, falls below this threshold for adequacy. However, these measurements of adequacy do not take into consideration the tax revenues flowing into the Trust Fund at the same time benefits are being paid out. As long as our revenues are adequate to meet current benefits, even a significantly reduced Trust Fund balance could be sufficient to preserve fund solvency.

Mr. DeName noted that in 2000 and 2003, after the recession took its toll, the Trust Fund largely stabilized from 2004 through 2007. This demonstrated that the statutory funding mechanism was performing as intended. He said by the end of 2007, the fund balance had declined by over ten percent, ending at just below \$230.8 million. This raises the concern that the fund could be reaching a "tipping point" where current revenues might no longer keep pace with current benefits.

Mr. DeName noted Kentucky is at the second highest tax rate schedule provided in current statutes, Schedule D; and that even at this increased rate of taxation we are not keeping pace with benefits, let alone re-growing the Trust Fund. He said we are running out of our reserve tax generation capacity just as we are threatened with renewed recession. He said the question of preparedness comes down to two issues: do we have an adequate fund balance to preserve solvency; and do we have sufficient revenue capacity to meet rising benefits? Mr. DeName said at this point Kentucky may have neither.

Mr. DeName said the next six months will be critical to answering the question of fund solvency. Based on revenue and benefits during past years, if we experienced the same benefits and revenues in the months ahead, our Trust Fund balance at the beginning of April 2009 could be less than \$36 million. He stated that benefits this year are running over 20 percent ahead of last year, while revenues are up less than seven percent. Some short-term fund depletion is a very real possibility at this stage.

Mr. DeName said the possibility for Congressional relief in the form of another "Reed Act" distribution of excess Federal Unemployment Tax funds to the states could profoundly change the near-term prospects for fund solvency.

Rep. Yonts referred to several years ago when a surplus of \$700 million was cut. He asked if the surplus had not been cut, would the Trust Fund be able to sustain the current demands on the system. Mr. DeName responded that it would not be likely. Rep. Yonts asked if Kentucky is given funds from the Federal surplus, would those funds have to be paid back. Mr. DeName explained the funds would be tax money that employers have paid into the Federal Trust Fund. Rep. Yonts asked if the Division of Unemployment Insurance would have recommendations for the General Assembly by January. Mr.

DeName responded that he hoped so.

Rep. Marzian asked if the Federal bail-out included unemployment benefits. Mr. DeName said an extended benefits program took effect in July, providing \$49 million of Federal money.

Sen. Kerr introduced Mayor Jim Newberry of Lexington, Mayor Ed Burtner of Winchester, and Judge Henry Branham, County Judge Executive, Clark County. Judge Branham expressed appreciation to the members for their work on behalf of the Commonwealth and to Bluegrass Station for providing the facilities. Mayor Burtner further expressed appreciation for the facilities at Bluegrass Station and in Madison County. He informed the members that 800 jobs at Bluegrass Station are filled by citizens of Clark County and 60 jobs at Madison County. He commented on the positive influence the facilities have on the region. Mayor Newberry explained Fayette County's economic plan to utilize the industries of health care, horses, and high technology opportunities. He emphasized the importance for the state of UK achieving top 20 business status. In 2007, UK received \$332 million in research funding that benefitted not only UK, but the entire state.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 4th Meeting of the 2008 Interim October 10, 2008

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 10, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Joni L. Jenkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joni L. Jenkins, Co-Chair; Senators Tom Buford, Julian M. Carroll, Julie Denton, Carroll Gibson, Denise Harper Angel, Bob Leeper, Dan Seum, and Damon Thayer; Representatives Tom Burch, Larry Clark, Tim Firkins, Dennis Horlander, Dennis Keene, Adam Koenig, Reginald Meeks, Charles Miller, David Osborne, Ruth Ann Palumbo, Carl Rollins II, Sal Santoro, Arnold Simpson, and Susan Westrom.

Guests: Carl Metz, Goodwill Industries; Linda Romine, Public Relations Coordinator, St. Vincent de Paul Society, Louisville, KY; Valerie Thompson, Kentucky State Assembly of Surgical Technologists; Jeff Bidwell, Surgical Technology Program Coordinator, KCTCS Madisonville Campus; Sherry Wells, Surgical Technology Program Coordinator, KCTCS Bowling Green Campus; Henry Lackey, Commissioner, Marty Hammons, Deputy Commissioner, Bob Sparrow, Director of Enforcement, and Leah Boggs,

Director of Licensing, Department of Charitable Gaming.

LRC Staff: Tom Hewlett, Bryce Am-burgey, Michel Sanderson, and Susan Cunningham.

Representative Jenkins called the meeting to order and asked for a motion to adopt the minutes from the September 12, 2008, meeting. Senator Carroll made a motion seconded by Senator Harper-Angel and the minutes were adopted by voice vote.

Representative Jenkins welcomed Michel Sanderson, new committee analyst, and new committee member Representative Arnold Simpson, to the committee. Representative Jenkins asked for a moment of silence in memory of the loss of Representative Larry Belcher and Representative Osborne's mother, who passed away since the last committee meeting.

First on the agenda Carl Metz, from the Kentucky Association of Goodwill Industries, and Linda Romine, Public Relations Director of the St. Vincent de Paul Society in Louisville, KY, explained BR 34; Senator Buford's pre-filed bill on donation boxes. Mr. Metz said BR 34 was a truth in labeling bill. He said it requires a for-profit entity that places a donation box in any public place to label the box in a manner that tells the public the entity is not a charity. He said that there are approximately 187 red boxes in the Louisville and Southern Indiana, as well as a number in Lexington and Nicholasville and other places around the state. Mr. Metz said those red boxes are placed by a for-profit entity headquartered in Cicero, Illinois. Mr. Metz said that Goodwill Industries has no objection to a for-profit entity placing a donation box; however, the public should not be mislead into thinking that they are making a donation to a charity when they are not. He said that the Louisville Metro Council passed an ordinance in December of 2007 with this requirement. Linda Romine said that St. Vincent de Paul is a charitable, not-for-profit agency serving Louisville for the past 155 years and includes six homeless shelters, a community soup kitchen, and a free community clothes closet as well as four thrift stores in Louisville and Indiana. She said their mission is to help people who have become homeless maintain dignity and respect by meeting basic needs. Ms. Romaine said the society works with individuals to help them become self sufficient. She said that St. Vincent de Paul respects their donors and believes it is unethical for donors to be led to believe their donations are for charitable purposes when they are not. Ms. Romaine told the committee that she is concerned about solicitations for used clothing by for-profit companies; specifically the use of donations boxes placed on commercial sites with the donation boxes unclear about how the items placed in the box will be used. Ms. Romaine said that when for-profit

companies take donated items the not-for-profit, charitable organizations need it may become necessary for the charity to compete against the for-profit entity. She said this would create a proliferation of brightly colored donation boxes. Ms. Romaine asked that there be a mandate to clearly label donation boxes as commercial enterprises.

Senator Seum asked if the owners of the commercial property where these donation boxes were located rent the location to the organization. Mr. Metz said that to the best of his knowledge the space was not rented, adding that he thought the owners of the property were under the assumption that placement of the box was for a charitable purpose. Senator Buford said that individuals put items in the boxes and then use the donation for a tax credit noting this could lend to an unintentional tax code violation.

Next on the agenda, representatives of the Association of Surgical Technologist and the Kentucky Community and Technical College System (KCTCS) came before the committee to discuss possible legislation regarding certification of surgical technologists. Kim Nelson, registered agent for the surgical technologists, told the members that this has been before the General Assembly in the past. He said the surgical technology program has been very well received across the state with a very high placement record. Mr. Nelson said that designating the program as a credentialing program would make it even more attractive to prospective students. Jeff Bidwell, Program Director for the surgical technology program at the Madisonville Community College, said the surgical technology legislative initiative will improve patient safety by ensuring all surgical technologist employed in Kentucky healthcare facilities in the future are competently trained. Also, Mr. Bidwell said, professionalism and regard of peers is increased when certification is earned. The KCTCS currently has nine accredited Surgical Technology programs located throughout the state providing an associate degree as well as a diploma. Students who complete the program earn up to 22 general education credits and 34 college credit hours in surgical technology studies. Mr. Bidwell said that surgical technology practices have a vast potential to impact patient care negatively and therefore requires formal training in anatomy, physiology and surgical procedures that go beyond basic on-the-job training. He said that advances in medicine and surgery require an educated, well prepared surgical assistant. Mr. Bidwell said it was his belief that surgical technologists should receive formal didactic and clinical training in an accredited academic setting and be able to demonstrate that he or she has the skills necessary for safe, competent and knowledgeable practice by passing a nationally recognized and accredited Certification for Surgical Technologist

examination that is administered by the National Board of Surgical Technology and Surgical Assistant. Mr. Bidwell said he felt he could not over-emphasize the importance of the surgical technologist in the surgical theatre. He said the surgical technologist sets up the instrumentation, prepares the table and must know the anatomy of the procedure.

Representative Koenig asked if there were surgical technologists currently in the operating rooms that have no formal schooling and if this posed an insurance liability. Mr. Bidwell said that there are some sites that have on-the-job training and certain facilities do not require the certification. Mr. Nelson said one of the challenges of starting a new certification program is that there are a number of people already performing this job. Therefore, legislation would grandfather in persons already performing these jobs. Representative Clark asked how many states certify surgical technologist and suggested that continuing education should be added to the legislation in particular for the technologists who will be grandfathered. Mr. Bidwell said that currently South Carolina and Tennessee certify surgical technologists. Mr. Bidwell said that current language does have a continuing education provision. Representative Rollins asked if there was an agency other than the National Board of Surgical Technology and Surgical Assisting that certifies. He also asked who would provide the continuing education. Mr. Bidwell said the Association of Surgical Technologist, the Association of Operating Room Nurses and several other associations are recognized to provide continuing education courses. Senator Carroll asked if a person must have the two year associate degree before he or she could take the national test. Valerie Thompson said he or she would have to graduate from an accredited program in the state of Kentucky. Mr. Bidwell said KCTCS offers a diploma option; however, they were moving toward an associate degree level. He further stated that all KCTCS surgical technology programs were accredited by the Commission on Accreditation on Allied Health Programs. Representative Westrom asked what the difference was between credit hour requirements for a surgical assistant and a surgical technologist. Mr. Bidwell said the assisting program would be a post surgical technologist program. Senator Denton asked if most of the people hired now as surgical technologist have been trained through an accredited program. Mr. Bidwell replied that they have. Senator Denton asked what groups were against the bill. Mr. Bidwell said they have not been approached by any opposition; however, there have been discussions with members of the nursing associations. Mr. Nelson said there have been questions and concerns from the hospital associations regarding availability of technologist. Senator Denton commented that it was unusual for a

facility to maintain records of continuing education for surgical technologists. Ms. Thompson said that there is a nurse educator in the hospital where she works who would track that information for the facility. Senator Denton asked if there would be a board that would oversee certification. Mr. Bidwell said they were in discussions with the Cabinet of Health and Family Services who regulate hospitals. Representative Meeks asked how many students were graduating per year and if there was potential to expand that number. Mr. Bidwell said there was an average annual enrollment of 20 students per year, per school, with approximately 180 graduates per year. Senator Leeper asked if Mr. Bidwell could report back on the pay scale of the states that have certification and an accurate range of the pay scale in Kentucky. Representative Burch asked if there were surgical technologists in every operating room and if the services they provide could be provided by anyone else. Ms. Thompson said there was always a team in the operating room that included a surgical technologist. Representative Burch asked why the hospitals were against the legislation. Mr. Nelson said the hospitals are opposed to the legislation affecting the way they are doing business by requiring a mandatory hiring of certified people. He said the hospitals are concerned that would prevent them from having the number of people they need on staff. Representative Jenkins asked if surgical technologists work for the hospital or if they billed separately. Ms. Thompson replied that surgical technologists are employed by the hospital.

Next on the agenda, an update from the Department of Charitable Gaming was provided. Henry Lackey, Commissioner for the Department of Charitable Gaming, told the committee he is making presentations to civic clubs and organizations across the state; and is happy to visit any organization interested in charitable gaming. He said that the department has seen a significant increase in the number of exempt licenses issued to organizations whose annual gross receipts are \$25,000 or less. He said last year there were 493 exempt organizations and to date this year there are a total of 564 exempt licenses. Mr. Lackey said the department believes it is a direct result of informing charities and civic groups of what charitable gaming can do for an organization. He said that in 2007 the average profit for a charity was \$69,000. Mr. Lackey said training was a key factor to successful charitable gaming, adding that training is offered on the first Tuesday of each month at the office in Frankfort. Mr. Lackey told the committee that money generated by charitable gaming is larger than pari-mutuel betting and it is an all cash business. He said that the big money made in charitable gaming is in pull-tabs, followed by Bingo and raffles. He said any organization that has 501c status, has been in

existence in the county for three years as a charitable organization, and has an office in the county where the license is held can game. He said there are two types of licenses; a regular gaming license requiring the organization to file a quarterly report and an exempt license that requires the charity to file an annual report. Mr. Lackey said that most charities have problems with the 40% rule; however, the office is willing to work with any organization that has questions regarding maintaining 40 percent.

Mr. Lackey said that the mission of the department was to set standards that ensure honesty and integrity, to prevent the commercialization of charitable gaming, and to prevent the participation of criminals or other undesirable actions such as slot machines. He told the committee that most charities get into trouble because they have not had the proper training. He said he felt that training should be mandatory due to the amount of cash that is handled. Additionally, the Internal Revenue Service comes to the office on a weekly basis to audit reports from charities.

Senator Carroll asked if security was a concern for charity groups. Mr. Lackey responded that in speaking to organizations he always encourages them to hire security, adding that over 50% of the groups do not have security. Representative Miller asked how charities make large amounts of money when the 501c status permits gaming only twice a week. Representative Miller also asked if there were guidelines for the rent facilities charge. Mr. Lackey replied that the gaming license allows for two gaming sessions per week and that facilities are allowed to charge per session. Representative Miller asked for an explanation of how taxes were paid for each session. Mr. Lackey said that .06 percent, just over one half of one cent, is taken from every dollar. This is the only money that comes to the agency for day to day operations. Representative Palumbo asked who has to go through training. Leah Boggs, Director of Licensing and Compliance, said that currently there are no particular people who are required to attend training, unless there is a settlement agreement. She said in most of the settlement agreements the office asks that the CEO, the CFO and the chair-people of gaming come to training. The training is open to any volunteer, any officer, any booker, and is free once a month in the office. She said that once a quarter additional training is done just for raffles and church festivals because a large number of organizations only have these events. She said that the office will go out in the state as requested. Mr. Lackey said that an auditor is also at the training session to show groups how to correctly complete reporting forms. Representative Firkins said the Jefferson County Delegation had recently met with charitable organizations who said the office's investigators and enforcement officers typically

come into their gaming sessions with a threatening manner. He asked if the office was aware of this behavior in Jefferson County. Mr. Lackey said he would like to talk to the individual who has the complaint as he has personally been visiting groups and has not heard any complaints about enforcement officers visits. Mr. Lackey added that he felt that the people in questions were compliance officers who inspect the facilities every six to eight weeks. Senator Seum said he was concerned about a mandate on charities to come to Frankfort for training at their own expense and suggested that the office take the training to the charities. Mr. Lackey responded that the Chief Executive Officer, the Chief Financial Officer and those that chair the games would be mandated to attend the training. Senator Seum asked if a person was required to have a license for a raffle only. Mr. Lackey said that if the ticket sales exceed \$150 there was a license requirement. Representative Meeks asked if it was legal for a charity to own the facility they are gaming in. Mr. Lackey said if you own a facility such as the Catholic Church or the veterans, you can have a full gaming session at your facility and do not have to have a facility license. Representative Meeks asked if the department was not trying to identify businesses who operate slot machines in the back of their businesses. Mr. Lackey replied that if a proprietor of a business has slot machines that he is making a profit from it is gambling, which is illegal in this state; however, enforcement is difficult due to lack of manpower. He added that the department has no arrest authority unless a felony is witnessed at the time of the offense. Representative Meeks said the legislature should be more diligent in providing the department with enforcement powers for illegal gambling. Representative Santoro said the charitable organizations in his district have been pleased with the department since Mr. Lackey had taken over the office. Senator Buford said the department staff was doing an excellent job. Marty Hammons said that compliance officers are having training programs installed on their laptops. He said it was very important to the department that all staff perform in a professional manner. Larry Bond, Deputy Secretary of the Public Protection Cabinet, said that the department takes its job very seriously and wants to work with the charities in a spirit of cooperation. He added that the General Assembly created the Department of Charitable Gaming and that the department was limited to "charitable gaming." He said that illegal gambling was a law enforcement issue.

Representative Jenkins said that the committee was going to have someone from the Auditor's Office come before the committee to discuss their report on charitable gaming in Kentucky, possibly in November. Representative Westrom asked if the Department of Justice and

the Kentucky State Police could come before the committee to explain how they actually handle the situation with the illegal slot machines, as no one is able to provide concrete information. Senator Buford said that the U.S. District Attorney's office deals with this offense.

Representative Jenkins reminded members that the next meeting is November 14th at 10:00 AM. The meeting was adjourned at 11:35 AM

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Minutes of the 3rd Meeting of the 2008 Interim October 17, 2008

The third meeting of the Interim Joint Committee on Local Government was held on Friday, October 17, 2008, at 10:00 AM, in Cascade Ballroom C, at the Kentucky International Convention Center, in Louisville, Kentucky. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Walter Blevins, Jr., Julian M. Carroll, Ernie Harris, Alice Forgy Kerr, Elizabeth Tori, and Johnny Ray Turner; Representatives Scott W. Brinkman, Ron Crimm, Mike Denham, Richard Henderson, Charlie Hoffman, Dennis Keene, Adam Koenig, Tom McKee, Reginald Meeks, Brad Montell, David Osborne, Arnold Simpson, Ancel Smith, and Jim Wayne.

Guests: First Lady Jane Beshear; Mayor Fred Siegelman, City of Versailles; Mayor Elaine Walker, City of Bowling Green; John Fitch and Chad Cogdill, Eastern Kentucky University; Jeff Day, Asbury College; Secretary Marchetta Sparrow, Tourism, Arts and Heritage Cabinet; Mayor Glenn Caldwell, City of Williamstown; Sylvia Lovely, J. D. Chaney, and Temple Juett, Kentucky League of Cities; and Larry Kline, City of Covington.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, and Marlene Rutherford.

The minutes of the September 24, 2008, meeting were approved without objection.

First on the agenda was First Lady Jane Beshear who discussed the impact of the film industry in Kentucky and on local governments. She said that there are many marketing opportunities to create an image for the state because of the state's beautiful landscape and because of the different landscapes within the state, is more economical for film companies to move from one area to another within the state in making a film. First Lady Beshear pointed out that many productions about Kentucky have been or are being lost to other states because there are no incentives to lure them to the state, and that support costs would be very little to Kentucky in terms of the economic impact to the state and local

communities. She noted that in these troubling economic times we need to "think outside the box" and create mutual incentives that work for Kentucky.

Joining the First Lady were community leaders who discussed how the film industry had impacted their communities.

Mayor Fred Siegelman of Versailles told how rewarding and successful the movie "Elizabethtown" was for his city and that people from surrounding areas came to the city for the filming.

Mayor Elaine Walker, City of Bowling Green, is very familiar with the film industry because her husband is a filmmaker and she said aggressiveness is required to attract filmmakers. She said filmmakers enjoy Kentucky's scenery and that for purposes of economic development, it means that sometime you have to give up a little to gain a lot.

Professors John Fitch and Chad Cogdill, Assistant Professors of Communication at Eastern Kentucky University, talked about the film industry as it relates to students. Professor Fitch said that students seeking motion picture degrees have increased 300% and that the film industry is utilizing ECU students in film productions. Professor Cogdill indicated that providing job and internships to students would be an advantage.

Professor Jeff Day, Assistant Professor and Director of Theatre and Cinema Performance at Asbury College, also discussed how the film industry affects students. He said that Asbury College had invested \$2.5 million in technology and a building for theatre and cinema because of the interest of students. Professor Day noted that many students are moving to California to be close to the film industry.

Secretary Marchetta Sparrow, Tourism, Arts, and Heritage Cabinet, also encouraged support of this industry in Kentucky.

Due to technical difficulties, a short film that showed what the state has to offer to the film industry was not able to be shown, but the First Lady said she wanted communities to know the opportunities and incentives this can bring to Kentucky and would be happy to attend another meeting to show and discuss the film. Providing incentives to this industry will provide jobs, keep our youth interested in the arts in Kentucky, provide tourism, and economic development.

Representative Montell indicated that the committee needs input from the people that have been involved in this area. He said that the state is in a unique position with the Ryder Cup and the 2010 Games. Referring to productions that are pending inducements, he asked what the timeframes were for decisions on incentives and whether the state was in danger of losing out on these productions being filmed in Kentucky. The First Lady indicated that many are waiting to see what incentives Kentucky will bring

to the table. Interested parties would like to film the productions in Kentucky because they are Kentucky stories and there are ideas that are on the drawing board at this time.

Mayor Walker pointed out that it is not just about the incentives but to look at how much is spent in the communities.

Representative Denham noted that filming in his region had been a very good economic impact for the area and that one of the best outcomes was that it brought the community together for a common cause.

The First Lady noted that native Kentuckian, Ashley Judd, is interested in filming in Kentucky. She reminded the committee of the number of world visitors and viewers Kentucky will have for the 2010 Games which is estimated at 500 million people. And, there are a number of residents and ties to the film industry already located in the state.

Representative Riggs asked how coordination with the local governments would work concerning incentives. The First Lady indicated that they were trying to put together an incentive package for the entire state.

Senator Carroll said that Kentucky needs to be ready to capture the opportunity when approached to promote the state.

Next on the agenda were Ms. Sylvia Lovely, CEO and Executive Director of the Kentucky League of Cities. Joining her were Mayor Glenn Caldwell, Kentucky League of Cities President and Mayor of Williamstown, Mr. J. D. Chaney, Director of Governmental Affairs, and Mr. Temple Juett, General Counsel, Kentucky League of Cities. They discussed the platform for the 2009 Session of the General Assembly. Ms. Lovely indicated that the number one priority for the 2009 Session will be pension reform. She also discussed "Your City, Your Future" initiatives. Recent studies have shown that young people look for a place to live, then look for a job; there is a "New Localism"--people who have left are returning to Kentucky. By the year 2050, people will live in or around eight super cities. While Kentucky has none, it is situated close to those cities such as Atlanta, Chicago, and Charlotte.

Mr. Juett reiterated that the primary focus will be on pension issues. He said that House Bill 1 did not extend the short term relief and that rates will increase once the one time rate reduction ends next year. Mr. Juett stated that KLC supports full-funding but that the actuarially required contribution (ARC) should be extended, the five year initiative is too short, and that if the state has 20 years, local governments should have 20 years also. He indicated that the League is interested in other retirement related issues of healthcare and classified school employees. Mr. Juett also discussed the idea of a Local Government Employee Retirement System. He stated that KLC's

primary position is to give short term relief to local governments.

Senator Carroll asked whether a reduction in the monthly contribution to the retirement fund would have an effect of a shortfall. Mr. Juett said it would not. He said the annual contribution which leads to full funding on the pension system is for healthcare. Senator Carroll also asked what cities are doing to control healthcare benefits. Ms. Lovely said that cities are using any resources and programs they can to bring down the costs.

Mr. Chaney also briefly discussed pensions and the need to restore monies lost by local governments from the telecommunications tax. He said approximately \$7.5 million needs to be added for each year since the passage of the legislation, or \$22 million, to the hold harmless fund to make up for the revenues local governments have lost. He also said that cities are opposed to mandated centralized collection of occupational license fees.

Mr. Larry Kline, Assistant City Manager, City of Covington, discussed charter county governments. He said that the process of creating a charter county government is biased in favor of counties because the commission is county-dominated and is presided over by the county-judge executive. KLC urges an amendment to the statute for equal membership among city and county governments and that the charter county commission chooses a presiding officer.

Mr. Kline also said that progress has been made at the local level to simplify the administration of occupational license fees. He noted that the rules are not different from county to city statewide--only the rates are different. He also pointed out that in Boone, Campbell, and Kenton Counties, free tax preparation is available to businesses if a taxpayer finds the forms too confusing. Local businesses and taxpayers are better served at the local level with local representation that is accessible, responsive and accountable.

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

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

Minutes of the 5th Meeting of the 2008 Interim November 6, 2008

The 5th meeting of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection was held on Thursday, November 6, 2008, at 1:00 PM, in Muldraugh, KY. Representative Tanya Pullin, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Carroll Gibson, De-

nise Harper Angel, Joey Pendleton, Dorey Ridley, Dick Roeding, Dan Seum, and Jack Westwood; Representatives Sheldon E. Baugh, Dwight D. Butler, Larry Clark, Tim Couch, Ron Crimm, Bill Farmer, David Floyd, Jeff Greer, Jimmie Lee, Fred Nesler, Steve Riggs, Tom Riner, Sal Santoro, Charles Siler, Dottie Sims, Ancel Smith, John Tilley, and Alecia Webb-Edgington.

Guests: Clinton Meshew, Mildred Meshew, Paul Schlisser, NCOA; Ronnie L. Boggs, Kathi Marshall, Geoff Pinkerton, Office of State Budget Director; Wendell Lawrence, Sherry Johnson, Brad Richardson, Lincoln Trail ADD; Darrell Roberts, Larry Roberts, Helmets to Hardhats; Laura Owens, WKU; Bobbie Smith, JECVO; Patricia LaChance, VFW Ladies Auxiliary; Lawrence Winburn, Phillip Knight, Laborers Union; and Col. Eric Schwartz, Garrison Commander, Fort Knox.

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

Co-Chair Pullin asked committee members to review minutes from the October committee meeting for approval, which were approved by a unanimous voice vote upon a motion and a second.

Co-Chair Pullin called upon Co-Chair Tori to read a resolution for a fallen soldier, Sergeant William Patrick Rudd, and Rep. Alecia Webb-Edgington to read a resolution for a fallen soldier, Sergeant Daniel Wayne Wallace, who lost their lives in the global war on terrorism. Co-Chair Pullin called upon Rep. Greer to read a resolution in memory of the late Rep. Larry Belcher, a Vice Chair of the Seniors, Veterans, Military Affairs, and Public Protection Committee. Co-Chair Pullin presented a resolution in memory of the late Rep. Jim Bruce. The committee stood in a moment of silence in honor of the soldiers and Representatives. All four resolutions were adopted by a unanimous voice vote upon a motion and a second.

Co-Chair Pullin called on Darrell Roberts, Executive Director, Helmets to Hardhats. Darrell Roberts introduced Larry Roberts, State Director, Kentucky State Building & Construction Trades Council. Larry Roberts said it was an honor to travel the United States to talk to veterans about the building trades and opportunities for various apprenticeship programs, and showed a video focusing on the experiences of participants from Kentucky. Mr. Roberts briefed the committee on Helmets to Hardhats and referenced the power point handout in members' folders. Mr. Roberts stated that the Department of Defense funds Helmets to Hardhats and that the program offers military veterans an opportunity to establish a lifelong career in the construction industry by providing a direct link to military job seekers. He added that veterans can access the program's careers and apprenticeships via internet anywhere in the world, and they cater to building and construction trades, and

working with quality employers. They have 5 field representatives throughout the U.S., work with 15 building and construction trade organizations, and their employer associations represent over 82,000 contractors and 85 apprentice crafts. Mr. Roberts added that they have a wounded warrior program to support disabled veteran employment and there are approximately 5,800 veterans currently seeking employment that resides in the I-65 corridor between Louisville and Elizabethtown. He stated that Helmets to Hardhats will hold a construction career training in the Fort Knox area in 2009.

Mr. Roberts finished his Power Point presentation by discussing the Montgomery GI Bill listing the increased educational assistance allowance as of August 1, 2009. He added that for further information and assistance, members and veterans could go to their website at www.helmetstohardhats.org or call 866-741-6210.

Co-Chair Pullin asked if Helmets to Hardhats uses any of the state veterans or military affairs official websites to promote the program with a link or any other information. Darrell Roberts stated that the national program does use these types of websites in Arizona, Alaska, and Washington State, but the program is not on the Kentucky military websites but they will work with the appropriate groups to try to make it happen in Kentucky.

Sen. Harper Angel asked if the Helmets to Hardhats program use public service announcements on television through such companies as Insight. Darrell Roberts stated that the program is promoted on public service radio.

Co-Chair Pullin introduced the new Garrison Commander at Fort Knox, Col. Eric Schwartz, and asked him to give an update on BRAC. Col. Schwartz stated that before he talked about BRAC, he wanted to talk about soldiers, families, and the Army. He stated that the soldiers are either deployed, deploying, or waiting to deploy and he discussed the latest simulators and technologies they have at Fort Knox to train their soldiers. Col. Schwartz stated that many of the soldiers that have been in the service for 5 years have spent 3 years of it in Iraq and said that is the life of soldiers today and it is tough because it is out of balance. Col. Schwartz stated that the Army and Fort Knox is in the process of rebalancing which is BRAC, Base Realignment and Continuation. He added that the Army has a lot of small satellite installations that have been around for many years that were not efficient or effective and it was time for them to close and/or consolidate with larger installations such as Fort Knox. He stated that Fort Knox has a lot of really good things for families of soldiers to do while their soldiers are deployed but that the first and foremost job is to protect and provide for these families, as soldiers are in and out

of Fort Knox with multiple deployments. Col. Schwartz stated that they are building remarkable homes for their soldiers and families to live in and that in 2010 Fort Knox will have received the a \$200 million Human Resource Complex which is a mega center of human resource capabilities. They will be bringing in about 4,000 members of a workforce for that complex. He added that in 2010 they will go from a population of 22,000 to 34,000 which is a challenge.

Sen. Seum asked what the current total population is at Fort Knox. Col. Schwartz stated that 24,000 is an estimated total daytime population at Fort Knox.

Rep. Greer asked Col. Schwartz for an updated estimate of how many civilian jobs will be created at Fort Knox due to BRAC. Col. Schwartz stated there will be 2,700 vacancies for civilian jobs over the next 2 years.

Co-Chair Tori asked about current recruiting and what it is like. Col. Schwartz stated that the Army is reaching its recruiting goals and that the typical enlistee is now an older recruit between the age of 23 to 31, many of whom are married with children.

Sen. Gibson asked where are the approximately 4,000 troops coming from that will arrive at Fort Knox. Col. Schwartz stated that they will be returning from Afghanistan.

Co-Chair Pullin called on Brad Richardson, Executive Director, One Knox and Wendell Lawrence, Executive Director, Lincoln Trail ADD for an update on One Knox. Mr. Richardson started the update on One Knox by referencing a Power-Point presentation in the members' folders. He discussed the One Knox mission statement, primary goals, and their communication and outreach. He stated that in September and October they hosted 80 HRC civilian personnel who came to their area and spent 3 days looking at schools, houses, hospitals, and going on post. They have hosted others on these tours as well. There will be approximately 1,500 new jobs in IT and HR administration available by 2012.

The Economic Impact Analysis performed in December 2007 found that there will be over 20,000 military and civilian jobs at Fort Knox by 2012, with a population gain of over 14,000, to include 6,000 new households for the entire impact region, and more than \$300 million in new payroll, which will then exceed \$1 billion. The state tax revenue generated during BRAC period through 2011 will exceed \$385 million.

Wendell Lawrence discussed a growth management plan and stated that the economic impact of BRAC compares to that of Toyota. Mr. Lawrence discussed major recommendations for joint land use in developing regionalism throughout the Fort Knox area, developing and fostering regional compatible land use, fostering economic prosperity,

and supporting regional transportation planning as it relates to military/civilian growth. Mr. Lawrence discussed a health and human services analysis which is ongoing and stated that their local health department is chairing a planning committee.

Rep. Crimm asked if they have a group in Jefferson County to promote employment with jobs associated with BRAC. Mr. Lawrence stated that they are working with the Kentuckiana Works group.

Rep. Clark asked about the six educational projects Mr. Lawrence mentioned. Mr. Lawrence stated that all 6 are building projects aimed at mitigating the increased demands on the school system in the area.

Sen. Roeding asked if the \$385 million was all new money coming into the state. Mr. Richardson stated that that figure includes money that is here now and what come as a result on BRAC.

Co-Chair Pullin asked about the status of the \$100 million dollar appropriation from the General Assembly for BRAC. Mr. Lawrence stated that 50% of the appropriation is to be used for transportation issues and the remaining 50% is assigned to other infrastructure issues.

There being no further business, the meeting adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Minutes of the 3rd Meeting of the 2008 Interim October 22, 2008

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, October 22, 2008, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Mike Cherry, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Julian Carroll, Ernie Harris, Dan Kelly, Elizabeth Tori, and Johnny Ray Turner; Representatives Eddie Ballard, Johnny Bell, Dwight Butler, Larry Clark, Tim Couch, Will Coursey, Tim Firkins, Danny Ford, Jim Glenn, Derrick Graham, Mike Harmon, Melvin Henley, Jimmy Higdon, Charlie Hoffman, Jimmie Lee, Mary Lou Marzian, Lonnie Napier, Sannie Overly, Darryl Owens, Tanya Pullin, Tom Riner, Carl Rollins II, Sal Santoro, John Will Stacy, Greg Stumbo, Tommy Thompson, John Tilley, Alecia Webb-Edgington, and Brent Yonts.

Guests: House Speaker Jody Richards; Greg Haskamp, Finance and Administration Cabinet; Lee Tompkins, "Kentucky.gov"; Mark Sipek, Andy Crocker, and Tina Goodmann – Personnel Board; Robinil Jameson, Tony Smith, and Carmen Bishop - Kentucky Society of Certified Public Managers (KSCPM); and Crystal Pryor, Personnel Cabinet.

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

The Committee honored Joyce Crofts, Committee Staff Administrator, upon the occasion of her impending retirement at the end of October. She was given a bouquet of roses, after which Representative Cherry read, and presented her with, a resolution commending her for her service to the General Assembly. Senator Thayer presented her with a certificate naming her an "Admiral in the Great Fleet of the Commonwealth." The ceremony concluded with a group photo of committee and staff. The Committee also wished Representative Coursey a happy 30th birthday.

Representative Cherry announced that the Personnel Cabinet has invited the Committee to an open house at its new offices in the State Office Building immediately following the meeting. He encouraged all members to attend and noted that van transportation to the open house would be available. Representative Napier said that some of his constituents have advised him that elevators in the renovated State Office Building have not been working properly. Later in the meeting Crystal Pryor, Legislative Affairs and Media Relations Liaison for the Personnel Cabinet, personally extended the invitation to the Committee. Representative Cherry asked her to look into the complaints about the elevators.

The minutes of the August 27 and September 24 meetings were approved without objection (motion by Representative Owens).

The first topic on the agenda was a status report by the Governor's E-Transparency Task Force. Guest speakers were Greg Haskamp, Special Assistant to Finance and Administration Cabinet Secretary Jonathan Miller; and Lee Tompkins, General Manager of "Kentucky.gov." They provided the following handouts to the Committee: E-Transparency Disclosure Policy; Executive Order 2008-508, issued by the Governor in June 2008 to create the Task Force; and test pages from e-transparency web site, "Open Door – Kentucky's Portal to eTransparency."

Mr. Haskamp said that the primary purpose of the Task Force is to provide a "one-stop shop" whereby citizens can access information about nonconfidential monetary transactions of the Commonwealth. He explained that the E-Transparency disclosure policy directs all executive branch agencies, at a minimum, to make available for the Governor's E-Transparency web site financial data from the statewide accounting system, subject to disclosure under existing agency policy, consistent with the Open Records Act and all relevant court opinions and Attorney General opinions. Using a slide presentation, Mr. Haskamp then reviewed elements of the test pages for "Kentucky's Open Door," the full-service, user-friendly web site that is scheduled to be launched January 1, 2009.

Mr. Tompkins said that "Kentucky.gov" is a public/private partnership that was created in 2003 to help the Commonwealth fulfill e-government initiatives by building online services and web sites. He said "Kentucky.gov" is the technology provider for development of the E-Transparency web site on behalf of the Commonwealth.

Senator Carroll asked whether there are any plans to make the web site a one-stop site for online services for the Finance and Administration Cabinet. Mr. Haskamp said he is not aware of any and that the site is primarily informational and educational.

Senator Carroll asked about the private segment of the "Kentucky.gov" partnership. Mr. Tompkins said that the Commonwealth contracts with a private company, Kentucky Interactive, LLC, which is the organization that employs him. He said it is a for-profit company that is funded through processing and convenience fees that are added to some transactions for certain online service applications that the Company developed. He added that 90 percent of what Kentucky Interactive does is for free and that the Company is "taking some upfront risks now" by not charging for its part in the E-Transparency web site. He said it is possible that some online service applications might be added in the future that would include a transaction fee. Discussion concluded, and Representative Cherry thanked the speakers.

The Personnel Board Annual Report for Fiscal Year 2008 was next on the agenda. Present from the Board were Mark Sipek, Executive Director; Andy Crocker, General Counsel; and Tina Goodmann, the new Board chair.

Mr. Sipek reviewed highlights of the report. He said that 418 appeals were filed during FY 2008, and 398 final orders were sent out. He went on to say that 246 cases were pending as of the end of the fiscal year. Based on prior experience, that is a manageable workload for the Board. Of the 398 appeals that were resolved, 149 were withdrawn. Appeals are sometimes withdrawn because they are settled. Probably of most significance is that 78 appeals resulted in agreed order settlements. With state agencies and employees working together toward resolution, the number of agreed orders has been increasing over the last several years. This has been helpful to the Board in handling its workload and ensuring that cases that go to hearing are heard in a timely fashion. The Personnel Cabinet's free voluntary Kentucky Employees Mediation Program has been a key factor in promoting increased cooperation and resolving disputes before they reach the appeal stage. Agency actions were upheld in 127 appeals, and employees were upheld in 44 appeals.

Mr. Sipek said that investigative activities are included in the annual report for the first time. He explained that, although the Board has authority to con-

duct investigations, few were requested for a period of about 10-12 years. This has changed in the last couple of years, and the Board has been involved in a number of investigations. Four were carried forward from the prior fiscal year, one investigation was opened during FY 2008, and one investigation was completed.

In conclusion, Mr. Sipek said that the Board submitted amendments to administrative regulation 101 KAR 1:325, which establishes the length of probationary periods. The amendments were approved, effective June 6, 2008. He said that this regulation changes on a fairly regular basis in response to information from the Personnel Cabinet and other agencies regarding the need to shorten or lengthen probationary periods for certain positions.

Ms. Goodmann said that she is a 20-year veteran with the Personnel Cabinet and was involved in development of the Cabinet's mediation program. She said she looks forward to serving on the Board, working to help increase the number of settlements, and also helping to educate and train state workers and managers so that fewer appeals will need to be filed.

Representative Cherry asked whether it can be assumed that the 149 employees who withdrew may have had their interests upheld. Mr. Sipek said it would be hard to generalize regarding withdrawals. He went on to say that people withdraw appeals for a number of reasons. In the 78 cases that were settled, however, it is safe to say that the employee received something of value. If those 78 cases are added to the 44 in which employee appeals were sustained, the total compares favorably—about a 50/50 ratio—to the 127 agency actions that were upheld.

Responding to questions from Representative Yonts, Mr. Sipek said that the number of agency actions upheld relates solely to final orders rather than hearing officers' recommendations. He went on to say that the number of appeals from the Board to Franklin Circuit Court was not calculated for FY 2008 but that approximately two or three cases are appealed to circuit court every month—or about 24 to 36 cases annually. The Circuit Court upholds the vast majority of those appeals. Mr. Sipek said that of the 127 agency actions upheld, he did not know how many reversed the hearing officer's recommendation. He said there have been instances where the Board has reversed the hearing officer but that the Board upholds the hearing officer's recommendation the vast majority of the time. When Board action differs from the hearing officer's, it is most likely to reduce or increase a recommended penalty.

Representative Yonts said he is interested in knowing the number of cases in which the Board reversed the recommendation of the hearing officer when

he sided with the employee. Mr. Sipek said he will get that information for Representative Yonts. He added that the Personnel Board's goal is to protect and support the merit system, and the Board sits as a true neutral. It does not have any interest in the outcome of individual cases and, in his experience, when the Board reverses the hearing officer it is because they believe he has made a wrong decision. Representative Yonts asked whether it might be a better procedure for state agency appeals to be heard by a body of administrative law judges, with appeals from their decisions going directly to circuit court and bypassing the governing board of the agency. Mr. Sipek said that might be better for other state agencies but probably would not be an improvement for the Personnel Board. He said Personnel Board review, which upholds the hearing officer the vast majority of the time, serves an important function—to get a certain amount of continuity and similarity in decisions. When independent hearing officers are used, sometimes the results are inconsistent, and the Board review, as one last step in the process, helps ensure that similar cases have similar results.

Representative Clark asked about the subject matter of the 418 appeals filed in FY 2008. Mr. Sipek said that that information is not included in the report. He went on to say that it is common to have a large number of appeals from disciplinary actions and that a fair number of appeals come from employees who have been denied a promotion. Appeals from applicants for employment registers probably account for a fair number of the 418, although the number of applicant appeals has been greatly reduced due to new procedures implemented by the Personnel Cabinet.

Representative Clark asked whether the agreed order settlements are monetary. Mr. Sipek said it would be hard to categorize them as mostly monetary. He explained that often in disciplinary cases there might be a reduction in penalty. The only limit on settlements is the imagination of the parties, and methods of settlement have become more and more creative. A large majority of the settlements do not involve exchange of a lot of money.

Representative Owens asked whether there is a process to look for trends in matters appealed in order to reveal problems that may need to be addressed. Mr. Sipek said that the Board has that capacity and has not seen any trends that account for a large number of cases. He said that about five years ago the Board noticed that agencies were losing a lot of cases involving promotions. The Board then conducted a training session for agencies and subsequently saw fewer appeals on promotions and more favorable results for the agencies. He said the goal of the training was not to enable agencies to win appeals but to encourage agencies and employees to

follow the law. The Board continues to be alert to possible trends and is available to provide any training that would be helpful.

Representative Stacy asked Mr. Sipek his opinion about sending appeals from Board action to circuit courts in the counties where the complaint originated instead of Franklin Circuit Court. Mr. Sipek said the Board has not taken a position on that issue but that his personal opinion is that, from the Board's standpoint, there are advantages in going to Franklin Circuit Court. He said the judges there are familiar with administrative appeals, and board hearings are required by statute and regulation to take place in Frankfort. He said he thinks the appeals system would work either way but added that there are not any complaints about the current system.

Representative Graham said he believes it is important to keep the appeals in Franklin County because it is the seat of state government, the judiciary is well qualified in regulatory law, and it would be less costly to the state. Representative Graham also thanked everyone for their prayers, cards, and visits after his recent automobile accident.

Discussion concluded, and Representative Cherry thanked the speakers. The final agenda item was a presentation by the Kentucky Society of Certified Public Managers. Representing the organization were Robinil Jameson, past president; Tony Smith, president; and Carmen Bishop, treasurer.

Ms. Jameson gave an overview of the Society, accompanied by a slide presentation. In summary, she said the organization strongly believes that participation in and completion of the certified public manager program is a significant milestone and should be recognized by the Commonwealth and its policy leaders. The enhanced knowledge and skills that individuals acquire from CPM (certified public manager) training make them more valuable employees. The CPM program was started 32 years ago by forward-thinking individuals in the state of Georgia. It was modeled after the certified public accounting structure and is active in 28 jurisdictions from coast to coast. Additional states are in the process of establishing programs. The program is based in large part on recognition that public service is a profession and has raised the bar for those in public service who believe in establishing high standards for performance, skills, and ethics. Participation in the program helps to enhance the public trust. Kentucky established its CPM program in 1985, and it was accredited by the national CPM consortium in 1989. The graduates of the Kentucky CPM program established the Kentucky Society of Certified Public Managers and became chartered by the AACPM (American Academy of Certified Public Managers) in 1992. Since joining the Academy, Kentucky CPM representatives have played leadership roles in

development of the CPM program and the American Academy. Larry Totten of the Department of Parks served as president of the Academy in 2003, and to date Larry has established the record of continuous service to the Academy at the national board level. He also received the 2004 Henning award, the highest honor the American Academy bestows on a member for career accomplishment, community service, and contributions to state and national public manager organizations. The 2008 KSCPM president Tony Smith, who recently retired from the Transportation Cabinet, currently co-chairs the Academy's Ways and Means Committee and last month at the national conference in Ohio was elected to serve on the newly-formed educational foundation board. KSCPM Treasurer Carmen Bishop has served as a member of the Academy's finance committee since 2007 and served as the 2006 AACPM conference treasurer. Each year the American Academy awards two Wilkerson scholarships to members who have pursued professional development while following a career in public management. In 2007, Patrick Brown of the Department of Criminal Justice was Kentucky's first scholarship recipient; in 2008, Rebecca Collins of the Office of Financial Institutions, was a scholarship recipient.

Concluding her remarks, Ms. Jameson said that KSCPM continues to offer additional training opportunities to maintain and upgrade the management skills of CPMs throughout their careers and continue the networking and training opportunities they have started with the CPM program. The Society's goals are to be an accepted management resource for Kentucky state government, to advertise the value of the CPM program and the Society to agency heads, and to promote the utilization of the Society as a valuable enhancement to agencies. Several members of the Society who were present in the audience were then recognized individually.

Representative Cherry asked whether any elected officials are CPM members. Ms. Jameson said that in the state of Kentucky they are not but that any legislators interested in certification should contact the Personnel Cabinet's Governmental Services Center.

Senator Carroll commended the Kentucky CPM program. He suggested that members of the Committee encourage their local managers involved in state government operations to become CPMs. Representative Graham also commended the organization and its representatives.

Business concluded, and Representative Cherry thanked Ms. Jameson, Ms. Bishop, and Mr. Smith. The meeting was adjourned at 2:15 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs Minutes of the 2nd Meeting of the 2008 Interim October 28, 2008

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, October 28, 2008, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, Ernie Harris, Alice Forgy Kerr, Elizabeth Tori, and Johnny Ray Turner; Representatives Mike Cherry, Larry Clark, Tim Firkins, Joseph M. Fischer, Mike Harmon, Melvin B. Henley, Mary Lou Marzian, John Will Stacy, Kathy W. Stein, and Greg Stumbo.

Guests: Trey Grayson, Secretary of State; Katie Gabbard, State Board of Elections; James Lewis and Don Blevins, Kentucky County Clerks Association; Ryan Halloran, Office of Attorney General.

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

Representative Owens asked for approval of the October 28, 2008 minutes, and they were approved.

Secretary of State Trey Grayson, and Katie Gabbard, State Board of Elections, gave a summary on pros and cons of early voting.

Secretary Grayson said early voting occurs when a person wants to vote on any day prior to Election Day, with an excuse. He said early voting has been expanded in some states so anyone can vote early if they choose. Early voting reduces the lines on Election Day and more people are voting which reflects a more mobile lifestyle.

Secretary Grayson said the main argument against early voting is the expense. To prepare for early voting means more staff in county clerks' offices, and an extra cost for challengers. He said there is a constitutional issue in Kentucky. Our constitution states the election is the first Tuesday in November and that voting has to be done that day unless the person is out of the county. Secretary Grayson agrees that early voting is a good option, but that it should be limited to a shorter period of time than most states currently allow.

Representative Owens wanted to know how many days the Secretary would recommend. Secretary Grayson said less than a month.

Ms. Gabbard said Section 147 of the Kentucky Constitution allows early voting for individuals who will be out of

the county on Election Day. She also said that federal law permits persons in the military, citizens out of the country or handicapped persons are allowed to vote early. She said the statutes are very confusing and that it would be good to have a constitutional amendment to clear up all of the issues.

Representative Owens said information supplied by the Secretary of State and the State Board of Elections regarding early voting was in the folders.

Representative Stein asked Secretary Grayson about a constituent that was 65 years old who asked her about early voting for himself and other elderly people.

There was discussion on how many days before Election Day that would be considered “early.”

Representative Owens said a summary of 09 RS BR 187, and a draft of legislation that would permit early voting was in their folders.

There was discussion about the election hours being extended and also discussion about Election Day being moved to Saturdays. More states are adapting to early voting instead of voting on Saturdays.

James Lewis, County Clerk of Leslie County, and Legislative Liaison for the Kentucky County Clerks’ Association said the association’s position on early voting is that the constitutional question has to be resolved. He said everyone understands that there are administrative problems with early voting or absentee voting and there will need to be financial help for most precincts for either of these to occur.

Don Blevins, County Clerk of Fayette County, said that the cost would be greater for larger districts but each precinct would need to be ready for early voting. He said the idea of early voting has expanded nationally.

Mr. Blevins said voting centers need to be available for citizens voting in their county but not necessarily their precinct.

Representative Clark said that increasing the pay of precinct pay would bring better workers.

Ryan Halloran, attorney with the Office of the Attorney General discussed an electronic poll book that is used in other states; however, this book requires either a phone or internet modem, which may not be secure. He said that though the General Assembly has passed some exceptions for early voters, a constitutional amendment would be needed to further change the rules for early voting.

Senator Carroll said he thought only constitutional amendments could be put on the ballot when legislators were up for election, which would be 2010. Senator Carroll then asked if the General Assembly could pass an act now subject to the passage of the constitutional amendment in 2010. No one responded so Senator Carroll asked the staff to send a letter to the Attorney General to issue

an opinion to that question and report back to the committee.

There being no further business, the meeting adjourned at 2:30.

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

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

October 21, 2008

The Capital Projects and Bond Oversight Committee met on Tuesday, October 21, 2008, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Mike Denham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Mike Denham, Co-Chair; Senators Tom Buford, Jerry Rhoads, and Dan Seum; and Representatives Steven Rudy and Jim Wayne.

Guests testifying before the Committee: Jonathan Miller and Paul Kaplan, Finance and Administration Cabinet; Walter Clare, Kentucky Housing Corporation; Jim Host, Louisville Arena Authority; Bob Wiseman, University of Kentucky; John Osborne, Western Kentucky University; Larry Owsley, University of Louisville; John Hicks, Governor’s Office for Policy and Management; Debby Milton, Kentucky Infrastructure Authority; Katie Smith, Economic Development Cabinet; Brett Antle, Office of Financial Management; and Austin Simms, Lexington Housing Authority.

LRC Staff: Nancy Osborne, Shawn Bowen, Kristi Culpepper, Don Mullis, and Jennifer Luttrell.

Representative Wayne made a motion to approve the minutes of the September 16, 2008 meeting. The motion was seconded by Senator Tori and approved by voice vote.

Representative Denham announced that the Committee would hear an update on the current financial markets. Jonathan Miller, Secretary of the Finance and Administration Cabinet, was invited to the table to update the Committee on the status of State Property and Building Commission projects in relation to the financial markets.

Secretary Miller thanked the Committee for allowing him the opportunity to say a few words regarding the financial crisis. He reported that in response to these challenging economic times, on October 9 the Governor established the “Economic Action Team” comprised of senior administration officials that would keep them apprised of market events and develop ideas to assist Kentuckians. To navigate these challenges, Secretary Miller reported that the Governor has directed the creation of a web site to provide information related to home mortgages, credit counseling, financial institutions, and insurance.

Secretary Miller said two task forc-

es, one on early childhood education and the other on higher education, would be established to position the workforce for the inevitable turn around in the economy. Also, his administration will be operating leaner and more efficiently to continue to provide needed services to citizens during these difficult times.

Secretary Miller reported that in early July, at the beginning of the fiscal year, the Finance Cabinet issued \$400 million of Tax and Revenue Anticipation Notes to provide working capital for state operations, thus avoiding the predicament that California and Massachusetts found themselves in recently wondering if they would be able to make payroll. In August, the Cabinet facilitated a \$50 million bridge loan to the Kentucky Higher Education Student Loan Corporation that provided funds for Kentucky students to obtain student loans for the 2008-2009 academic year. In early September, the Cabinet assisted the Kentucky Housing Corporation with its first transaction under the federal Housing Assistance Tax Act, providing \$70 million to continue the first-time home buyer program for low-to-moderate income Kentuckians.

In early October, approximately \$400 million of State Property and Buildings Commission (SPBC) bonds were issued to provide permanent financing for capital projects authorized by the General Assembly since 2005. This funding will ensure that important construction projects that are already underway for higher education, health and public safety, and economic development can continue to move toward completion. The Cabinet also refunded \$200 million in outstanding General Fund Project Notes issued under the Kentucky Asset / Liability Commission (ALCo) interim financing program.

While the commercial paper markets experienced a temporary dislocation in September and early October, Secretary Miller said that the market is anticipated to improve in early 2009 as investors become more comfortable with government guarantees for liquidity and credit providers.

Next Secretary Miller posed questions he thought would be of interest to the Committee. Should the state borrow money during these difficult times and markets? The Administration’s response was an unqualified “yes,” because during these tough times it is more important than ever for the state and federal government to invest in public infrastructure and the public’s well-being. He noted that these funds are critical to maintaining policy objectives for higher education, health and public safety, and economic development. Additionally, he said that the continuation of these projects means that employment continues as well as the opportunity for new jobs.

How can Kentucky access the market at favorable terms while other bond issuers cannot? Secretary Miller’s re-

sponse was that Kentucky has several advantages. First, the state has a history of passing balanced budgets based upon reasonable revenue estimates provided by the Consensus Forecasting Group. Second, the state has a history of being proactive in making budget reductions during difficult times. Third, the state has a solid credit record, including paying debt service even in times when the state did not have an enacted budget. Finally, the state has a centralized debt management process that is responsive to market conditions.

Secretary Miller reported that during a time when most state and local governments postponed bond transactions of any significant size, these positive attributes allowed the Commonwealth to move quickly in what appeared to be a frozen municipal bond market in early October. Strong planning and flexibility permitted Kentucky to raise the much-needed funds on favorable terms before the cost of capital rose a reported 54 basis points to 6.01% as measured by the Bond Buyer 20 Bond General Obligation Bond Index. The Commonwealth’s uninsured General Fund supported bonds, SPBC Project 90, issued on October 7, had an all-in-true interest cost of 5.49%. By comparison, the AA-rated State of New York General Obligation bonds issued last week carried a maximum yield of 6.40%. During the same period, Berkshire Hathaway insured Pennsylvania Turnpike bonds had a maximum yield of 6.25%.

Secretary Miller said the cost to access capital in the bond market has gone up dramatically since the late spring and early summer (SPBC Project 89 was sold in April 2008 at approximately 4.62%). Secretary Miller indicated that the increased cost of capital can be attributed to the failure of a number of highly-leveraged financial institutions that were under extreme stress and needed to raise capital from their only remaining liquid assets, including their municipal bond portfolios. As a result, there has been a flood of municipal paper in the market as institutions continue to deleveraging to improve their capital ratios. Additionally, there is a back-log of governmental borrowing for new projects. As a result, investors have become much more particular and are focusing more on credit issues and are charging premiums more consistent with those from years past.

Secretary Miller indicated that he was pleased with the actions the Cabinet has taken to date in response to the economic crisis. The Administration will continue to look for other ways to reduce costs while maintaining services. He asked the Committee if they had any questions.

Representative Wayne asked about one of the issues discussed at a recent meeting of the Housing Policy Advisory Committee of the Kentucky Housing Corporation (KHC). An increase in the number of homeless people in Kentucky

is anticipated and a number of advocacy groups have suggested that funds being made available from the federal government be channeled into continuum of care programs. Some of the advocacy groups are concerned that government might not be receptive to some of the ideas generated from outside of government. He asked Secretary Miller if it would be possible to establish, either within the Housing Policy Advisory Committee or separately, a task force to prepare for what could happen if this crisis continues and thousands more Kentuckians become homeless. Secretary Miller responded that it was a very valuable idea and that he would follow up with the Governor on the issue.

Mr. Walter Clare, Financial Management Senior Director, KHC, confirmed that the Housing Policy Advisory Committee met last week to solicit input from its partners on how to use the federal funds. Another topic discussed was the preventative steps being taken through the Homeowner Protection Center, which the Governor created to prevent homelessness caused by foreclosures.

Representative Wayne asked if KHC will run out of money by the end of the calendar year unless additional bonds are sold. Mr. Clare responded that the KHC has \$40 to \$45 million available from bonds sold under its \$70 million authorization. When those funds are exhausted, KHC will use money internally generated of about \$30 or \$40 million that would last until February 2009. It is KHC's hope that it will be able to issue bonds between now and the end of the calendar year. Another alternative KHC would explore is marketing its housing bonds to retail investors.

Senator Seum asked what percentage of the mortgages made in Kentucky are in foreclosure. Mr. Clare responded that he did not know about the state in general, but defaults constituted about 1 percent of KHC's portfolio, which has been fairly consistent within the last year. He also indicated that Kentucky is not as impacted by foreclosures as other states.

Senator Seum commented that he had seen a report that showed a national foreclosure rate of 2.7 percent and wondered if housing is really an issue or just a media reaction. Mr. Clare suggested that a reason why the word "crisis" is associated with the issue is that places like Modesto, California, have an 18% foreclosure rate, and parts of Florida have double-digit foreclosure rates. Senator Seum observed the housing crisis is probably a result of home value appreciation being out of control.

Senator Tori asked if there is any indication that financial markets will stabilize in spring 2009. Mr. Clare responded that KHC did not have any indication of market stabilization, but is monitoring markets for future opportunities to issue bonds. He added that KHC bonds are rated AAA.

Representative Denham thanked Secretary Miller and Mr. Clare. He then asked Jim Host, Chairman of the Louisville Arena Authority (LAA), to come forward to give an update on the sale of bonds for the Louisville Arena.

Mr. Host discussed the funding of the Louisville arena. He indicated that LAA's proposed variable rate bonds had been in jeopardy because Assured Financial Services had been on credit watch, which took the credit spread from 5 basis points to 200 points. As a result, LAA decided to go with a fixed rate issue in order for the arena financing to work. The Construction Manager-at-Risk reduced the Arena's construction cost from \$249 million to \$235 million, which saved \$15 million, and then LAA added \$4 million back in for construction contingencies. Next, LAA ran a proforma on a fixed rate issue to determine how much of net debt they would have and finally, they asked to figure it as taxable debt and convert the subordinate debt into taxable debt which equates \$19 million. Assured Guaranty cut the insurance cost from \$18 million to \$6 million. The result was \$580 million of net debt service.

Mr. Host reported that the bonds were sold quickly and were oversubscribed. LAA had some issues with the guaranteed investment contract for the bond issue, which was originally with AIG. When AIG was put on credit watch, LAA called the money and placed it with three AA-rated banks.

Representative Denham asked Mr. Host about the money placed with AA-related banks and whether collateral was required. Mr. Host responded that collateral was posted.

Representative Wayne discussed previous concerns the Committee had with this project, noting that the bond issue was not initially approved by the Committee. He asked whether the economic situation could potentially impact the arena. Mr. Host responded that there is an insurer between the Arena Authority and the bondholders. If LAA defaults on the bonds, the insurer would have to step in, not the state. He added that he did think there would be an economic drag because of the tax incremental financing revenue and the guarantee from the local government. Representative Wayne stated that he hoped the project revenues would be generated as forecasted. He then asked about the naming rights and if LAA has secured those. Mr. Host responded that a firm has been hired to represent LAA and since the arena has been financed, the firm has identified four different prospects. He stated that LAA will continue the negotiations until it receives a price they want.

In response to another question from Representative Wayne, Mr. Host responded that he did not think the economy would be a factor in pricing the naming rights because people are not going to stop spending on marketing

and advertising, and the Louisville Arena will be a good value and produce good results for these firms.

Representative Wayne asked for an expenditure report on the \$75 million grant provided by the state for the project, which Mr. Host said would be sent to LRC staff.

Representative Wayne then asked about the status of the protests concerning the demolition contract. Mr. Host responded that the protest was ruled by the Finance Cabinet as not being in order. Representative Wayne then asked if there was any other action anticipated. Mr. Host responded that there was not any he was aware of.

Representative Denham thanked Mr. Host and said no further Committee action was required. He asked Ms. Osborne, Committee Staff Administrator, to review correspondence and information items.

Ms. Osborne said the first item was from the University of Kentucky (UK) and the Kentucky Community and Technical College System (KCTCS) communicating that the final title transfer from UK to KCTCS of former community college properties has been accomplished.

The next item was correspondence from the Council on Postsecondary Education (CPE) informing the Committee of its adoption on September 28, 2008, of guidelines for several postsecondary capital matching funds programs authorized in 2008 HB 406. Guidelines were adopted for the 2008-2010 Capital Renewal and Maintenance Pool, the 2008-2010 Research Capital Match Program, and the 2008-2010 Comprehensive University Capital Match Program. Specific projects funded by these matching fund programs will be presented to the Committee.

The 2008 budget bill provided, for the first time, flexibility to the research and comprehensive universities to allocate a portion of the "Bucks for Brains" endowment program funds for these capital match programs, known as "Bucks for Bricks."

Next reviewed was correspondence from Northern Kentucky University reporting its plan to use the Construction Management-at-Risk delivery method for its Center for Informatics. Ms. Osborne noted that the university is the first that staff is aware of that has offered stipends for the design contract.

Ms. Osborne briefly discussed the quarterly status reports on capital projects from the Finance and Administration Cabinet as well as all the universities who manage their own capital projects. The quarterly reports will be posted to the Committee's website.

Also included in the correspondence items was the quarterly report status from the Administrative Office of the Courts. The Gallatin County project, which received approval in November 2006 for an use allowance increase to address cost overruns, was completed

in April 2008. At the October 3, 2008 meeting of the Court Facilities Standards Committee (CFSC), projects for Fleming, Breckinridge, and Pike Counties were reviewed. These projects are in Phase A (Schematic Design) and were approved to move forward. The CFSC voiced concern regarding the Pike County project's ability to be constructed within the authorized use allowance as the construction contingency of 10 percent might have to be lowered to stay within budget.

The last item was from the Kentucky Infrastructure Authority (KIA) transmitting a copy of the City of Hopkinsville's ordinance establishing Stormwater Utility Fees, which was adopted in December 2006. [This item was requested by Committee members at its September 2008 meeting in response to a discussion regarding a Fund A loan in the amount of \$4,916,100 for the City of Hopkinsville.]

Ms. Osborne then briefly reviewed various items in the monthly Staff Update. The Kentucky State Fair Board has signed a four-year contract with AEG, one of the largest entertainment booking companies, to bring acts to the Fair Board. The Louisville Arena Authority is also negotiating a contract with AEG for the same purpose. Discussed next was an article regarding the High Performance Building Advisory Committee, which held its first meeting September 17 and is to establish new energy efficient building standards by January 2009 for all state facilities that are funded 50 percent or more with General Funds. Also noted was an article about the Court Facilities Standard Committee, in which Chief Justice Minton discussed improvements to the court facilities construction program.

Representative Denham recognized Bob Wiseman, Vice President for Facilities and Management, University of Kentucky (UK). Mr. Wiseman discussed two real estate purchases. Apartment units at 458 to 464 Rose Lane, located adjacent to the campus, were acquired at a cost of \$1,621,900 and will remain as rental apartments for the near term. The second acquisition was of the old Lexington Public Library at 1737 Russell Cave Road and a 5-acre lot. The property is adjacent to 55 acres of land owned by UK and located within close proximity of its research facility allowing for expansion. The purchase price was \$1,200,000. No further Committee action was required.

The University also reported purchasing six pieces of technical equipment for UK Healthcare through the lease-purchase procurement method at a total cost of \$13 million.

Mr. Wiseman asked the Committee for its approval on the consolidation of budget authorities for the Construct Patient Care Facility Hospital project. The university would like to combine the current 2008 and 2010 authority of \$250 million with prior General Assembly authorization of \$450 million, as well as incorporate private contributions

of \$7.3 million.

Senator Buford made a motion to approve the consolidation request. The motion was seconded by Senator Tori and passed by unanimous roll call vote. The revised scope of the project is \$700,000,000.

Mr. John Osborne, Vice President Campus Services and Facilities, Western Kentucky University (WKU), reported an emergency project to upgrade the university's steam plant air quality system. Mr. Osborne informed the Committee that WKU determined the project was an emergency for two reasons. One, WKU received a notice of violation issued by the state Division of Air Quality that indicated the steam plant could no longer burn coal without a permit. Second, the bids that were left for the project came in 38 percent above the estimate provided by the consultant. As a result, they have a \$1 million budget cost overrun for the project that will be funded through university reserves.

Senator Buford asked what the total cost of the project was. Mr. Osborne said that the original estimate was \$2.6 million and the revised scope is now \$3.6 million.

Representative Denham thanked Mr. Osborne for his report and noted no further Committee action is required for this emergency project.

Representative Denham then introduced Mr. Larry Owsley, Vice President of Business Affairs, University of Louisville (UL). The university requested a \$1,410,000 (1%) federally funded scope increase for the Health Sciences Center Research Campus Phase III project. This project was authorized in the 2004-2006 budget at \$65,200,000 and received additional funding of \$69,680,000 in the 2006-08 budget for a total project scope of \$134,880,000. The additional funds would be used to cover electrical, mechanical, and security systems improvements required to upgrade four of the labs in the building from Biosafety Level II to Biosafety Level III.

Representative Wayne asked Mr. Owsley to discuss the need for the project. Mr. Owsley said that all the research growth was a result of the 1997 HB 1 mandate for the University of Louisville to become a research institution. A fifth research facility for the Health Sciences Campus is identified in UL's 2008-2014 Capital Plan.

Representative Wayne asked Mr. Owsley if the project was on track and if UL had altered the master plan. Mr. Owsley said the project is on track and no changes had been made to the university's master plan.

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

Next Representative Denham called on John Hicks, Deputy Budget Director, GOPM. Mr. Hicks introduced Paul Kaplan, Acting Commissioner for the

Department for Facilities and Support Services within the Finance and Administration Cabinet. Representative Denham welcomed Mr. Kaplan and asked if he would like to address the Committee. Mr. Kaplan said he did not.

Mr. Hicks then reported that the Finance and Administration Cabinet allocated \$73,000 from the Emergency Repair, Maintenance, and Replacement Account for costs associated with the repair of the Department of Public Advocacy's building located in Lexington. He stated that the project consisted of roof repairs, mold abatement, and related remodeling work.

The next item reported was a \$135,000 allocation from the Emergency Repair, Maintenance, and Replacement Account for costs associated with two roof replacements located on the campus of Kentucky State University (KSU) in Frankfort. The total scope of the projects is \$373,700, for which the university provided restricted funds of \$238,700.

Representative Wayne asked what the balance was of the Emergency Account and if it would be enough to carry through the remaining fiscal year. Mr. Hicks said the account was at an historical low of \$2.7 million at the end of fiscal year 2008. In July 2009, \$2.5 million from unneeded debt service budgeted in fiscal year 2008 was transferred to the Emergency Account as directed by the budget bill, 2008 HB 406. Not accounting for the \$208,000 in allocations reported today, the balance in the Emergency Repair, Maintenance, and Replacement account is \$5.2 million.

No further action from the Committee was required. Allocations from the Emergency Account must be reported to the Committee within thirty days.

Mr. Hicks next reported an allocation of \$3,268,300 from the Fees-In-Lieu-of Stream Mitigation Pool for the Department of Fish and Wildlife Resources for the Puncheon Creek project in Pulaski County. The scope of work includes restoration and enhancement of approximately 12,210 feet of stream.

Projects in excess of \$600,000 funded from the Wetland or Stream Mitigation authorization must be reported to the Committee. No further action was required.

Representative Denham thanked Mr. Hicks for his report. He then introduced Debby Milton, Kentucky Infrastructure Authority (KIA).

Ms. Milton first discussed a KIA Fund B loan for the Graves County Water District. She indicated that this loan was needed as a result of four financially distressed water districts - Consumers, Fancy Farm, Hardeman, and South Graves - merging into the new Graves County Water District. She stated that the merger was approved by the Public Service Commission (PSC) in May 2008 with final approval in September. She noted that merging four districts into one would help eliminate wasteful du-

plication of cost and effort resulting in sounder management and a higher degree of service to the public. The number of operating water districts in the Commonwealth will also be reduced. The new Graves Water District requested and received approval by the KIA Board to assume two outstanding debts of the Fancy Farm Water District, and to reapply for a loan that was originally approved to the South Graves Water District under the same conditions that were originally approved by the Board in 2007. Since 2003, KIA has been working with the South Graves Water District to reduce and restructure its debt.

Ms. Milton noted that the PSC ruling addresses the rates to be charged to this newly formed system. For the first 18 months following PCS's approval, the rates for each system will remain the same. After the first 12 months, PCS will do a cost of service analysis to determine what rates will be charged for all of the entities at that time. Additionally, in spring 2008, a 2020 grant of \$500,000 was provided to the South Graves Water District to help retire a fund C loan, a Rural Development loan, and other outstanding debt. The KIA loans to the new Graves County Water District total \$1.5 million with an annual payment of \$96,966.

Senator Buford asked by how much the water bills would decrease in 18 months. Ms. Milton said that they would not decrease in 18 months, but possibly could in five years.

Representative Wayne noted that this is a good example of consolidation of government services to achieve economies of scale and save taxpayers money. Ms. Milton gave credit for initiating these consolidations to Roger Recktenwald, a former Executive Director of KIA.

Senator Tori made a motion to approve the Fund B loan for the Graves County Water District. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Ms. Milton next discussed a Fund B Loan for the Prestonsburg City's Utilities Commission for \$841,000 to replace all the non-remote read meters with remote read meters. The project has been bid and is ready to start construction. She noted that the loan term is 20 years and the useful life on the new meters is also 20 years. The interest rate is 1.07% with an annual payment of \$48,504.

Senator Rhoads made a motion to approve the Fund B loan. The motion was seconded by Senator Tori and passed by unanimous roll call vote.

Ms. Milton next presented a Fund C loan of \$517,500 for the City of Union to construct two miles of sewer line extension. The extension would provide sewer line to 75 customers and all the unserved land areas in that region. The project has been bid and is currently under construction. The project will be funded by the new customers through a surcharge.

Senator Buford asked what engineering firm was involved and why the fee was so high. Ms. Milton said the firm was Foppe Technical Group, Inc.

Representative Wayne asked why the City of Union started construction before the Committee approved the loan. Ms. Milton said that the Fund C loan was a last resort loan and the city had other funding sources in place. However, the city did not have enough local funds to complete the project and therefore applied for a Fund C loan which can be quickly executed. She said that this Fund C loan can be approved by the KIA Board, reviewed by this Committee, and receive the funding all within the same month.

Representative Wayne then asked if part of the funding did not need the Committee's approval. Ms. Milton said the city had received line-item grants that had been reported to the Committee which the city used to start construction with.

Representative Wayne made a motion to approve the Fund C loan. The motion was seconded by Senator Tori and passed by unanimous roll call vote.

Next Representative Denham asked Ms. Osborne to read a resolution from the Capital Projects and Bond Oversight Committee of the Kentucky General Assembly honoring Jim Abbott. The resolution noted Mr. Abbott's long and distinguished record of public service with the Finance and Administration Cabinet starting in 1978.

Senator Buford made a motion to approve the resolution honoring Mr. Abbott. The motion was seconded by Representative Wayne and passed by unanimous voice vote.

Representative Denham called on Katie Smith, Deputy Commissioner for Financial Incentives, Cabinet for Economic Development. Ms. Smith asked the Committee for its approval of an Economic Development Bond (EDB) grant of \$120,000 to the Pulaski County Fiscal Court for the benefit of Hendrickson USA LLC. Hendrickson will use the grant to offset the cost to acquire, improve, and equip a 75,000 square foot facility on 29 acres in Somerset for the manufacturing of trailer suspension systems for the commercial transportation industry. In consideration for the grant, the company will be required to create 120 new full-time jobs for Kentucky residents within three years of occupancy with average wages not less than \$15.11 per hour. Additionally, the company would have to maintain the 120 jobs and wages for another three years. Failure to comply would result in the repayment of grant proceeds to the Pulaski County Fiscal Court.

Senator Buford made a motion to approve the EDB grant for Hendrickson USA, LLC./Pulaski County Fiscal Court in the amount of \$120,000. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Next Ms. Smith reported amend-

ments for three EDB grants previously approved by the Committee. Belcan Engineering, Inc. and Purchase Area Industrial Authority requested and received a one-year extension. Institutional Distributors had a reorganization and new names had to be incorporated into the agreement. No Committee action was required.

Representative Denham thanked Ms. Smith and welcomed Mr. Brett Antle, Deputy Director, Office of Financial Management.

Mr. Antle reported one new conduit bond issue - Kentucky Housing Corporation Multifamily Housing Revenue Bonds, Series 2008 (Grand Oaks Apartments Project). Grand Oaks Apartments is the fifth phase of the project intended to revitalize Bluegrass Aspendale, an outdated and distressed public housing development in Lexington. The total project is a multi-phase redevelopment that began in 2004 of the entire 76-acre site. This bond issue addresses approximately 11 acres and will renovate 88 rental units, including row-housing, walk-up, and semi detached units in 27 buildings. The estimated gross proceeds of this transaction will be \$8 million.

Representative Wayne asked how many of the 88 units would be for low-income families and how many would be for moderate income families. Mr. Austin Sims, Executive Director of Lexington Housing Authority, said that 100 percent of the 88 units would be for low-income families.

Representative Wayne asked what the reason was for concentrating people with lower incomes in one location. Mr. Sims responded by saying that the site originally housed 963 units. The issue of concentrating large numbers of low-income households was balanced with the issue of maximizing land already owned. He noted that this area has been transformed with a new elementary school, new infrastructure, and new roads. He said the apartments being built are very different from the old row house models and that the target community was very excited.

Representative Wayne said putting the 88 units in one geographic spot in an urban area and isolating low-income households is not good public policy because eventually it costs more in terms of lives that are filled with drugs, alcoholism, and violence. He stated that the ideal is always mixed-income neighborhoods. Mr. Sims said that within the area is a 102-unit subdivision and with this they will achieve a mixed-income neighborhood.

Senator Buford commented that this was a good project and that once the overall design was complete, no one would realize that it was low-income housing because it is so different and unique.

Senator Buford made a motion to approve the Kentucky Housing Corporation Multifamily Housing Revenue

Bonds, Series 2008 (Grand Oaks Apartments Project). The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Mr. Antle next reported a follow-up report for Kentucky Economic Development Finance Authority Medical Center Revenue Bonds for the Ashland Hospital Corporation (King's Daughters Medical Center Project), Series 2008A, 2008B, and 2008C, in the amount of \$146,852,131. The Committee approved this issue at a previous Committee meeting and no action was required.

In regards to the Louisville Arena follow-up report discussed earlier in the meeting, Representative Wayne asked if it would be possible to sell tax increment financing (TIF) bonds for other projects in this financial market. Mr. Antle responded that this was a difficult question to answer given the current market conditions. He stated that current market conditions are making selling any type of debt challenging. He said that if there was a specific scenario that the Committee was interested in, OFM would be happy to report back to the Committee.

Representative Wayne asked in regard to the rating of the Louisville Arena bonds, what weight did the agencies give TIF revenues compared to other sources of revenue. Mr. Antle stated he would have to check and get an answer back to the Committee. Representative Wayne commented that TIF bonds are such unknown variables and any information he could provide would be helpful.

Mr. Antle said included in the members' packets was the Semi-Annual Report of the Kentucky Asset/Liability Commission.

Representative Denham commented that the report was extremely important given the financial situation and encouraged members to look over the report very closely.

Representative Denham asked Senator Tori to take over as Chair and excused himself from the meeting. Senator Tori stated that the new school bond issues were next on the agenda and called on Mr. Antle.

Mr. Antle reported four new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Ashland Ind. (Boyd Co.), Harlan Ind. (Harlan Co.), Monroe Co., and Paintsville Ind. (Johnson Co.).

Senator Buford made a motion to approve new school bond issues. The motion was seconded by Senator Seum and passed by unanimous roll call vote.

Senator Tori noted that the Debt Issuance calendar was in members' folders.

Senator Tori said the Committee's next meeting is scheduled for November 18, 2008, at 1:00 p.m. in the Capitol Annex Building. With there being no further business, the meeting adjourned

at 2:55 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October Meeting of the 2008 Interim October 14, 2008

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 14, 2008, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Dick Roeding, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Ancil Harbin, Department of Veterans' Affairs; Kathryn Gabhart, Kentucky State Board of Elections; Ricky Haven, Angela Robinson, Don Speer, Finance and Administration Cabinet; Dick Carroll, Board of Accountancy; Jane Gardner, Billy Van Pelt, State Board of Examiners and Registration of Landscape Architects; Rayn Halloran, Gerald Hoppman, Geoff Wilson, Kentucky Board of Certification of Alcohol and Drug Counselors; Charles O'Neal, Tim Pickering, Lee Rowland, Kentucky Board of Emergency Medical Services; Ryan Oster, Jeff Ross, Catherine York, Department of Fish and Wildlife Services; Donna Duncan, Janine Coy-Geeslin, Catherine Staib, Kentucky Economic Development Finance Authority; Jory Becker, Barry Elmore, Abby Powell, Division of Water; Lora Gowins, Ty Martin, Division for Air Quality; Barney Kinman, Steve Lynn, Gregg Muravchick, Justice and Public Safety Cabinet; Paula Hampton, Carol Hughes, Lucretia Johnson, Dwight Lovan, Carla Montgomery, Department of Workers' Claims; Brenda Parker, Melea Rivera, John Burkholder, Department of Insurance; Edgar Adams, Stephanie Brammer-Barnes, Michael Burleson, Richard Dart, Danna Droz, Brian Fingerson, Stephanie Hold, David Hopkins, Van Ingram, Sharon Eli Mercer, Jeff Osman, Elizabeth Partin, Sadiqa Reynolds, Michael Rodman, Dave Sallengs, Stan Salyards, Richard Slone, Matt Thomerson, Gary Vorsanger, Office of Inspector General.

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

The Administrative Regulation Review Subcommittee met on Tuesday, October 14, 2008, and submits this report:

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

State Board of Examiners and Registration of Landscape Architects: Board

201 KAR 10:050. Fees. Jane Gardner, executive director, and Billy Van Pelt,

board president, represented the board.

In response to a question by Co-Chair Roeding, Ms. Gardner stated that the fees had not changed since 1999 and that the board had been subsidizing fees. She also stated that the fees solely covered the costs of processing applications and examinations.

In response to a question by Co-Chair Damron, Ms. Gardner stated that the board's funding for 2008 was not redirected by the executive branch budget, but that the budget recommended redirection of the board's funding for 2009.

In response to a question by Co-Chair Roeding, Ms. Gardner stated that the board preferred to move ahead with this administrative regulation rather than to defer.

In response to a question by Representative Ford, Ms. Gardner stated that, pursuant to the statute, an inactive licensee may use the title, Landscape Architect, but shall not practice. Thus, the board determined it was more valuable than its current twenty-five (25) dollar fee indicated.

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

Senator Tapp made a motion, seconded by Representative Ford, to find 201 KAR 10:050 deficient. On a roll call vote, the administrative regulation was found deficient, with Co-Chair Roeding, Co-Chair Damron, Senator Pendleton, Senator Tapp, Representative Ford, and Representative Weston voting in favor of the finding of deficiency and Senator Kerr voting in opposition to the finding.

Administrative Regulations Reviewed by the Subcommittee:

DEPARTMENT FOR VETERANS' AFFAIRS: State Veterans' Nursing Homes

17 KAR 3:020. Maximum charge for room and care at state veterans' nursing homes. Ancil Harbin, branch manager, represented the department.

KENTUCKY STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:140 & E. Submitting a federal post card application and absentee ballot request electronically. Kathryn Gabhart, general counsel, represented the board.

In response to questions by Co-Chair Roeding, Ms. Gabhart stated that this administrative regulation affected military personnel and overseas citizens and that the process involved the internet and secure ballots, which made the process quicker.

In response to questions by Co-Chair Damron, Ms. Gabhart stated that an eligible voter may both register and vote through this process if done by the deadline. She also stated that the signa-

ture on the registration was to be compared with the signature on the ballot, but that states were not yet able to compare databases to audit for voters registered and voting in multiple states. Ms. Gabhart stated that the board was a proponent of and working toward Kentucky participation in a national database to audit for voting in multiple states, but that the capability was still several years from actualization.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Purchasing

200 KAR 5:390 & E. Registration to collect Kentucky sales and use tax. Ricky Haven, Director of the Division of Sales and Use Tax, and Don Speer, executive director, represented the cabinet.

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 Sections 1 to 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Accountancy: Board

201 KAR 1:160. Peer reviews. Dick Carroll, executive director, represented the board.

In response to a question by Co-Chair Roeding, Mr. Carroll stated that peer reviews were always conducted in accountancy. Previously, this administrative regulation required that information be submitted regarding the peer reviews, but under this change, the board would receive the actual reports from the peer review organizations.

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

201 KAR 1:171. Repeal of 201 KAR 1:170.

Kentucky Board of Certification of Alcohol and Drug Counselors: Board

201 KAR 35:080. Voluntary inactive status. Ryan Halloran, assistant attorney general; Gerald W. Hoppmann, Director of the Division of Occupations and Professions; and Geoff Wilson, certified alcohol and drug counselor, represented the board.

In response to a question by Senator Tapp, Mr. Wilson stated that to return to

full certification after a period of inactive status, the certificate holder shall have complied with continuing education requirements and filed an application for a status transfer with 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 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

INDEPENDENT ADMINISTRATIVE BODIES: Kentucky Board of Emergency Medical Services: Board

202 KAR 7:330 & E. Requirements for examination, certification, and recertification of the advanced emergency medical technician. Charles O'Neal, executive director, and Lee Rowland, deputy general counsel, represented the board.

In response to a question by Senator Tapp, Mr. O'Neal stated that there were four (4) new national levels of EMT, including advanced levels that could begin IVs, perform airway techniques, and administer some medications.

In response to a question by Co-Chair Roeding, Mr. O'Neal stated that this administrative regulation did not provide incentives for licensure; however, the board had established two (2) pilot projects to that end in Jessamine and Bullitt Counties.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for "advanced emergency medical technician"; (2) to amend Sections 5 and 7 to delete duplicative language; (3) to amend material incorporated by reference to reflect current forms; and (4) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

202 KAR 7:510. Air ambulance services.

In response to a question by Co-Chair Roeding, Mr. O'Neal stated that the board had worked with industry representatives and reached a consensus regarding this administrative regulation.

In response to a question by Representative Ford, Mr. O'Neal stated that the board usually addressed less than fifty (50) deficiencies annually for approximately 248 licensees.

In response to a question by Senator Tapp, Mr. O'Neal stated that the requirement for air conditioners on air ambulances had been deleted and that now the administrative regulation required air ambulances to be climate controlled.

A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to require air am-

bulances to be climate controlled and to keep pharmaceuticals within their recommended temperature ranges; (2) to amend material incorporated by reference to reflect current forms; and (3) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 4, 5, 6, 7, 9, 10, 11, and 16 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 1:201. Recreational fishing limits. Ryan Oster, program coordinator; Jeff Ross, program manager; and Catherine York, deputy general counsel, represented the department.

In response to a question by Co-Chair Roeding, Mr. Ross stated that this administrative regulation did not have an impact on commercial fishermen.

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

CABINET FOR ECONOMIC DEVELOPMENT: Kentucky Economic Development Finance Authority: Authority

307 KAR 1:050 & E. Application process for tax increment financing. Catherine Staib, assistant general counsel, represented the authority.

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, 2, and 4 to 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Division of Water: Water Quality

401 KAR 5:057. KPDES pretreatment requirements. Jory Becker, branch manager, and Barry Elmore, engineer, represented the division.

In response to a question by Senator Tapp, Mr. Becker stated that the division had not received negative comments from stakeholders, but that the division had received one (1) general comment from the Kentucky League of Cities. Mr. Becker also stated that the division had clarified the matter of concern with the Kentucky League of Cities.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a statutory citation; (2) to amend

the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with Executive Orders 2008-507 and 2008-531; and (3) to make technical corrections to Sections 1, 3 through 10, and 12 through 16. Without objection, and with agreement of the agency, the amendments were approved.

Division for Air Quality: General Administrative Procedures

401 KAR 50:066. Conformity of transportation plans, programs, and projects. Lora Gowins, environmental control supervisor, and Ty Martin, environmental technologist, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with Executive Orders 2008-507 and 2008-531; and (2) to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Office of the Secretary: Special Local Peace Officers

500 KAR 3:010. Definitions. Barney Kinman, executive staff advisor; Steve Lynn, assistant general counsel; and Gregg Muravchick, Executive Director of the Office of Investigations, represented the office.

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

500 KAR 3:020. Filing and processing SLPO commissions.

In response to questions by Co-Chair Damron, Mr. Lynn stated that the agency did not receive any public comments. Mr. Lynn also stated that LEOSA only applied to retired government officers, but that an officer affected by these administrative regulations may carry a concealed weapon until the officer was off duty. The officer may also carry a concealed weapon during off-duty hours if the officer had a CCDW.

In response to a question by Co-Chair Roeding, Mr. Lynn stated that a special local peace officer had the same authority as a police officer while on the job site's property or while in chase from that property.

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, FUNC-

TION, 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 2 through 9 to comply with the drafting and format requirements of KRS Chapter 13A; and (4) to amend Section 3 to change the term of the commission for a special local peace officer from five (5) years to four (4) years, in conformity with Section 93 of the Kentucky Constitution. Without objection, and with agreement of the agency, the amendments were approved.

LABOR CABINET: Department of Workers' Claims: Workers' Claims

803 KAR 25:089 & E. Workers' compensation medical fee schedule for physicians. Dwight Lovan, commissioner, and Carla Montgomery, general counsel, represented the department.

In response to a question by Senator Tapp, Mr. Lovan stated that fees were generally the same among counties in that CPT codes were the same, but certain procedures were regional specific.

In response to questions by Co-Chair Damron, Mr. Lovan stated that the fee variance was too great to define a comprehensive fee amount increase. Mr. Lovan also stated that these amendments did not relate to the American Medical Association manual. He stated that the department did not receive public comments opposed to the fee schedule, and was required by statute to update this administrative regulation every two (2) years.

In response to a question by Senator Tapp, Mr. Lovan stated that the fee structure was the same for CPT code procedures, but region-specific for certain other procedures.

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 5 to comply with the drafting requirements of KRS 13A.222(4)(a). Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Insurance Contracts

806 KAR 14:007. Rate and form filing for health insurers. John Burkholder, deputy commissioner; Brenda Parker, branch manager; and Melea Rivera, health policy specialist, represented the department.

In response to a question by Co-Chair Roeding, Mr. Burkholder stated that the department was not raising rates in this administrative regulation.

Health Insurance Contracts

806 KAR 17:005. Health insurance forms and reports.

Senator Tapp stated that he had noticed an increase in health insurance rates.

In response to a question by Co-Chair Roeding, Mr. Burkholder stated that this administrative regulation did not establish any new reporting requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to correct the names of required forms. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:280. Registration, utilization review, and internal appeal.

In response to a question by Co-Chair Roeding, Mr. Burkholder stated that this administrative regulation and 806 KAR 17:290 were amended for clarity.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, 6, and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:290. Independent external review program.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 3, 5, 6, and 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 17:500. Basic health benefit plan requirements.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Controlled Substances

902 KAR 55:030. Schedule IV substances. Stephanie Brammer-Barnes, regulation coordinator; Sadiqa Reynolds, inspector general; and David Sallings, branch manager, represented the office. The following people appeared in support of this administrative regulation: Michael Burleson, executive director, representing the Kentucky Board of Pharmacy; Brian Fingerson, pharmacist, representing the Kentucky Professionals Recovery Network; Elizabeth Partin, DNP, CFNP, nursing practice consultant, representing the Kentucky Coalition of Nurse Practitioners and Nurse Midwives; Matt Thomerson, detective, representing the Louisville Metro Police Drug Unit; Richard K. Slone, president, representing the Kentucky Pharmacists Association; and Van Ingram, acting executive director, representing the Kentucky Office of Drug Control Policy. The following people appeared in opposition to this administrative regulation: Edgar Adams, ScD, executive director of epidemiology, representing Covance; Richard Dart, MD, PhD, director of the RADAR system, representing the Denver Health and Hospital Authority; Danna Droz, prescription drug monitoring program administrator, representing the Ohio State Board of Pharmacy; and Gary Vorsanger, PhD, MD, senior director of clinical development, representing Ortho McNeil Jans-

sen Scientific Affairs.

Ms. Reynolds stated that the Drug Enforcement Agency Web site lists Tramadol as a drug of concern, since it may induce dependency. The Food and Drug Administration's MedWatch has voluntarily reported problems with Tramadol. An LRC Program Review and Investigations Committee study recommended that the Office of Inspector General consider scheduling Tramadol. In an open-response survey, seventy (70) percent of pharmacists reported Tramadol as prone to fraud and abuse or reported the need for Tramadol to be scheduled. She stated that law enforcement, pharmacies, and physicians have reported problems with Tramadol. She stated that Tramadol has been scheduled in Arkansas and has been monitored in Ohio.

Detective Thomerson stated that the Louisville Metro Police Department received complaints regarding Tramadol on a weekly basis. He stated that, since Tramadol was not scheduled, the police could not usually make arrests related to Tramadol abuse or fraud.

In response to a question by Co-Chair Roeding, Ms. Reynolds stated that KASPER's authorizing statutes did not permit tracking nonscheduled drugs, such as Tramadol.

Mr. Burleson stated that the Drug Enforcement Agency recommended that Tramadol be scheduled. He stated that the Board of Pharmacy was aware of numerous reports of problems with Tramadol and that the board recommended scheduling Tramadol as a Schedule IV drug.

Mr. Slone stated that the Kentucky Pharmacists Association voted unanimously in support of the proposal to schedule Tramadol.

Mr. Fingerson stated that Tramadol was abused, had been a drug of choice, and was easily diverted because it was not scheduled.

Ms. Partin stated that the Kentucky Coalition of Nurse Practitioners and Nurse Midwives recognized that Tramadol was bought and sold on the street. She stated that Tramadol needed to be scheduled.

Mr. Ingram stated that Tramadol (Ultram) needed to be scheduled.

Ms. Reynolds stated that RADAR (Research on Adverse Drug Events and Reports) studies were being funded by drug companies and have never recommended that a drug be scheduled.

Dr. Vorsanger stated that he was responsible for risk management for postmarket pain drugs, including Tramadol. Arkansas scheduled Tramadol in July 2007 and its scheduling had unintended consequences.

Dr. Adams stated that he was responsible for the nation's drug abuse monitoring program and that he had monitored Tramadol since 1992. In Germany, Tramadol was widely prescribed and rarely abused. Only 500 seizures in the United States were Tramadol-related

and Tramadol abuse had not reached a level of national concern for scheduling. He believed that scheduling Tramadol would impede its legitimate uses and that scheduling Tramadol could have unintended consequences. He stated, for example, that in Arkansas, since the scheduling of Tramadol, use had risen of the more toxic drug, Darvon.

Dr. Dart stated that while RADAR did not recommend drug scheduling, Tramadol studies indicated a low, constant abuse rate in Kentucky that was the same as the United States in general. He stated that after scheduling, Arkansas data indicated the same level of abuse as before scheduling.

In response to a question by Representative Ford, Dr. Dart stated the manufacturers of Tramadol asked him to testify at the meeting.

Ms. Droz stated that she represented Ohio and that, in Ohio for law enforcement purposes, all drug misuse carried the same penalties as controlled substances. Ms. Droz also stated that she had three (3) recommendations for Kentucky: (1) Pharmacies should keep records of purchases and sales to audit for stealing; (2) Kentucky should add a law regarding deception to obtain drugs illegally, such as phone-in forgeries; and (3) Kentucky should allow KASPER to monitor nonscheduled substances.

In response to a question by Senator Kerr, Dr. Adams stated that the level of abuse of Tramadol was the same as the level of abuse for NSAIDs. Dr. Adams also stated that there have been 700 cases of Tramadol abuse reported. He stated that, in Egypt, prescriptions for Tramadol decreased after its scheduling and resumed regular prescription levels after the descheduling of Tramadol.

Mr. Sallings stated that the Office of Inspector General received many complaints regarding Tramadol, including reports of abuse, withdrawal, and dependency.

Ms. Reynolds stated that statistics for Tramadol abuse in Germany were irrelevant. She stated that data from eastern Kentucky indicated abuse of OxyContin and data from Jefferson County indicated abuse of Hydrocodone; therefore, drug use may be region specific. She also stated that Tramadol was a problem in Kentucky and needed to be addressed.

In response to questions by Representative Weston, Dr. Adams stated that, once a drug was scheduled, prescriptions for that drug dropped because of regulatory oversight, fear of addicting patients, and patients' fear of addiction. He stated that the result may be undertreatment of pain. Dr. Adams also stated that, in Arkansas, prescriptions of Tramadol decreased after its scheduling, but prescriptions of other scheduled drugs, such as Darvon, rose. He stated that the problem with scheduling Tramadol after reported abuses in Kentucky was that there may be unintended consequences or undertreatment of pain.

Dr. Vorsanger stated that decisions about scheduling Tramadol should be based on sound scientific studies rather than anecdotal evidence. He also stated that the rates of abuse of Tramadol did not change after scheduling, but legitimate pain management declined. He also stated that scheduling OxyContin and Vicodin did not stop or control the abuse of those drugs.

In response to questions by Senator Tapp, Dr. Dart stated that the data regarding Kentucky abuse of Tramadol came from law enforcement questionnaires. He also stated that they did not question pharmacists.

In response to a question by Senator Kerr, Dr. Vorsanger stated that there were not a lot of drug alternatives to Tramadol for pain categories for which Tramadol was prescribed.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clarify that the administrative regulation differs from the federal requirements by including several drugs on the Schedule IV controlled substance list, due to their significant abuse potential; and (2) to amend Section 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the November 12, 2008, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

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

REVENUE CABINET: General Administration

103 KAR 1:150. Electronic data match and levy procedures.

GENERAL GOVERNMENT CABINET: Kentucky Real Estate Appraisers Board: Board

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

Kentucky Board of Licensure for Private Investigators: Board

201 KAR 41:020. Application for licensure.

201 KAR 41:040. Fees.

201 KAR 41:060. Renewal and reinstatement procedures.

201 KAR 41:065. Inactive status.

201 KAR 41:070. Continuing professional education requirements.

INDEPENDENT ADMINISTRATIVE BODIES: Kentucky Board of Emergency Medical Services: Board

202 KAR 7:030. Fees of the board. Charles O'Neal, executive director, and Lee Rowland, deputy general counsel, represented the board. Tim Pickering, director of public affairs for Air Evac Life-team, appeared in support of this administrative regulation and represented the emergency medical services industry.

In response to a question by Co-Chair Roeding, Mr. O'Neal stated that the fees were necessary to fill three (3) of the board's current five (5) vacancies. Mr. O'Neal also stated that the board received only one (1) public comment opposing the fees and had not increased fees since 2000.

In response to a question by Co-Chair Damron, Mr. O'Neal stated that none of the board's budget was redirected by the budget bill and that fees would generate only enough revenue to provide for the necessities of the board.

In response to a question by Senator Tapp, Mr. O'Neal stated that, in addition to the three (3) employees to be hired, the fees were needed to replace field staff vehicles and for other capital expenses stemming from the agency's transfer from the general government cabinet to KCTCS.

In response to a question by Representative Weston, Mr. O'Neal stated that he agreed that the board should have raised fees incrementally rather than waiting until the need was significant, but he had been executive director only since February of this year. Mr. O'Neal also stated that the board's General Fund allocations have been significantly reduced in this budget cycle.

In response to questions by Senator Tapp, Mr. O'Neal stated that approximately sixty (60), or at least over fifty (50), percent of the board's funding came from General Fund allocations. Mr. O'Neal also stated that the board hoped to reduce fees in the future if financial situations improved.

In response to questions by Representative Ford, Mr. O'Neal stated that the fee for air ambulance providers was new. Mr. O'Neal also stated that the revenue from the fee was used to process license transfers, which may involve such things as inspecting aircraft. The fee was the same regardless of the number of ambulances involved.

In response to questions by Co-Chair Roeding, Mr. O'Neal stated that there was a maximum penalty established by the statute. Mr. Pickering stated that his company agreed with the fee increase. Mr. O'Neal stated that the smallest fee increases affect volunteer positions in efforts not to deter volunteers.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 5, 6, 7, and 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Co-Chair Damron, Mr. O'Neal stated that the board agreed to deferral of consideration to the November 12 meeting of the Subcommittee.

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

301 KAR 2:300. Black bears.

ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:001 & E. Definitions for 401 KAR Chapter 10.

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

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

501 KAR 6:200. Comprehensive sex offender presentence evaluation procedure.

Department of Kentucky State Police: Criminal History

502 KAR 30:060. Dissemination of criminal history record information.

TRANSPORTATION CABINET: Department of Highways: Traffic

603 KAR 5:320. Safety in highway work zones.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Administration and Finance

702 KAR 3:080. Fidelity bond, penal sum for treasurer, finance officer and others.

School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

702 KAR 7:130 & E. Approval of innovative alternate school calendars.

Office of Instruction

704 KAR 3:340. Commonwealth Diploma Program.

Department for Workforce Investment: Unemployment Insurance

787 KAR 1:110. Appeals.

PUBLIC PROTECTION CABINET: Department of Insurance: Assets and Liabilities

806 KAR 6:130. Minimum standards for determining reserve liabilities and nonforfeiture values for preneed insurance.

Health Insurance Contracts

806 KAR 17:540 & E. ICARE Program high-cost conditions.

806 KAR 17:545 & E. ICARE Program employer eligibility, application process, and requirements.

806 KAR 17:555 & E. ICARE Program requirements.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:012. Horses.

810 KAR 1:015. Claiming races.

810 KAR 1:025. Licensing thoroughbred racing.

Harness Racing811 KAR 1:070. Licensing standardbred racing.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Secretary: E-Health900 KAR 7:020. Kentucky e-

Health Corporation.

Department for Medicaid Services: Medicaid Services

907 KAR 1:015. Payments for outpatient hospital services.

The Subcommittee adjourned at 1:00 p.m. until November 12, 2008.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the November Meeting November 12, 2008

The November meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, November 12, 2008, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Robert R. Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Becky Gilpatrick, Melissa Justice, Kentucky Higher Education Assistance Authority; Les Beavers, Kentucky Department of Veterans Affairs; Frank Dempsey, Department of Revenue; Gerald Hoppman, Charles Robinette, Board of Specialists in Hearing Instruments; Karen Greenwell, Noel Record, Kentucky Board of Barbering; Jonathan Doran Buckley, Kentucky Board of Licensure for Professional Engineers and Land Surveyors; Ryan Halloran, Board of Chiropractic Examiners and Kentucky Board of Licensure for Private Investigators; Larry Bond and Angela Robertson, Kentucky Boxing and Wrestling Authority; Kerry Wright Robertson, Board of Licensure of Occupational Therapy; Mary Pedersen, Kentucky Board of Licensure of Private Investigators; Charles O'Neal, Lee Rowland, Kentucky Board of Emergency Medical Services; J.D. Chaney Kentucky League of Cities; Tom Troth, Kentucky Association of Counties; Ron Wolfe, Louisville Metro; Karen Alexy, Gerry Buynak, Jon Gassett, Jeff Ross, Catherine York, Kentucky Department of Fish and Wildlife Resources; Abigail Powell, Ronald Price, Division of Water, Lora Gowins, Division for Air Quality; Amy Barker, James VanNort, Justice and Public Safety Cabinet; Keith Peercy, Morgain Sprague, Department of Kentucky State Police; Steve Lynn, Department of Criminal Justice Training; Dana Fugazzi, Jeff Wolfe, Transportation Cabinet; Kevin Brown, Michael Miller, Larry Stinson, Kentucky Department of Education; Lisa Cochran, Larry Moore, Department for Workplace Investment; David Stumbo, Dandridge Walton, Labor Cabinet; Sharon Clark, Treva Donnell, Brad Nelson, Al Perkins, Ray Perry, Amanda Ross, Malinda Shepherd, DJ Wasson, Department of Insurance; Shane O'Donley, Carrie Banahan, Cabinet for Health and Family Services; Stephanie Brammer-Barnes, Stephanie

Hold, Michael Lawrence; Elizabeth Johnson, Stuart Owen, Nevel Wise, Department of Medicaid Services; Rachel Sisler Dockal, Mary Sparrow, Shari Sullivan, Steve Veno, Child Support Enforcement.

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

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Grant Programs

11 KAR 5:200. Go Higher Grant Program. Becky Gilpatrick, Student Aid Branch manager, and Melissa Justice, senior associate counsel, represented the division.

In response to questions by Co-Chair Roeding, Ms. Gilpatrick stated that the grant was for adults working toward a first baccalaureate degree because the goal was to bring adults back into an academic setting.

Co-Chair Roeding stated that he wished to be recorded as being opposed to this administrative regulation.

Teacher Scholarship Loan Program

11 KAR 8:030. Teacher scholarships.

In response to a question by Co-Chair Roeding, Ms. Gilpatrick stated that grant scholarship recipients signed a promissory note prior to distribution of funds and that repayment requirements were thoroughly explained to recipients.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 4, 5, 6, 7, 8, and 12 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

11 KAR 8:040. Deferment of teacher scholarship repayment.

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

Osteopathic Medicine Scholarship Program

11 KAR 14:060. Osteopathic Medicine Scholarship Program application of payments.

In response to a question by Co-Chair Roeding, Ms. Gilpatrick stated that it was the long-standing practice of the division to retain payments if a scholarship recipient did not initially meet the service obligation. This administrative regulation was amended by the agency to put that policy into an administrative regulation.

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

11 KAR 14:080. Deferment of Osteopathic Medicine Scholarship Program repayment.

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

Commonwealth Merit Scholarship Program

11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) Program.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 to 5, 7, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Robert C. Byrd Honors Scholarship Program

11 KAR 18:010. Robert C. Byrd Honors Scholarship Program.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 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 DEPARTMENT OF VETERANS AFFAIRS: Office of the Commissioner: Recognitions

17 KAR 5:010. Kentucky Medal for Freedom. Retired Brigadier General Les Beavers, commissioner, represented the department.

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

REVENUE CABINET: General Administration

103 KAR 1:150. Electronic data match and levy procedures. Frank Dempsey, staff attorney, represented the department.

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; (3) to amend Sections 2 to 5 to comply with the drafting and format requirements of KRS Chapter

13A; and (4) to amend Sections 1 and 3 to delete language that repeated or conflicted with statute. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board for Specialists in Hearing Instruments: Board

201 KAR 7:015. Fees. Gerald W. Hoppmann, Director of the Division of Occupations and Professions, and Charles R. Robinette, board member, represented the board.

In response to questions by Representative Lee, Mr. Robinette stated that all board-licensed specialists in hearing instruments had been notified of the proposed fee increases and that fees had not changed in approximately twenty (20) years, resulting in the board being in debt and behind on payments. He stated that administrative costs were increasing. He also stated that the board administrator was new and that the board otherwise would have made incremental changes, rather than doubling fees at once. Mr. Hoppmann stated that the board had recently had multiple challenges, including lawsuits, and the board wanted to be fiscally conservative.

In response to a question by Co-Chair Roeding, Mr. Robinette stated that fees in Tennessee were \$810 and \$400 yearly; that renewal fees in Tennessee, Ohio, Michigan, and Georgia had approximately a \$100 difference from Kentucky renewal fees; and that Virginia had reduced fees. He stated that states bordering Kentucky had much higher fees than Kentucky.

Board of Barbering: Board

201 KAR 14:150. School Records. Karen Greenwell, board administrator, and Noel Record, board chairman, 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 Sections 1, 3, 4, and 5 to clarify record-keeping requirements. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Professional Engineers and Land Surveyors: Board

201 KAR 18:072. Experience. Jonathan Doran Buckley, general counsel, represented the board.

In response to questions by Senator Tapp, Mr. Buckley stated that the reason for these amendments was because other states did not recognize Kentucky's reciprocity without post-graduate experience. He stated that most surrounding states had the same requirements and that Kentucky did not currently accept credit for a student cooperative program.

In response to a question by Co-Chair Roeding, Mr. Buckley stated that even during summertime, credit was not accepted for a student cooperative program and that six (6) months credit was required prior to taking the examination

for licensure.

Co-Chair Roeding requested that Mr. Buckley investigate the board impediments to licensure potentially created by providing the exam six (6) months or more after graduation. Mr. Buckley stated that he would respond with the information to staff of the subcommittee.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to include a reference to the statutory requirement for licensure. Without objection, and with agreement of the agency, the amendments were approved.

Board of Chiropractic Examiners: Board

201 KAR 21:041. Licensing; standards, fees. Ryan Halloran, assistant attorney general, represented the board.

In response to a question by Co-Chair Roeding, Mr. Halloran stated that this amendment did not address fees, but changed requirements for continuing education hours.

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.

Kentucky Boxing and Wrestling Authority: Athletic Commission

201 KAR 27:100 & E. General requirements for amateur mixed martial arts shows. Larry Bond, Deputy Secretary of the Public Protection Cabinet and Acting Executive Director of the Kentucky Boxing and Wrestling Authority, and Angela Robertson, board administrator, represented the board.

In response to questions by Co-Chair Roeding, Mr. Bond stated that mixed martial arts had not been regulated at all in the past and that there had been multiple problems and injuries involved in this sport. He stated that the industry was a fairly new one to Kentucky and that industry representatives had asked for this administrative regulation. He also stated that the fee was to identify who was participating in amateur mixed martial arts shows, which he described as a very violent sport. Mr. Bond stated that other sports, such as boxing, were regulated by national associations, but that mixed martial arts did not have such a national regulating association to establish safety standards for participants.

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, 10, 38, 39, and 42 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to amend Section 21 to prohibit weight gain in excess of: (a) six (6) pounds, instead of three (3) pounds, for a contestant who weighed in at 145 pounds or less; and (b) eight (8) pounds, instead of (4)

pounds, for a contestant who weighed in at over 145 pounds. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Occupational Therapy: Board

201 KAR 28:090. Renewals. Gerald W. Hoppmann, Director of the Division of Occupations and Professions, and Kerry Wright Robertson, board member, represented the board.

Kentucky Board of Licensure for Private Investigators: Board

201 KAR 41:020. Application for licensure. Ryan Halloran, assistant attorney general; Mary Pedersen, board member; and Gerald W. Hoppmann, Director of the Division of Occupations and Professions, represented the board.

In response to a question by Representative Ford, Mr. Hoppmann stated that the FBI and Kentucky State Police performed the background checks. Ms. Pedersen stated that they conducted approximately 120 background checks per year.

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 Section 1 to clarify that the application shall be sworn and notarized; (3) to amend Section 2 to require a list of all private investigators employed by a private investigation company and a "proof of affiliation" letter for each private investigator in the company; (4) to insert two (2) new sections to provide procedures for change of contact information and to establish requirements related to application processing; (5) to amend Sections 1 through 3 to comply with the drafting and format requirements of KRS Chapter 13A; and (6) to update the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were adopted.

201 KAR 41:040. Fees.

In response to questions by Co-Chair Roeding, Mr. Hoppmann stated that the reinstatement fee was \$100 and that the inactive status fee was paid yearly.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4 through 7, and 9 to make technical corrections and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with approval of the agency, the amendments were approved.

201 KAR 41:060. Renewal and reinstatement procedures.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to cor-

rect statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(1)(f); (3) to amend Sections 1 and 5 through 8 to comply with the drafting and format requirements of KRS Chapter 13A; (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT, FISCAL NOTE ON STATE OR LOCAL GOVERNMENT, and SUMMARY OF MATERIAL INCORPORATED BY REFERENCE; and (5) to revise the material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 41:065. Inactive status.

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

201 KAR 41:070. Continuing professional education 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 to state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(1)(f); (3) to amend Sections 3 through 6, 11, and 12 to comply with the drafting and format requirements of KRS Chapter 13A; and (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. Without objection, and with agreement of the agency, the amendments were approved.

INDEPENDENT ADMINISTRATIVE BODIES: Kentucky Board of Emergency Medical Services: Board

202 KAR 7:030. Fees of the board. Charles M. O'Neal, executive director, and Lee Roland, Kentucky Community Technical and College System, represented the board. Dwayne Lee, director of Scott County EMS; Joe Pruitt, director of Nelson County EMS; and John Huchren, air medical industries, appeared in support of this administrative regulation. J. D. Chaney, director of government affairs for the Kentucky League of Cities; Tom Troth, director of legal affairs for the Kentucky Association of Counties; Ron Wolf, manager of intergovernmental relations for Louisville Metro; and Ned Sheehy, director of government relations for Lexington-Fayette Urban County Government, appeared in opposition to

this administrative regulation.

Mr. O'Neal stated that numerous EMS providers were present to support this administrative regulation. He stated that information relating to this administrative regulation was distributed across the EMS community. He also provided a spreadsheet with each fee increase for each licensure.

Co-Chair Damron stated his appreciation for EMS providers in Kentucky.

In response to a question by Co-Chair Roeding, Mr. Lee stated that he did not believe that these fee increases would discourage licensure of providers. He stated that the industry needed the oversight of the board in order to continue to provide effective quality of service to Kentuckians.

Mr. Pruitt supported the board and the fee increases. He stated that many other states funded EMT training as part of the fire service, but because Kentucky did not, the industry realized there would be costs for quality training and oversight.

Mr. Huchren stated that it had been a tough year for air medical industries because of crashes and fatalities. He stated that there were fifty-one (51) air ambulance helicopters currently serving Kentucky and that the board has developed training for safe landing and new protocols for air-to-ground communication. He also stated that, while he didn't want a fee increase, he supported the fee increase 100 percent because the industry needed a functioning board.

In response to questions by Co-Chair Roeding, Mr. O'Neal stated that the board currently licensed forty-eight (48) air ambulance helicopters under twenty-three (23) providers. He stated that the air ambulance fee was per license, not per helicopter. He also stated that the board used more General Funds that it retained to provide grants to local governments.

In response to a question by Senator Pendleton, Mr. O'Neal stated that the grants were to fund new ambulances, mechanical upgrades to ambulances, and safety equipment.

Mr. Wolf stated that the timing of the fee increase posed an obstacle for the City of Louisville because of the economic downturn and because the current fiscal year budget was unable to take these fee increases into account. He stated that he would like these fees to be deferred until Fiscal Year 2009.

Mr. Chaney apologized for the lateness of raising this issue and stated that Lexington, Louisville, and other cities would have problems funding these increased fees in the middle of Fiscal Year 2008.

Mr. Troth stated that, while the Kentucky Association of County Officials understood the need for these fees, local governments were unable to comply with these funding demands at this time. He expressed concern that fee increases were falling to local governments

because of the economic downturn.

In response to questions by Co-Chair Damron, Mr. Wolf stated that the fiscal impact to Louisville would be \$20,000 to \$25,000. Mr. Sheehy stated that the fiscal impact to Lexington would be approximately \$9,000 to \$10,000.

Co-Chair Roeding expressed the importance that the cost-benefit analysis provided for by Regulatory Impact Analysis and Tiering Statement, Questions 4(a) through (c), be completed in enough detail to put the subcommittee on notice as to the needs of each agency and the benefit to the stakeholders. He stated that every agency needed to provide a meaningful response to these questions.

In response to a question by Senator Pendleton, Mr. Wolf stated that local governments billed the users of ambulance services but that, because of the economic downturn, it would be a difficult time to raise fees on users in order to compensate for the fee increases to local governments. He stated that fees were not divided equally in the comprehensive scheme.

Mr. O'Neal stated that grant money for the current fiscal year had not been allotted yet and that fees would not go into effect until the next fiscal year (because this year's fees had already been paid) so that cities and local governments could budget accordingly.

In response to a question by Co-Chair Roeding, Mr. O'Neal stated that \$10,000 was the maximum grant allotment for each county. He stated that a city or local government had to fill out a one-page application describing how the grant would be spent and that, after a purchase, the receipt would be sent to the board as proof that the money was spent pursuant to the conditions of the grant.

In response to a question by Co-Chair Damron, Mr. Chaney, Mr. Troth, and Mr. Wolf stated that making the effective date for fees the next fiscal year, would assist cities in budgeting for and complying with these fee increases.

Co-Chair Roeding requested that local government brief Area Development Districts regarding the costs for budgeting.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 5, 6, 7, and 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 1:410. Taking of fish by other than traditional fishing methods. Karen Alexy, Wildlife Division Director; Gerry Buynak, assistant director; Jon Gassett, commissioner; Jeff Ross, Acting Director of Fisheries, and Catherine York, deputy general counsel, represented the department.

In response to a question by Senator Pendleton, Mr. Gassett stated that recreational fishermen were required to take the first two (2) paddlefish that they shot with archery equipment.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to provide for the executive reorganization; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(1)(f); and (3) to amend Sections 1 and 3 through 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Game

301 KAR 2:015. Feeding of wildlife.

301 KAR 2:030. Commercial guide license.

A motion was made and seconded to approve the following amendments: (1) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Sections 2 and 3 to extend the time to comply with certain requirements to January 1, 2010. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:225 & E. Dove, wood duck, teal, and other migratory game bird hunting.

301 KAR 2:227. Repeal of 301 KAR 2:223.

Wildlife

301 KAR 4:110. Administration of drugs to wildlife.

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

ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Division of Water: Water Quality Standards

401 KAR 10:001 & E. Definitions for 401 KAR Chapter 10. Abigail Powell, regulations coordinator, and Randy Payne, water quality contact, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 1 to correct citations; and (2) to amend Section 1(60) to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

Division for Air Quality: Air Quality

401 KAR 52:081. Repeal of 401 KAR 52:080. Lora Gowins, supervisor, represented the division.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office

of the Secretary

501 KAR 6:200. Comprehensive sex offender presentence evaluation procedure. Amy Barker, assistant general counsel, and James Van Nort, assistant director for the Division of Mental Health, represented the Office.

A motion was made and seconded to approve the following amendments to: (1) amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(1)(f); (2) amend Section 2 to add criteria for an appropriate actuarial instrument and to describe an “empirically-guided approach”; and (3) amend Sections 1 to 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Kentucky State Police: Criminal History

502 KAR 30:060. Dissemination of criminal history record information. Keith Peercy, major with the Kentucky State Police, and Morgain Sprague, legal counsel, represented the department.

In response to a question by Co-Chair Roeding, Ms. Sprague stated that the fee increase was insufficient to completely defray the cost of the program, but that the department was reluctant to raise the fee further at this time.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend Section 1(2) to specify that: (a) employees and members of fire departments, ambulance services, and rescue squads shall be exempt from the fee pursuant to KRS 17.167(4); and (b) to specify that the fee required in this administrative regulation shall not apply to applications for a license, or renewal of a license, to carry a concealed deadly weapon; (3) to amend the Incorporation by Reference section to update forms; and (4) to amend Sections 1, 3, and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Criminal Justice Training: Kentucky Law Enforcement Council

503 KAR 1:110. Department of criminal justice training basic training: graduation requirements; records. Steve Lynn, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 5, 8, and 10 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Highways: Traffic

603 KAR 5:320. Safety in highway work zones. Dana Fugazzi, attorney, and Jeff Wolfe, Traffic Engineering Branch manager, represented the department.

In response to a question by Representative Ford, Mr. Wolfe stated that the administrative regulation would allow an engineer in the field to lower the speed limit in a construction area by up to fifteen (15) miles per hour (mph) on a highway with a speed limit of seventy (70) mph and by up to ten (10) mph on a highway with a speed limit of sixty-five (65) mph. He stated that workers had complained that the previous speed cap was not low enough under some circumstances. He also stated that the cabinet secretary was authorized to lower the speed limit below limits established in this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to include KRS 174.080; and (2) to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Administration and Finance

702 KAR 3:080. Fidelity bond, penal sum for treasurer, finance officer and others. Kevin Brown, general counsel; Michael Miller, division director; and Larry Stinson, associate commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; 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.

School Terms, Attendance and Operation

702 KAR 7:130 & E. Approval of innovative alternate school calendars.

In response to a question by Co-Chair Roeding, Mr. Stinson stated that this administrative regulation would make it easier for a school to request approval of an alternative school calendar.

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 Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to amend Section 2 to establish the review criteria for submitted applications. Without objection, and with agreement of the agency, the amendments were approved.

Office of Instruction

704 KAR 3:340. Commonwealth Diploma Program.

In response to a question by Co-Chair Roeding, Mr. Miller stated that this administrative regulation allowed students to participate in both advance program (AP) and International Baccalaureate (IB) programs.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 2(2) to update the requirements of the precollege curriculum to match the curriculum established by the Council on Post-secondary Education in 13 KAR 2:020. Without objection, and with agreement of the agency, the amendments were approved.

Department for Workforce Investment: Unemployment Insurance

787 KAR 1:110. Appeals. Lisa Cochran, Unemployment Insurance Branch manager, and Larry W. Moore, policy analyst, represented the department.

In response to a question by Senator Pendleton, Ms. Cochran stated that, now that the department staffing levels had stabilized, great strides had been made toward speeding up the appeal process.

Co-Chair Roeding requested that the department keep subcommittee staff apprised of the progress in speeding up the appeal process.

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

LABOR CABINET: Department of Workplace Standards: Division of Occupational Safety and Health Compliance: Occupational Safety and Health

803 KAR 2:180. Recordkeeping; reporting; statistics. David Stumbo, health standards specialist, represented the division.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:091. Repeal of 806 KAR 2:090, 806 KAR 2:096. Sharon Clark, commissioner, and D.J. Wasson, legal counsel, represented the department.

Ms. Clark introduced Mr. Chin and Mr. Shue, who were visitors from China

working with international insurance issues.

806 KAR 2:092 & E. Disclosure of local government taxes.

In response to a question by Co-Chair Roeding, Ms. Clark stated that this administrative regulation required full disclosure on tax bills. Ms. Wasson stated that insurance billing notices were required to itemize local government taxes beginning December 31, 2008.

A motion was made and seconded to approve the following amendment: to amend Section 1(3) to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

806 KAR 2:111. Repeal of 806 KAR 2:110.

Assets and Liabilities

806 KAR 6:130. Minimum standards for determining reserve liabilities and nonforfeiture values for preneed insurance.

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

Agents, Consultants, Solicitors, and Adjusters

806 KAR 9:220. Continuing education.

A motion was made and seconded to approve the following amendments: to amend Sections 5 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Life Insurance and Annuity Contracts

806 KAR 15:080 & E. Paid-up life insurance policies.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 5, and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Health Insurance Contracts

806 KAR 17:540 & E. ICARE Program high-cost conditions.

806 KAR 17:545 & E. ICARE Program employer eligibility, application process, and requirements.

806 KAR 17:555 & E. ICARE Program requirements.

A motion was made and seconded to approve the following amendment: to delete an unnecessary definition in Section 1. Without objection, and with agreement of the agency, the amendment was approved.

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

900 KAR 6:030. Certificate of need

expenditure minimums. Carrie Banahan, executive director, and Shane O'Donley, policy adviser, represented the office.

In response to a question by Co-Chair Roeding, Ms. Banahan stated that the expenditure minimum had been raised each year.

Office of Inspector General: Division of Audits and Investigations: Office of Audits and Investigations

906 KAR 1:011. Repeal of 906 KAR 1:010. Stephanie Brammer-Barnes, regulation coordinator; Stephanie Hold, assistant director; and Michael Lawrence, department of inspector general, represented the office.

906 KAR 1:031. Repeal of 906 KAR 1:030.

906 KAR 1:170. Administrative subpoenas.

In response to a question by Co-Chair Roeding, Mr. Lawrence stated that subpoenas were only intended as a last resort after other measures have proven unsuccessful.

Department for Medicaid Services: Medicaid Services

907 KAR 1:015. Payments for outpatient hospital services. Elizabeth A. Johnson, commissioner; Stuart Owen, regulation coordinator; and Neville Wise, finance director for Medicaid Services, represented the department.

Co-Chair Roeding stated his congratulations for working out the issues related to this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 2, 5, 6, 8, and 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:825 & E. Diagnosis-related group (DRG) inpatient hospital reimbursement.

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, 4, 6, 8, 9, 13, 14, 15, 17, 19, and 20 to comply with the drafting and format requirements of KRS Chapter 13A; (4) to amend Section 2 to revise Table 2, High Volume Adjustment Eligibility Criteria, to change the "days range" column and "per diem payment" column; (5) to amend Section 2 to: (a) specify that the department shall not make a high volume per diem payment for a level I neonatal care claim, or level II or III neonatal center claim, but that those claims shall be included in the hospital's high volume adjustment eligibility criteria calculation; and (b) clarify the reimburse-

ment provisions for neonatal care and non-neonatal care; (6) to amend Section 13 to establish the reimbursement rate for inpatient care provided by Vanderbilt Medical Center; and (7) to create a new section to specify that the department reimbursement for inpatient hospital care shall not exceed the upper payment limit established in 42 C.F.R. 447.271 or 447.272. Without objection, and with agreement of the agency, the amendments were approved.

Payment and services

907 KAR 3:205. Hemophilia treatment reimbursement and coverage via the 340B Drug Pricing Program.

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

Department for Income Support: Child Support Enforcement: Child Support

921 KAR 1:380. Child support enforcement program application and interstate process. Steve Veno, deputy commissioner, represented the department.

The following administrative regulations were deferred to the December 9, 2008, meeting of the Subcommittee:

PERSONNEL CABINET: Personnel Cabinet, Classified

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

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:130. Hazardous duty coverage.

105 KAR 1:140 & E. Contribution reporting.

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

105 KAR 1:380 & E. Minimum distribution.

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

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

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

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

GENERAL GOVERNMENT CABINET: Kentucky Real Estate Appraisers Board: Board

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

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wild-

life Resources: Game

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

301 KAR 2:300. Black bears.

ENERGY AND ENVIRONMENT CABINET: Department of Environmental Protection: Division of Water: Water Quality

401 KAR 5:010. Operation of wastewater systems by certified operators.

Water Quality Standards

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

Certified Operators

401 KAR 11:001. Definitions for 401 KAR Chapter 11.

401 KAR 11:010. Board of certification.

401 KAR 11:020. Standards of professional conduct for certified operators.

401 KAR 11:030. Wastewater treatment and collection operators-classification and qualification.

401 KAR 11:050. Operator certification.

401 KAR 11:060. Certification fees.

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

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

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Vehicle Commission

605 KAR 1:060. Temporary off-site sale or display event.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

LABOR CABINET: Department of Workers' Claims: Workers' Claims

803 KAR 25:091 & E. Workers' compensation hospital fee schedule.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Division of Securities: Securities

808 KAR 10:041. Repeal of 808 KAR 10:040.

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

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

Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:012. Horses.

810 KAR 1:015. Claiming races.

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

810 KAR 1:028 & E. Disciplinary

measures and penalties.

Harness Racing

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

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

The Subcommittee adjourned at 12:10 p.m. until December 9, 2008.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE Minutes

October 14, 2008

The sixth meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, October 14, 2008, 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 Harry Moberly Jr., Co-Chair; Senators Dan Kelly and Ken Winters; Representative Mary Lou Marzian.

Guests: Larry Taylor, Kentucky Department of Education and Mary Ann Blankenship, Kentucky Education Association.

LRC Staff: Sandy Deaton, Audrey Carr, Janet Stevens, and Lisa Moore.

Senator Westwood asked for a motion to approve the minutes of the August 12, 2008 meeting. Representative Moberly made the motion to accept the minutes and Senator Winters seconded the motion. The motion was approved by voice vote.

Senator Westwood introduced Ms. Elaine Farris, Deputy Commissioner, Bureau of Learning and Results Services, Kentucky Department of Education (KDE), Mr. Ken Draut, Associate Commissioner, Office of Assessment and Accountability, KDE, and Ms. Rhonda Sims, Director, Division of Assessment Support, KDE, who reported on the 2008 tests scores for the Commonwealth Accountability Testing System (CATS), No Child Left Behind (NCLB), and ACT.

Mr. Draut began the PowerPoint presentation by defining the state and federal accountability systems in Kentucky. He noted that the federal NCLB accountability requirement has annual measurable objectives that include the percentage of proficient and distinguished students in reading and mathematics and targets for all students and populations of sufficient size. He said other academic indicators in NCLB include CATS classifications in elementary and middle school and graduation rates in high school. He also said NCLB requires a participation rate to test 95 percent of all students and populations of sufficient size and Kentucky meets that goal every year.

Mr. Draut said the CATS state testing system has an academic index that includes the percentage of novice, ap-

prentice, proficient and distinguished students in seven content areas. The nonacademic indexes in CATS includes attendance, graduation rates, including retention and dropouts, and transition to adult life. The ACT high school index also requires administering the PLAN in grade 10 and the ACT in grade 11 for all students with each accounting for 2.5 percent in the accountability index.

Mr. Draut discussed the NCLB annual measurable objectives and the starting points and yearly targets of the percent of students enrolled for a full academic year and scoring proficient and distinguished. He noted Kentucky met 20 out of 25 target goals in 2008, which equals 80 percent of its target goals. A detailed table is included in the meeting folder located in the Legislative Research Commission (LRC) library.

Mr. Draut said based on the NCLB public release on August 5, 2008, 820 schools met 100 percent of NCLB adequate yearly progress goals, which is 70.9 percent of all schools. Other figures reported included: 89.0 percent of all elementary schools met 100 percent of goals; 44.4 percent of middle schools met 100 percent of goals; 33.3 percent of high schools met 100 percent of its goals; and 103 out of 175 school districts, 58.9 percent, met 100 percent of NCLB adequate yearly progress goals. He also discussed the summary of tiers and consequences for Title I schools and districts.

Mr. Draut discussed concordance in CATS reporting in Kentucky. He said multiple changes to CATS in 2007 required a statistical process to link data from the old system used in 1998-2006 to the new one established in 2007-2008. He said concordance is a statistical process used to establish the link. The concordance table relates the scores on similar assessments by lining up the percentile ranks. A school's adjusted score does depend on the rank order of other schools in Kentucky. The concordance table set in 2007 established the link between old and new CATS accountability index scores. He said the same table was used for the last time in 2008, and content area and individual student scores were not adjusted.

Ms. Sims explained the growth chart for Kentucky. She said schools have different starting points, but all schools have a goal to reach 100 in the accountability index. She noted 594 schools are meeting their goals, 537 schools are progressing toward their goals, and 26 schools are in the assistance category. A detailed adjusted accountability index calculated with the concordance table at each level of elementary, middle, and high school is available in the meeting folder in the LRC library.

Ms. Sims said elementary school students score higher on the CATS test with middle and high school students performing lower on the CATS assessment across the entire Commonwealth.

She also said female students tend to score higher than males and African-American and Hispanic students score the lowest in the academic index. She noted that the KDE will continue to work to close the achievement gaps in the test scores among these different sub-groups of students.

Ms. Sims said other items in the 2008 disaggregated academic index show that free and reduced lunch students score lower on the CATS than students who are not approved for free and reduced lunch. Students with English proficiency score higher than students identified with limited English proficiency. Finally, students with no disabilities score higher than students identified with a disability, while students receiving accommodations for their disability score higher on the test than students who receive no accommodations for their disability.

Mr. Draut explained the distribution of scores for the PLAN and ACT tests in 2007 and 2008. He said the scores are placed in ranges of novice low, novice medium, proficient and distinguished and then a formula is used that creates the index for the ACT and PLAN. He said the score range percentages establish a starting point for the high school ACT academic index. Kentucky has an average ACT index of 73.8 in 2008.

Mr. Draut said the composite score for Kentucky juniors completing the ACT is 18.3. He said the ACT provides college ready benchmark scores for the core subject areas of English, mathematics, reading, and science. He said 46% of Kentucky students are meeting the ACT benchmark score in English; 20% in mathematics; 33% in reading; 15% in science; and 10% of Kentucky students are meeting all four ACT benchmarks. African-American and Hispanic students are scoring lower than Caucasian and Asian Americans on the ACT, which is following the scoring trend in the CATS testing.

Mr. Draut said transitioning from 2008 to 2014 will include a data review and appeals will be processed and revised Kentucky Performance Reports will be posted in the fall of 2008. A new growth chart will be created from the nonadjusted 2007 and 2008 accountability indices and the new growth charts will be released in late 2008.

Senator Westwood asked about the dropout rates declining from 5.34 percent to 2.22 percent in 2008. He questioned the validity of the numbers as there has been speculation as to how the dropout rates are calculated in Kentucky.

Mr. Draut said the dropout number used was based on a one-year calculation of how many students dropped out of a school. He said graduation rates are calculated differently so often dropout and graduation rates differ. He noted NCLB uses a graduation rate in its accountability system and Kentucky uses the dropout rate in its state accountabil-

ity numbers.

Senator Westwood said it is problematic that Kentucky uses a different formula to calculate dropout rates while trying to be in compliance with NCLB. He said this creates problems because it does not provide a clear picture to the federal government of exactly how many students are dropping out in the state. He would like Kentucky to use a formula that mirrors the NCLB formula so the information is useful as to how the state is performing with the nonacademic standard.

Senator Westwood said the increase in the high school writing on-demand score from 55.8 in 2007 to 72.0 in 2008 seems extremely high even using the new standards. He said most of the nonadjusted academic index scores declined in all subject areas except for small increases in the writing portfolio and practical living and vocational studies scores.

Mr. Draut said the writing test that was administered in the fall of 2006 was scored in 2007 using the old model and the old holistic model scoring standards. In the fall of 2007, the students completed the new CATS writing on-demand test and it was scored analytically and posted in the 2008 school year.

Senator Westwood asked if the new scoring standards are lower than in the past or if students are just performing that much better on the test.

Mr. Draut said it is a combination of switching from a holistic scoring model to an analytical scoring model as well as implementing the new standards that resulted in the numbers increasing at that level. Ms. Farris added that the standards on the new test were not lowered.

Senator Kelly praised the KDE staff for their work on the concordance charts. He said only ten percent of Kentucky junior students are prepared to go to college according to the chart showing the percent of Kentucky students meeting college readiness benchmarks on the ACT. He said that he has a hard time understanding why the test is performing so well and the students are performing so poorly. He finds the information non-useful and asked if only two percent of Kentucky schools are in trouble and need assistance.

Ms. Farris said only two percent of the schools needed assistance based on the accountability model that KDE used.

Senator Kelly said he would like to see more useful information, such as how schools are doing that are not performing well, instead of just meaningless indices numbers. He also does not understand why Kentucky is not focusing on the 26 schools that are in need of assistance to get them up to standard although it is well-known that Kentucky's education problems are much broader than that. He said the type of information presented in the KDE report is keeping Kentucky from really focusing on where the real problems are. He said the KDE data does

show the achievement gaps that exist in Kentucky's educational system, but focus has to be placed on getting more than ten percent of Kentucky students ready for college or the workforce.

Mr. Draut noted that 594 Kentucky schools met their goals, but this was only ten more schools than in the 2005-2006 school year. He said many schools listed in the progressing category are headed for the assistance category and this is a cause of concern.

Senator Kelly said his concern is that the schools are meeting the goals with the accountability system but the students are not prepared for college.

Ms. Farris said it is a school accountability model that analyzes schools across the state, but school districts are looking at individual student performance. She said the KDE is asking schools to look at the core classes that students are taking as this can affect how they perform on the ACT test. She noted some students do not get the core classes needed to perform well on the test because there is not equal opportunity and access for students to get the classes they need in schools and some of it is the student's choice of class selection. The KDE wants to ensure that all students receive the core classes they need in middle and high school so that access is provided to the aligned curriculum of core content, program of studies, and the ACT standards.

Senator Kelly said Kentucky schools need to analyze their intervention programs with the goal of helping students to perform better and not with the goal of moving the indices up the chart. He said demographics play a part in how many novice students are enrolled in a school and the focus should not be placed on necessarily shrinking the number of novice students.

Senator Winters said he is concerned that half of the high schools in Kentucky regressed in 2007-2008 on their CATS test scores. He asked the KDE their thoughts on why this regression occurred.

Ms. Farris said high schools are a large concern across the nation. She said assistance teams are being assembled in the high schools in Kentucky to look at individual student's course selections and make interventions when necessary.

Senator Winters discussed the importance of students taking core content classes versus having a high performance teacher in the classroom. He asked Ms. Farris which one was more important for student success.

Ms. Farris said core content and highly qualified teachers go hand-in-hand. She said the core content needs to be delivered to students in an effective manner. She said some students are not getting the core content classes needed because of course selection.

Senator Winters asked if Ms. Farris was comfortable that the core content is adequate in all subject areas. Ms. Far-

ris said she was. Senator Winters questioned the adequacy of mathematics classes as more than half of all students need math remediation in college. Ms. Farris believes it is more of an access issue in that all students are not receiving the core content for whatever the reason.

Senator Winters asked what the legislature can do to facilitate all students getting the core content classes needed to perform well on the ACT and upon graduation of high school.

Ms. Farris said the KDE is continuing conversations with Kentucky middle and high schools to encourage and to communicate how important it is for all students to have access to the content that they are going to be assessed on. She said the students need access to the appropriate content to be ready for post-secondary education and this depends upon availability and rigor of the courses being taken.

Representative Moberly is concerned that the test results are not showing good results and Kentucky is not making the progress that was intended. He said the committee would like ideas on what they can do to provide assistance. He also asked if the KDE feels that declining resources in Kentucky schools are attributing to the problem.

Ms. Farris said declining resources is a problem and does impact student performance and success. She said the KDE is aware that problems exist in middle and high schools across the Commonwealth. She said that 56 assistance teams have been assembled and are visiting schools across the state and having conversations with school districts, superintendents, and principals in an effort to build partnerships to help schools improve and to have an impact on student learning. She noted the KDE is providing assistance so that local school districts do not have to use local funds to receive these services.

Representative Moberly said Kentucky has been having this conversation about improving high schools for the last two or three years. He said he is tired of talking about it and not getting any results. He noted the legislature wants to help the problem and would like guidance or thoughts on what they can do to provide assistance.

Ms. Farris said a team at KDE is looking at secondary education. She said they will have discussions with the committee on what the team is doing and how the committee can support their efforts.

Representative Moberly said the committee agrees on interventions for math and reading and he believes that was reflected in the test results. He said the committee had previously discussed having fewer versions of the CATS test to make the results more reliable and wondered if that had ever been implemented into the system.

Mr. Draut said common items were

implemented into all versions of the test; however, the CATS test is a matrix designed test and there are still six different forms that are administered to students. He said this type of matrix test is designed to get a broad picture of the schools' accountability and curriculum program. He noted that the reliability and validity at the individual student level meets all the required standards that other tests meet.

Senator Kelly asked if students who are having trouble getting access into a class is due to the availability of teachers with the skills to teach the course, particularly in the areas of math and science.

Ms. Farris said it is largely due to the availability of courses based on the size of the school and courses offered, the selection of classes by particular students, including students with disabilities that are not in core content classes on a regular day basis, and expectations of students and the classes they take.

Senator Winters asked if accessibility to courses depends upon the student just as much as the school. Ms. Farris said that was correct. Senator Winters said his concern is about basic skill development in students. He is encouraged that the KDE believes the core content is adequate and that student choice is the reason why students are not receiving the core content courses needed to succeed.

Senator Winters asked if the 537 schools that are progressing is equivalent to meeting the goals of 2014, or are those schools just doing better than they were last year.

Mr. Draut said the 537 schools that are progressing are of concern as they are heading towards entering in the assist zone in later years, while the schools that are moving into the meeting goals zone are flattening out.

Senator Winters asked if enough responsibility is leveraged on students to have them try to perform well on the CATS test. He is concerned that students do not try hard on the test because they see it as a benefit to the school and not a personal benefit.

Ms. Farris said a lot of school districts are doing a better job motivating students to do well on the CATS test, and this motivation is intrinsic. She said motivation is probably not as big a problem across the state as thought to be, but student accountability needs to be communicated.

Mr. Draut said he feels comfortable that the students in the elementary schools are motivated to do well. He is not so sure that there is not a motivation problem for middle and high school students. He said some school districts are beginning to use CATS scores to allow students to move to the next level and also providing consequences or letting students use the scores in some meaningful way.

Senator Winters said the students

need other incentives besides motivation to be prepared mentally to take the CATS test. He said his only concern is for the young people of the state and he wants Kentucky students to be pacesetters and not followers.

Representative Moberly said he is concerned about students being motivated to perform their best on the CATS assessment. He noted that students from Madison Central High School responded to questions from legislators that they felt the CATS test was important to the school, and the ACT test was important to them. He feels that the Kentucky Educational Excellence Scholarship (KEES) funding should be tied to students' CATS scores in an effort to motivate them to do better on the test.

Senator Kelly said he had asked Commissioner Draut to look at intervention programs implemented in Kentucky schools and determine if they are working and can be replicated. He said the summary he received from the KDE was helpful but it did not contain a future plan for next steps. He thinks the literacy intervention has been very successful, but would like to see all students have access to the intervention strategies and would like this topic to be discussed in the near future.

Senator Westwood introduced Ms. Marcia Ford Seiler, Director, Dr. Ken Chilton, Director of Research, and Dr. Deborah Nelson, Research Analyst, Office of Education Accountability (OEA), to present a review of Special Education in Kentucky. Ms. Seiler said her staff would describe the funding, assessment results, and future challenges and issues regarding the special education program. She also asked the committee members for suggested study topics that they would like for OEA to address in 2009. She said the first study identified for 2009 is a mathematics study which will include a review of the core content, intervention strategies for struggling students, assessment results, and teacher quality issues.

Dr. Chilton began the PowerPoint presentation by citing the main data sources for the report as the Individuals with Disabilities Education Act (IDEA) and finance reports and Gifted and Talented (G&T) information produced from the KDE. Some KDE reports that were used included the district annual finance reports, the KDE federal and state grant allocations, and the Support Educational Excellence in Kentucky (SEEK) transportation funding calculation report.

Dr. Chilton said IDEA has a focus on changing the culture of special education with an emphasis on mainstreaming special education students. He also said IDEA believes special education students should be assessed like regular education students.

Dr. Chilton said the process of identification is governed by the Admissions and Release Committee (ARC). Students are referred by teachers, parents, profes-

sionals, or state agency personnel staff for evaluation. He said the eligibility is then determined at the school level by the ARC. The identification criteria are more specific in some categories than in others and not all referrals result in special education identification. He said membership on the ARC is governed by regulations, and includes special education teachers, administrators and parents, and can include the child and diagnostic and evaluative staff as well. He noted that research shows that not all school districts employ professional diagnostic staff.

Dr. Chilton said the disability categories include those with a high incidence such as speech and learning disabilities; those with a moderate incidence such as developmental delays, and hearing and visual impairments; and those with a low incidence such as emotional behavioral disorders, multiple disability, deaf-blindness, autism, and traumatic brain injury.

Dr. Chilton said the preschool through 12th grade special education enrollment has grown moderately at 3.2 percent since 2000. He noted the different cohorts of special education however, broken down by age groups, have outpaced the regular education population by growing 16.1 percent over the last 7 years. He said Kentucky ranks about 12 percent higher than the national average in enrollment of special education students. He discussed specific identification trends for each age cohort which is in the meeting materials located in the LRC library.

Dr. Chilton said the total special education revenue in 2007 was \$539,366,526. He said the funding formula has SEEK add-on weights based on a per pupil basis with each student identified as associated with an increase in revenue. He noted the more severe the disability the higher the SEEK add-on weight because of the need for more intense services.

Dr. Chilton summarized by explaining the general trends in special education from 2000-2007. He said special education revenues have grown by 32.3 percent; expenditures have grown by 41.8 percent; and K-12 special education enrollment has grown by 10 percent. He noted that some school districts may have coded special education expenditures to the wrong account code so there could be discrepancy in the figures. He said expenditures have outgrown revenues steadily since 2003 and there was a \$38 million gap in 2007.

Ms. Nelson explained the student assessment data. She said the topic of assessment and accountability for students with disabilities is extremely controversial. She said many concerns stem from changes associated with federal regulations in the NCLB Act.

Ms. Nelson said CATS and IDEA believe special education students should have participation in assessments, inclu-

sion in accountability systems, and appropriate testing accommodations. She said a testing accommodation can be technology or a process that is intended to allow students with disabilities to demonstrate their knowledge of content without regard to their disability.

Ms. Nelson explained changes in assessment and accountability primarily with the NCLB Act. She said changes were made because federal policymakers believed there were low expectations for students with disabilities and that they did not receive core content in regular classroom settings. She noted the CATS system is a compensatory system and all schools face state sanctions. She said CATS also permits alternate assessments for about one percent of all students. NCLB uses subgroup accountability and only Title I schools face sanctions. She noted NCLB administers an alternate assessment that must be on grade level.

Ms. Nelson said NCLB is criticized as having unfair or unrealistic expectations because the changes were implemented so quickly. It has provided a shock to the system because of insufficient attention to improving teacher skills and giving them access to the type of resources that would allow them to adapt to advanced content.

Ms. Nelson said elementary special education students made the greatest gains overall. She said the data suggests that at least some students with disabilities are capable of performing at higher levels than in the past. She said middle and high school special education students tend to have more trouble reaching proficient or distinguished as content and subject matter on the assessments is more advanced. She discussed specific reading and math proficiency rates on the 2007 Kentucky Core Content Test (KCCT) and these detailed tables are located in the meeting folder in the LRC library.

Ms. Nelson said the KCCT includes regular and alternate assessments. She said many students with disabilities receive accommodations, but the accommodations raise validity and reliability issues. She also noted that the reader, paraphrase, and scribe accommodations are administered by individuals therefore making it difficult to ensure that accommodation practices are standardized in administration across districts and schools, thus affecting the reliability of the assessment results.

Ms. Nelson said Kentucky has far exceeded the federal requirements for participation in assessments. She said NCLB requires a 95 student participation rate, and Kentucky has a 98 percent participation rate. She said 65 percent of students with disabilities take the regular assessment with accommodations; 25 percent take the regular assessment with no accommodations; 8 percent use an alternate assessment; and 3 percent of students with disabilities are excluded.

Ms. Nelson said there has been a steady increase in graduation rates for special education students, although still far below the graduation rates of all students. She noted that dropout rates have steadily declined, but there is a concern noted in the full report on how the dropout rates are calculated.

Ms. Nelson said a major goal of IDEA is to prepare students for employment and independent living. She said national studies are showing transition progress for students with disabilities in employment and in postsecondary enrollment. She said Kentucky does not have trend data on post-goal outcomes for special education students, but the report does report the first wave of the data collection. She said concerns are raised within the report whether all special education students are receiving the transition services, which are required by law.

Ms. Nelson briefly discussed the G&T program. She said 17 percent of all K-12 students are enrolled in the exceptional children program, but the program does not receive direct federal funding. In Kentucky, the G&T program is funded at significantly lower levels than the special education students and many districts supplement with local funds. She said the program was funded at \$7.2 million in 2007, which amounts to an average of \$62 per pupil identified.

Ms. Nelson said advocates for the G&T students have raised concerns that during an era of accountability focusing on minimum proficiency targets for all students, the G&T students are overlooked in classrooms while performing at levels far beyond proficiency. She said not all districts are able to meet regulatory requirements with the limited funding for the program that is available. Services can vary widely among districts and schools, and data suggests that not all student populations are identified at representative levels in the G&T program. Specifically, disadvantaged students, African-American, and Hispanic students are identified at lower rates in the program than other students.

Ms. Nelson said appropriate identification is essential in referring students for special education. She noted that not all school districts and schools employ those people qualified to make technical diagnostic decisions. She said accurate identification raises important and unique concerns at the preschool level because identification for special education can determine preschool eligibility. She said the biggest qualifier for preschool eligibility is a student who has a developmental delay, but the definitions of this are broad and subject to interpretation. She also said it is difficult to use standardized instruments at this level so it is important to use transparency and fairness in preschool eligibility.

Ms. Nelson said it is important that appropriate services are provided to students who may be struggling in school, but do not have a disability. She said

the federal government has highlighted the concern that too many students are referred to special education because of reasons other than having a disability. She said when students are incorrectly placed in special education it can hurt the efficiency and effectiveness of program.

Ms. Nelson said the Response to Intervention (RTI) is a major, federal initiative that is part of the latest reauthorization of IDEA. She said the RTI is a major strategy for addressing the issue of appropriate identification and KDE is utilizing RTI. It is a systematic assessment and intervention made in a regular classroom prior to special education identification. She said challenges to implementation include: district and school resources; access to students at preschool; and financial disincentives in some districts.

Ms. Nelson said expenditures are outpacing revenues at the state level. She said the trend is more pronounced in higher wealth districts and there are no clear explanations why.

Ms. Nelson said that data shows improvement is possible for students with disabilities. There is a discrepancy between expectations and performance. She said there are potential unintended consequences such as the misuse of accommodations and tensions between academic and nonacademic goals.

Senator Kelly asked about consequences of not meeting the NCLB expectations for next year. He asked if standards would be lowered for all students or if Kentucky would have to forfeit the revenue if no changes are made in the federal legislation.

Ms. Nelson said NCLB is in the process of being reauthorized. She said there will more than likely be some changes made in the federal legislation as this situation is not unique to Kentucky. The federal government is also allowing some states to pilot alternative intervention models if they are not on track to meet their goals in 2014.

Senator Westwood thanked OEA for the report and said individual questions may be posed to staff as legislators peruse the report. He asked if the KDE had a response to the OEA special education report. Ms. Seiler said KDE did not have any additional comments and agreed with most of OEA's findings.

Ms. Seiler encouraged legislators to contact OEA with any questions about the report. She asked if the committee would accept the report, but there was not a quorum.

With no further business before the committee, the meeting adjourned at 3:15 p.m.

**GOVERNMENT
CONTRACT REVIEW
COMMITTEE
Minutes
October 14, 2008**

The Government Contract Review

Committee met on Tuesday, October 14, 2008, 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: Senator Vernie McGaha, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Bob McBeath, David Gayle, John Combs, Nelson Knight, John Forgy, F. Ryan Keith, Earl Gresham, Peggy Stratton, Steve Damron, Bill Harris, Pete Gilbert, Julane Hamon, Danny Anderson, Bob Ball, Shanon Maggard, Paul Gannoe, Mike Hill, Charles Mullins, Nijel Clayton, Libby Taylor, Cherry Boyles and Karen Kidwell.

LRC Staff: Kim Eisner, Matt Ross, Brad Metcalfe, B.R. Masters and Becky Brooker.

A motion was made by Representative Keene to approve Minutes of the September 9, 2008 meeting of the committee. Representative Yonts seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Additions List. Senator Tori seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Tori 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 Tori 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 Tori 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 Tori seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:
Morgan Franklin, LLC, 0800010415; Tichenor and Associates, 0800010419; Mountjoy and Bressler, LLP, 0800010420.
DEPARTMENT FOR COMMUNITY BASED SERVICES:
Buckhorn Children & Family Services, 0800008982; Kentucky Alliance Boys and Girls Clubs, 0800010443; Family and Children First Incorporated, 0800010594.
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Third Rock Consultants LLC, 0800010319; EDM Consulting LLC Environplan Consulting, 0800010325; Shield Environmental Associates Midwest Incorporated, 0800010587.
DEPARTMENT FOR INCOME SUPPORT:
Policy Studies Incorporated, 0800010070.
DEPARTMENT FOR PUBLIC HEALTH:
American Institute of Baking, 0800010140.
EASTERN KENTUCKY UNIVERSITY:
Diabetes Center of Excellence / Madison County Health Department, 10026.
ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:
Hindman Consulting, LLC, 0800010418.
EDUCATION, DEPARTMENT OF:
Hands On Therapy, PSC, 0800010588.
FINANCE AND ADMINISTRATION CABINET:
GAB Robins North America Incorporated, 0800008997; Marsh USA Incorporated, 0800009112.
FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
Roederer Construction Incorporated, 0800000920; Roederer Construction Incorporated, 0800000932; John L. Carman and Associates Incorporated, 0800009800; CDP Engineers Incorporated, 0800010316.
FISH & WILDLIFE, DEPARTMENT OF:
VeterinaryAssociates,0800009630; Outdoor Sales & Marketing Group Incorporated, 0800010422.
INFRASTRUCTURE AUTHORITY:
Potter & Company, LLP, 0800010589.
JUSTICE CABINET:
St. Luke Hospital, 0800010208; Medical Legal Consultants Incorporated, 0800010578.
KENTUCKY LOTTERY CORPORATION:
GTSI Corporation, 0908057.
KY HORSE RACING AUTHORITY:
Stoll Keenon Ogden, PLLC, 0800010572.
MILITARY AFFAIRS, DEPARTMENT OF:
Timothy D. Law, 0800010560.

NORTHERN KENTUCKY UNIVERSITY:
The Sanchez Law Firm, 2010488; Dinsmore and Shohl, LLP, 2010490; Adams, Stepner, Woltermann & Dusing, PLLC, 2010491; Buechel and Conley, Attorneys at Law, 2010492; Deters, Benzinger & LaVelle, PSC, 2010493; Ziegler & Schneider, PSC, 2010494.
PSYCHOLOGISTS, BOARD OF EXAMINERS OF:
Dwight Auvenshine, 0800010584.
TRANSPORTATION CABINET:
M A Allgeier, 0800009253; Tammy L. Barnes, 0800009262; Baumgardner and Associates, PSC, 0800009263; Edward L. Beck, 0800009264; Berkeley Appraisal Company, 0800009265; Charles Joseph Bird, 0800009266; Harold Brantley, 0800009267; Paul D. Brown, 0800009268; Mary McClinton Clay, 0800009270; George K. Cox, 0800009271; William R. Cox, 0800009272; Curd Professional Appraisal Services, 0800009273; Davidson Appraisal Service Incorporated, 0800009274;Intequal-DuncanAppraisal, 0800009275;JamesDoran,0800009276; Gary Endicott, 0800009277; Beam, Longest and Neff, LLC, 0800009278; Thurston Freeman, 0800009280; Claude W. Galloway, Jr., 0800009281; Thomas Ray Garner, 0800009282; J. Michael Jones, 0800009284; Lisa A. Keaton, 0800009285; Robert R. Knight, 0800009286; John D. Lyons, 0800009287; Paul E. McDonogh, 0800009288; McPherson Appraisal Service, 0800009289; M. K. Merrill, 0800009290; Lewman Miller Appraisal Company, 0800009291; Kentucky Field Service Realty, 0800009292; Murphy Napier and Company Real Estate Appraisers Incorporated, 0800009293; Dixon Nunnery, 0800009295; Willie Prater, 0800009296; Brook Ping, 0800009297; Area Appraisal Service, 0800009298; G. Herbert Pritchett, 0800009299; Stephen G. Raleigh, 0800009300; Darval E. Rash, 0800009301; Appco Appraisal Service Incorporated, 0800009302; W. Clement Russell, 0800009303; F A R M Appraisals, Lisa B. Saunders, 0800009304; David P. Schoepf Associates, 0800009305; Belinda Shouse, DBA Brandis Incorporated, 0800009306; Darin Sizemore, 0800009308; Russell Sloan, 0800009309; Philip J. Tamplin, Jr, 0800009310; E. Clark Toleman Mai, 0800009311; Waldrop and Associates, 0800009312; Williams Appraisal Company, 0800009314; W and W Appraisals, 0800009315; Palmer Engineering Company, 0800010340; Strand Associates Incorporated, 0800010428; Stantec Consulting Services Incorporated, 0800010430; Brighton Acquisition Services, 0800010435; TBE Group, 0800010437; Florence and Hutcheson, 0800010438; Entran, PLC, 0800010441; TBE Group, 0800010442; BTM Associates Incorporated, 0800010455; Entran, PLC, 0800010457; Vaughn & Melton, 0800010463; J M Crawford and Associ-

ates Incorporated, 0800010551; Entran, PLC, 0800010555; HMB Professional EngineersIncorporated,0800010557;Palmer Engineering Company, 0800010558; Entran, PLC, 0800010575; Qore Incorporated, 0800010576; Entran PLC, 0800010580;Thelen AssociatesIncorporated, 0800010581; Wilbur Smith Associates Incorporated, 0800010582; WMB Incorporated, 0800010585; Corradino Group, 0800010590; Cultural Resource Analysts Incorporated, 0800010591; Entran, Plc, 0800010593; GRW Aerial Surveys Incorporated, 0800010599; Florence and Hutcheson, 0800010613; Vaughn & Melton, 0800010704; Charles Joseph Bird, 0800010706; Charles Joseph Bird, 0800010707; Stephen G. Raleigh, 0800010709.
UNIVERSITY OF KENTUCKY:
Preston-Osborne, K09157; Meridian Communications, K09158; Patricia Kannapel, K09159; SUMit Consulting, LLC, K09160; Blue & Company, LLC, K09161; R. Bruce Lankford, K09162.
UNIVERSITY OF LOUISVILLE:
HDR Engineering Incorporated, 09047; Rowland Design Incorporated, 09048; Voelker, Blackburn, Niehoff Architects, 09049; Gil Stein & Associates Architects, 09050; Nolan & Nolan Incorporated, 09051; Senler, Campbell & Associates Incorporated, 09052; Dunaway Engineering Incorporated, 09053; JRA Architects Incorporated, 09054; Greenbaum Associates Incorporated, 09055; Hoehler Incorporated, 09056; BTM Engineering Incorporated, 09057; Arrasmith, Judd, Rapp, Chovan Incorporated, 09058; Creative Alliance Incorporated, 09063.
WESTERN KENTUCKY UNIVERSITY:
Multi, 080953; DDS Engineering, PLLC, 080954; Phi Beta Lamda c/o Susan Harmon, 080958.
THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:
CABINET FOR HEALTH AND FAMILY SERVICES:
Stoll Keenon Ogden PLLC, 0800009882.
DEPARTMENT FOR COMMUNITY BASED SERVICES:
Laboratory Corporation of America Holdings, 0800007429.
DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
Mactec Engineering and Consulting, 0600001999; Camp Dresser and McKee, 0600002008; Tetra Tech Incorporated, 0600002009; Corradino Group, C-04482541-4.
EDUCATION PROFESSIONAL STANDARDS BOARD:
The Learning House, M-06168395.
EDUCATIONAL TELEVISION, KENTUCKY:
Dow Lohnes and Albertson, 0600001249.
FINANCE AND ADMINISTRATION

CABINET - DIVISION OF ENGINEERING:
Evans Murphy Graves Architects, 0600002221; Terry B. Simmons Architects Incorporated, 0600002526; Biagi Chance Cummins London Titzer Incorporated, 0700003470; Multi, 0700005437; Bender Associates Architects, 0800007400; Marcum Engineering LLC, C-05283645.

OFFICE OF HOMELAND SECURITY:
Hurt, Crosbie & May PLLC, 0700004928.

TRANSPORTATION CABINET:
Vaughn and Melton, 0600001518; Claude W. Galloway, Jr., 0600001689; Wilbur Smith Associates Incorporated, 0600001701; Quest Engineering Incorporated, 0600001759; Strand Associates Incorporated, 0600001957; TBE Group, 0600002768; Thomas Ray Garner, 0600002814; Baumgardner and Associates, PSC, 0600002829; QK4, 0600002874; Vaughn and Melton, 0700003454; Thurston Freeman, 0700003588; URS Corporation, 0700003872; Quest Engineering Incorporated, 0700004974; GRW Aerial Surveys Incorporated, 0800007048; GRW Aerial Surveys Incorporated, 0800007541; Hall Harmon Engineers Incorporated, C-04687770; Michael Baker Jr. Incorporated, C-05091322-4; Thurston Freeman, C-05501579-1; QK4, C-06071463; William L. Berkley, C-06083833; Thomas Ray Garner, C-06083859; Lochner H W Incorporated Consulting, C-99005300-3.

THE FOLLOWING MEMORANDA OF AGREEMENTS

WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:
Council on Postsecondary Education, 0800010101; Breckinridge County Jail, 0800010424; Pike County Detention Center, 0800010429; Christian County Jail, 0800010431; Three Forks Regional Jail, 0800010432; Daviess County Detention Center, 0800010434; Hardin County Jail, 0800010436; Pike County Detention Center, 0800010439; Powell County Fiscal Court, 0800010445; Clark County Jail, 0800010446; Mason County Detention Center, 0800010447; Floyd County Jail, 0800010448; Marion County Jail, 0800010449; Kenton County Detention, 0800010452; Grayson County Jailer, 0800010458; Hopkins County Detention Center, 0800010459.

DEPARTMENT FOR MEDICAID SERVICES:

Kentucky Board of Nursing, 0800010089.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Justice Cabinet Administrative Services, 0800010313.

DEPARTMENT FOR PUBLIC HEALTH:

Pathways Incorporated, 0800009952.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Smith Management Group, 0800010168; Teco Coal Corporation, 0800010171; Icon Construction Incorporated, 0800010173; National Energy Education Development Project, 0800010220; Cedar Incorporated, 0800010221; Bluegrass Pride Incorporated, 0800010222; Cedar West Incorporated, 0800010223.

DEPARTMENT OF HOUSING, BUILDING, AND CONSTRUCTION:

Louisville Jefferson Metro Government Planning and Design Services, 0800010371.

EDUCATION, DEPARTMENT OF:

Ashland Independent Board of Education, 0800007300; Treasurer Barbo-urville Independent Board of Education, 0800007940; Boyle County Board of Education, 0800007945; Bullitt County Board of Education, 0800007946; Bath County Board of Education, 0800008065; Treasurer Bracken County Board of Education, 0800008071; Fleming County Board of Education, 0800008097; Treasurer Pike County Board of Education, 0800008423; Treasurer Bourbon County Board of Education, 0800010131; Treasurer Bourbon County Board of Education, 0800010132; Kentucky Center for the Arts, 0800010330; Treasurer Graves County Board of Education, 0800010368; Treasurer Clinton County Board of Education, 0800010385; Treasurer Harlan County Board of Education, 0800010386; Nicholas County Board of Education, 0800010387; Owen County Board of Education, 0800010388; Treasurer Elliott County Board of Education, 0800010423; Collaborative for Teaching and Learning, 0800010465; Bourbon County Board of Education, 0800010482; Green River Regional Education, 0800010507; Kentucky Valley Education, 0800010547.

FINANCE AND ADMINISTRATION CABINET:

Kentucky Retirement Systems, 0800010548.

INFRASTRUCTURE AUTHORITY:

City of Vicco, 0800010402; Perry County Fiscal Court, 0800010408.

JUSTICE CABINET:

Mental Health Associates of Northern Kentucky, 0800010702; Seven Counties Services, 0800010703.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Laurel County Public Library, 0800009187; Morgan County Fiscal Court, 0800009189; Carroll County Public Library, 0800009196; Clark County Public Library, 0800009770; Lawrence County Public Library, 0800009783.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Sacramento, 0800010005; City of Prestonsburg, 0800010216; City of Central City, 0800010253; City of Powderly, 0800010254; Union County Fiscal Court, 0800010372; Union County Fiscal Court, 0800010376; City of Sturgis, 0800010377; Perry County Board of Education, 0800010378; Leslie County

Board of Education, 0800010380; Lewis County Fiscal Court, 0800010381; Jackson County Fiscal Court, 0800010411; City of Hyden, 0800010421; Ohio County Fiscal Court, 0800010476; Knott County Fiscal Court, 0800010484; Knott County Fiscal Court, 0800010485; City of Providence, 0800010487; Russell County Fiscal Court, 0800010556.

POST SECONDARY EDUCATION, COUNCIL ON:

Northern Kentucky Education Cooperative, 0800010366; Southern Regional Education Board, 0800010367; Southern Regional Education Board, 0800010375.

STATE POLICE, DEPARTMENT OF:
Buffalo Trace Area Development District, 0800010568.

TOURISM DEVELOPMENT CABINET:

Multi, 0800010508.

TRANSPORTATION CABINET:

Lexington Fayette Urban County Airport Board, 0800010579.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS

WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

First Judicial District Corrections Board Incorporated, 0800009650; 3rd Judicial Circuit, 0800009694; 15th Judicial Circuit Community Corrections, 0800009701; 17th Judicial Circuit Community Correctional Program Incorporated, 0800009703; 18th Judicial Circuit, 0800009704; 21st Judicial Circuit Community Corrections Project Incorporated, 0800009705; Community Corrections-24th Judicial Circuit, 0800009706; 28th Judicial Circuit, 0800009709; Knott Drug Abuse Council Incorporated, 0800009711; 51st Judicial District Community Corrections Commission, 0800009713; 56th Judicial District Corrections Board Incorporated, 0800009715; Prosecutors Advisory Council, 0800009717.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Audubon Area Community Service Incorporated, 0800007368.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Green River Regional Education, 0700006705.

JUVENILE JUSTICE, DEPARTMENT OF:

Daviess County, 0800008726; Hardin County Fiscal Court, 0800008739; Lexington Fayette Urban County Government, 0800008747; Louisville Metro Human Service, 0800008748; McCracken County Fiscal Court, 0800008749; Warren County Fiscal Court, 0800008750.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Pendleton County Fiscal Court, 0600001507; Jessamine County Fiscal Court, 0600001508; City of Covington, 0600001635; Appalachian Industrial Authority Incorporated, 0600002503;

MMRC Regional Industrial Development Authority, 0600002531; Union County Fiscal Court, 0600002730; City of Pikeville, 0600002905; Union County Fiscal Court, 0700003333; Union County Fiscal Court, 0700003335; Clay County Fiscal Court, 0700003356; City of Covington, 0700003947; University of Louisville Research Foundation, 0700004182; City of Shelbyville, 0700004291; City of Uniontown, 0700004365; Union County Fiscal Court, 0700005586; Pike County Fiscal Court, 0700005621; Lawrence County Fiscal Court, 0700006279; Leslie County Fiscal Court, 0700006454; Union County Fiscal Court, 0700006582; Mountain Water District, 0800007250; Lee County Fiscal Court, 0800007924; Barren River Area Development District, 0800008646; Cumberland Valley Area Development District, 0800008668; Fivco Area Development District, 0800008672; Gateway Area Development District, 0800008674; Martin County Fiscal Court, 0800009193; Union County Fiscal Court, M-06038503-1; City of Franklin, M-06167797.

THE FOLLOWING PERSONAL SERVICE CONTRACTS

WERE SELECTED FOR FURTHER REVIEW:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Morgan Franklin, LLC, 0800010415; Tichenor and Associates, 0800010419; Mountjoy and Bressler, LLP, 0800010420. Bob McBeath discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Family and Children First Incorporated, 0800010594. David Gayle, John Combs and Nelson Knight discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

UNIVERSITY OF KENTUCKY:

Preston-Osborne, K09157; Meridian Communications, K09158. Bill Harris, Pete Gilbert and Julane Hamon discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

KY HORSE RACING AUTHORITY:

Stoll Keenon Ogden, PLLC, 0800010572. John Forgey and F. Ryan Keith discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Keene seconded the motion, which passed unanimously.

TRANSPORTATION CABINET:

Vaughn & Melton, 0800010704; Charles Joseph Bird, 0800010706; Charles Joseph Bird, 0800010707; Ste-

phen G. Raleigh, 0800010709. Steve Damron, Earl Gresham and Peggy Stratton 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 Senator Tori voting NO and Representative Montell and Senator McGaha electing to abstain (pass).

THE FOLLOWING PERSONAL SERVICE CONTRACT AMENDMENTS

WERE SELECTED FOR FURTHER REVIEW:

TRANSPORTATION CABINET:
Claude W. Galloway, Jr., 0600001689; Thomas Ray Garner, 0600002814; Baumgardner and Associates, PSC, 0600002829T; Thurston Freeman, 0700003588; Thurston Freeman, C-05501579; William L. Berkley, C-06083833; Thomas Ray Garner, C-06083859. Steve Damron, Earl Gresham and Peggy Stratton 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 Senator Tori voting NO and Representative Montell and Senator McGaha electing to abstain (pass).

TRANSPORTATION CABINET:
Vaughn and Melton, 0700003454. Mike Hill discussed the contract with the committee. A motion was made by Representative Keene to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
Bender Associates Architects, 0800007400. Paul Gannoe discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

EDUCATIONAL TELEVISION, KENTUCKY:

Dow Lohnes and Albertson, 0600001249. Bob Ball and Shanon Maggard 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.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Corradino Group, C-04482541. Danny Anderson discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR \$10,000 AND UNDER LIST WERE SELECTED FOR FURTHER REVIEW:

EASTERN KENTUCKY UNIVERSITY:
Sue Wylie, 10027; Johnson Training Group, 10030. Charles Mullins discussed

the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Senator Gibson seconded the motion, which passed with Senator McGaha voting NO.

THE FOLLOWING MEMORANDA OF AGREEMENT

WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF:
Ashland Independent Board of Education, 0800007300; Treasurer Clinton County Board of Education, 0800010385; Treasurer Harlan County Board of Education, 0800010386; Nicholas County Board of Education, 0800010387; Owen County Board of Education, 0800010388. Nijel Clayton and Libby Taylor discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Montell seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF:
Kentucky Valley Education, 0800010547. Cherry Boyles and Karen Kidwell discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:50 a.m.

GOVERNMENT CONTRACT REVIEW COMMITTEE Committee Minutes November 12, 2008

The Government Contract Review Committee met on Wednesday, November 12, 2008, at 3:00 PM, in Room 171 of the Capitol Annex. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were: Senator Vernie McGaha, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Bob McBeath, Brian Lykins, Tonia Wells, Phyllis Sosa, Carlton Shier, Holland Spade, Mary J. Celletti, Brenda Sweatt, David Gayle, Virginia Carrington, Jennifer Linton, Paul Gannoe, Mike Denney, Rick Kelley, Ralph Coldiron, Tandy Hubbard, Mike Hill, David Steele, Brad Stone, Don Newell, Kellie Wilson, and Amy Barnes.

LRC Staff: Kim Eisner, Matt Ross, Brad Metcalfe, B.R. Masters and Marlene Rutherford.

A motion was made by Represen-

tative Yonts to approve Minutes of the October 14, 2008 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Additions List. Senator Tori seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Tori 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 Tori 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 Tori 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 Tori seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:
Potter & Company, LLP, 0800010802.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:
Brett Scott, 0800010933; Doug Czor, 0800010941.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:
Center for Comprehensive Services Incorporated, 0800010370.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:
ACS Environmental Services, LLC, 0800010337; T. A. G. Resource Recovery, 0800010425.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:
Day Group Kentucky LLC, 0800007421-1; Staff Care Incorporated, 0800009391.

DEPARTMENT FOR PUBLIC HEALTH:
Health Kentucky, 0800010008; Norton Healthcare Incorporated, 0800010453.

EASTERN KENTUCKY UNIVERSITY:
Gina Vega, Organizational Ergonomics, 10025; Huron Consulting Services, LLC, 10028; Webb Management

Services Incorporated, 10029; Compass Knowledge Group, 10033.

ECONOMIC DEVELOPMENT, CABINET FOR:

ROI Research on Investment, 0800010893.

EDUCATION, DEPARTMENT OF:
Donna Tackett, 0800010732.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:
Murphy & Graves Architects, 0800010718.

FISH & WILDLIFE, DEPARTMENT OF:

American Bird Conservancy, 0800010412.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY:

AKF Consulting, LLC, 0800010983. JUSTICE CABINET:

Sturgill Turner Barker & Moloney, PLLC, 0800010180; Trover Clinic, 0800010965.

JUVENILE JUSTICE, DEPARTMENT OF:

Midwest Radiology, 0800010780. KENTUCKY HOUSING CORPORATION:

Allgeier Company, 2009-19. KENTUCKY LOTTERY CORPORATION:

Paul Kramer, 0909007. KY HORSE RACING AUTHORITY:

Goldberg Simpson LLC, 0800010761.

MILITARY AFFAIRS, DEPARTMENT OF:

Thomas P. Pendleton, Jr., 0800010770; Edgar Satchwell, 0800010771; Edward Hood Drury, 0800010772; Lanny Walls, 0800010773.

NORTHERN KENTUCKY UNIVERSITY:

Jeri Geisser, 2009-508; Penson Associates, Incorporated, 2009-509; Penson Associates, Incorporated, 2009-510.

TRANSPORTATION CABINET:
Strand Associates Incorporation, 0800010477; Williams Appraisal Company, 0800010708; Lochmueller Bernardini, 0800010793; PB Americas, Incorporated, 0800010794; HNTB Corporation, 0800010812; J. Michael Jones, 0800010818; R. J. Robinson, 0800010823; Strand Associates Incorporated, 0800010829; Forward Edge Associates, 0800010892.

TREASURER, OFFICE OF THE KENTUCKY STATE:

Abandoned Property Experts, 0800010074; PRA Government Services, LLC d/b/a Revenue Discovery Systems, 0800010076; Tichenor and Associates, 0800010807; Verus Financial LLC, 0800010808.

UNIVERSITY OF KENTUCKY:
George E. McCormick, K09163.

WESTERN KENTUCKY UNIVERSITY:

Multi, 080964; Jeffery Alan Smith, 080966.

THE FOLLOWING PERSONAL SER-

VICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentucky Head Start Association Incorporated, 0800006984; Owl d/b/a Opportunity for Work and Learning, 0800007565.

DEPARTMENT FOR NATURAL RESOURCES:

Stantec Consulting Company, 0800009794.

DEPARTMENT FOR PUBLIC HEALTH:

Heuser Hearing Institute Incorporated, 0800009547.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Ross Tarrant Architects Incorporated, 0600002231; Paladin Incorporated, 0700006242; Biohabitats Incorporated, C-04028197; Mactec Engineering and Consulting, C-04156214; Godsey Associates Architects Incorporated, C-05190114-2; Myers Jolly Architects, C-05199883-1.

KENTUCKY LOTTERY CORPORATION:

Automatic Data Processing, 0901148.

NORTHERN KENTUCKY UNIVERSITY:

Multi, 2010447.

OFFICE OF HOMELAND SECURITY:

Mountjoy & Bressler LLP, 0800008549.

TRANSPORTATION CABINET:

Berkley Appraisal Company, 0600000957; GRW Engineers Incorporated, 0600001533; George K. Cox, 0600001684; URS Corporation, 0600001921; QK4, 0600002843; TBE Group, 0600002884; APPCO Appraisal Service Incorporated, 0700003480; Berkley Appraisal Company, 0700003498; URS Corporation, 0700005904; American Engineers Incorporated, C-00121732-3; Quest Engineering Incorporated, C-00256534-3; Vaughn and Melton, C-01154275-2; Thurston Freeman, C-04083584-1; Darval E. Rash, C-04084466-1; Thurston Freeman, C-04505640-1; William R. Cox, C-04505644-1; Leigh Ann Duncan-Parkins, C-04572794-1; William R. Cox, C-04572811-1; Thurston Freeman, C-05060642-1; William R. Cox, C-05060845-1; Matriks Management, PSC, C-05060925-2; QK4, C-05279989-1; W & W Appraisals, C-05414285-1; William R. Cox, C-05414378-1; William R. Cox, C-05498161-1; Gresham Smith and Partners, C-06095496; American Engineers Incorporated, C-99005190-8; HNTB Corporation, M-04498953.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Gallatin County Fair, 0800010915; Green County Fair, 0800010917; Murray Calloway County Fair, 0800010919; Western Kentucky State Fair, 0800010920; Bell County Fair and

Expo, 0800010929; Mercer County Fair, 0800010937.

DEPARTMENT FOR NATURAL RESOURCES:

Multi, 0800010861.

DEPARTMENT FOR PUBLIC HEALTH:

Lincoln Trail Area Development District, 0800010510.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Powers Energy Two of Kentucky, LLC, 0800010174; Kentucky Highlands Investment Corporation, 0800010763.

EDUCATION, DEPARTMENT OF:

Treasurer Pike County Board of Education, 0800010629.

FISH & WILDLIFE, DEPARTMENT OF:

City of Warsaw, 0800010916.

INFRASTRUCTURE AUTHORITY:

City of White Plains, 0800010315; City of Pikeville, 0800010373; City of Pikeville, 0800010427; Mountain Water District, 0800010483; Breathitt County Fiscal Court, 0800010598.

JUSTICE CABINET:

Kentucky ASAP Black Patch Local Board, 0800010546; Comprehend Incorporated, 0800010890.

MURRAY STATE UNIVERSITY:

Union County Board of Education, 90509.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Floyd County Fiscal Court, 0800010214; Muhlenberg County Fiscal Court, 0800010255; Treasurer Hazard Independent Board of Education, 0800010461; London Laurel County Ida, 0800010542; Martin County Fiscal Court, 0800010600; Crittenden County Fiscal Court, 0800010637; City of Madisonville, 0800010694; Madisonville Community College, 0800010696; City of Irvine City Hall, 0800010717; Lawrence County Fiscal Court, 0800010719; Lawrence County Fiscal Court, 0800010722; Union County Fiscal Court, 0800010723; Fairview Independent Schools, 0800010724; Franklin County Fiscal Court, 0800010790; Bell County Fiscal Court, 0800010870; Knox County Fiscal Court, 0800010871; Boyd County Public Schools, 0800010872; Floyd County Fiscal Court, 0800010906; Floyd County Fiscal Court, 0800010909; City of Hazard, 0800010930; City of Hazard, 0800010938; City of Hazard, 0800010939.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Gateway Area Development District, 0800007369; Purchase Area Development District, 0800007371; Big Sandy Area Development District, 0800007513; Kentucky River Area Development District, 0800007517; Barren River Area Development District, 0800007519.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SER-

VICES:

Louisville/Jefferson County Metro Government, 0800006798.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Owensboro Independent Board of Education, 0800006747; Warren County Public Schools, 0800006748; Four Rivers Behavioral Health, 0800008001; Pennyroyal Mental Health, 0800008002; Green River Regional Mental Health Mental Retardation Board, 0800008003; Lifeskills Incorporated, 0800008004; Communicare Incorporated, 0800008005; Seven Counties Services, 0800008006; Northern Kentucky Regional Mental Health Mental Retardation Board, 0800008007; Comprehend Incorporated, 0800008008; Pathways Incorporated, 0800008009; Mountain Comp Care Center, 0800008010; Kentucky River Community Care, 0800008011; Cumberland River Mental Health Mental Retardation Board Incorporated, 0800008012; Lake Cumberland Mental Health Mental Retardation Board, 0800008013; Bluegrass Regional Mental Health Mental Retardation, 0800008014.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

National Energy Education Development Project, 0800009971.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Fayette County Public Schools, 0700006697; Oldham County Board of Education, 0700006700

EDUCATION, DEPARTMENT OF:

Metcalfe County Board of Education, 0800007906; Treasurer Fleming County Board of Education, 0800007908; Treasurer Bath County Board of Education, 0800008065; Treasurer Bowling Green Independent Board of Education, 0800008067; Treasurer Boyd County Board of Education, 0800008068; Treasurer Boyle County Board of Education, 0800008069; Treasurer Breathitt County Board of Education, 0800008072; Casey County Board of Education, 0800008089; Treasurer Clinton County Board of Education, 0800008093; Treasurer Danville Independent Board of Education, 0800008095; Fleming County Board of Education, 0800008097; Treasurer Garrard County Board of Education, 0800008098; Treasurer Henry County Board of Education, 0800008113; Hickman County Board of Education, 0800008116; Treasurer Hopkins County Board of Education, 0800008118; Jackson County Board of Education, 0800008123; Logan County Board of Education, 0800008139; Treasurer Livingston County Board of Education, 0800008417; Martin County Board of Education, 0800008418; Pulaski County Board of Education, 0800008424; Treasurer Raceland Worthington Independent Board of Education, 0800008425.

JUVENILE JUSTICE, DEPARTMENT OF:

Department of Military Affairs, Youth Challenge Division, 0800008434.

MILITARY AFFAIRS, DEPARTMENT OF:

City of Hopkinsville, 0600002636; Shelbyville Municipal Water and Sewer Commission, 0700005949.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Eddyville Riverport & Ida, 0600002570; Mountain Water District, 0600002787; Mountain Water District, 0600002788; Mountain Water District, 0600002928; Hart County Fiscal Court, 0700003139; Henderson County Fiscal Court, 0700003840; Henderson County Fiscal Court, 0700003841; Louisville Metro Government, 0700004079; City of Upton, 0700004092; City of Elkton, 0700004476; City of Clarkson, 0700004608; City of Falmouth, 0700005664; City of Stanford, 0700006460; Lee County Fiscal Court, 0800007178; Martin County Fiscal Court, 0800008792; Knott County Tourism Commission, 0800010064; City of Jamestown, M-03467352-1.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Potter&Company,LLP,0800010802. Bob McBeath and Brian Lykins discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Carroll seconded the motion, which passed unanimously.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Center for Comprehensive Services Incorporated, 0800010370. Tonia Wells, Phyllis Sosa, and Carlton Shier discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

ECONOMIC DEVELOPMENT, CABINET FOR:

ROI Research on Investment, 0800010893. Holland Spade discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

TREASURER, OFFICE OF THE KENTUCKY STATE:

Abandoned Property Experts, 0800010074; PRA Government Services, LLC d/b/a Revenue Discovery Systems, 0800010076; Tichenor & Associates, 0800010807; Verus Financial, LLC, 0800010808. Mary J. Celletti and Brenda Sweatt discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Montell seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE

SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

OWL d/b/a Opportunity for Work and Learning, 0800007565. David Gayle and Virginia Carrington 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.

FINANCE AND ADMINISTRATION CABINET – DIVISION OF ENGINEERING:

Paladin Incorporated, 0700006242; Biohabitats Incorporated, C-04028197; Mactec Engineering and Consulting, C-04156214. Jennifer Linton and Paul Gannoe 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.

KENTUCKY LOTTERY CORPORATION:

Automatic Data Processing, 0901148. Mike Denney and Rick Kelley 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.

OFFICE OF HOMELAND SECURITY: Mountjoy & Bressler, LLP, 0800008549. Ralph Coldiron and Tandy Hubbard 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.

TRANSPORTATION CABINET: URS Corporation, 0700005904. Mike Hill and David Steele discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10,000 AND UNDER WAS SELECTED FOR FURTHER REVIEW:

FINANCIAL INCENTIVES, DEPARTMENT OF:

Stites and Harbison, 0800010652. Holland Spade discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator McGaha seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Powers Energy Two of Kentucky, LLC, 0800010174. Brad Stone and Don Newell discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Representative Yonts seconded

the motion, which passed unanimously. OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT: Treasurer Hazard Independent Board of Education, 0800010461. Kellie Wilson and Amy Barnes discussed the contract with the committee. A motion was made by Senator McGaha to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS FOR \$50,000 AND UNDER WAS SELECTED FOR FURTHER REVIEW:

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT: Floyd County Fiscal Court, 0800010904. Kellie Wilson and Amy Barnes discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET:

The following exemption requests were reviewed regarding Two Year Contracting Restrictions:

Division of Abandoned Mine Lands Waterline Memoranda of Agreement

Division of Water's second phase of a Joint Funding Agreement with the U.S. Geological Survey

Nonpoint Source MOA

A motion was made by Senator Gibson to approve the request to December 31, 2009. Representative Yonts seconded the motion, which passed unanimously.

CABINET FOR HEALTH AND FAMILY SERVICES:

An exemption request regarding all Local Health Department submissions of Memoranda of Agreements and Amendments was reviewed. A motion was made by Representative Yonts to approve the request to December 31, 2009. Senator Tori seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 4:40 p.m.

SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS Subcommittee on Health and Human Services November 6-7, 2008

The Subcommittee meeting on Health and Human Services of the Special Advisory Commission of Senior Citizens was held on Thursday, November 6, 2008, and Friday, November 7, 2008 at the Capital Plaza Hotel in Frankfort. Edna Hawkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:
Members: Edna Hawkins, Chair; Frances Baccus, Rebecca Baird, Carol Fausz, Betty Huff, Ray Kremer, Phillip

Martin, Vivian Niece, Betty Olson, Nancy Purvis, Lillian Rice, Jeane Robertson, Pat Sutton, Ernest Taylor, and Mary Trimble.

LRC Staff: Miriam Fordham, Mike Bossick, and Cindy Smith.

The Health and Human Services Subcommittee focused on two topics during its Thursday meeting: (1) a presentation on the Meals on Wheels program, provided by Pat Dressman, Campbell County Fiscal Court; Barbara Gordon, KIPDA; and, Nancy Addington, Lincoln Trail ADD; and, (2) a presentation on housing options for seniors, provided by Deborah Anderson, Commissioner, Department for Aging and Independent Living.

Pat Dressman, Barbara Gordon, and Nancy Addington gave a presentation on the state's home delivered meals program for seniors. The Title III home delivered meals program is federally funded while the Homecare meals program is state funded. The meals program faces a number of issues including increasing food and transportation costs; a decrease in volunteers to deliver meals; regulatory and policy barriers; and, decreased and stagnant funding. Overall, the meals program is experiencing an increase in need and rising costs. For example, for the first time the KIPDA region has a waiting list for its congregate meals program.

The Senior Citizens Meal program in Northern Kentucky receives some local funding in addition to state and federal funding. The Northern Kentucky program delivers hot DRI, frozen DRI, and frozen non-DRI meals and contracts with Schwans Foods to deliver frozen non-DRI meals. Savings could be realized in the program if more frozen meals could be served. Forced by the loss of its meals provider, the Lincoln Trail ADD has implemented a new program that delivers vacuum packed meals in bulk through UPS to recipients. Several areas that need to be addressed for the future of the meals program are providing flexibility for the AAAs and providers to develop creative and cost effective solutions; updating regulations; and, expanding bundled services and frozen meals to meet unmet need.

Commissioner Deborah Anderson discussed housing options for seniors and the factors that should be considered in making housing decisions. In order to make informed decisions, seniors should consider the likelihood of moving more than once as they age and their needs change; the types of housing options available; personal factors; legal issues; and, the financial resources available. The level of care needed by a senior may determine what type of housing is most appropriate. Options for housing include home care; independent living and retirement communities; assisted living; personal care homes; family care homes; and, intermediate care facilities and nursing homes.

During the session on Friday, the subcommittee discussed and formulated

the slate of legislative recommendations. The subcommittee's legislative recommendations are as follows:

(1) Urge the 2009 General Assembly to increase funding by 20% to the Department for Aging and Independent Living to provide services to seniors and continue to look for additional revenue sources.

(2) Urge support of the Area Agencies on Aging and Independent Living in the development of non-traditional service delivery systems for meals and other services.

(3) Support legislation to establish a certification process for personal care services agencies.

(4) Urge the 2009 General Assembly to significantly increase the tax on tobacco products to maintain current levels of coverage of the Medicaid program and to improve the availability and accessibility of health services to Kentuckians.

SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS Subcommittee on Insurance Minutes of the 2nd Meeting of the 2008 Interim November 6, 2008

The 2nd meeting of the Subcommittee on Insurance of the Special Advisory Commission of Senior Citizens was held on Thursday, November 6, 2008, at 2:30 PM, at the Capital Plaza Hotel. Barbara Germain, Chair, called the meeting to order, and the secretary called the roll.

Present were:
Members: Barbara Germain, Chair; Mary Barlow, Ruth Bryant, Velma Childers, Leon Dodge, Marsha Dufek, Bob Elliott, Ed Flanagan, Jane Fugate, Denver Moore, Joy Payne, Clarence Richardson, John Searcy, Clayton Shannon and Ken Willis.

Guests: DJ Wasson and Jay Thompson, Department of Insurance; Angela Zeke, Legal Aid of the Bluegrass; Marti Mountjoy, Branch Manager and Amanda Enochs, Division of Quality Living, Department of Aging and Independent Living.

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

The minutes of the May 2, 2008, meeting were approved.

DJ Wasson and Jay Thompson, Department of Insurance, discussed long-term care insurance and the impact of requiring insurers to offer return of premium on long term care policies.

Angela Zeek, Bluegrass SHIP Coordinator, Legal Aid of the Bluegrass, gave the committee an overview of the Kentucky State Health Insurance Assistance Program (SHIP). She stated that SHIP was created in 1990 through the Omnibus Budget Reconciliation Act and designed to assist Medicare Beneficiaries and individuals over the age of 60. She stated that it was originally called Kentucky Benefit Counseling, until 2000. She stated that the intent was to strengthen

the capability of states to provide all Medicare eligible individuals information, counseling and assistance on health insurance matters. It also provides systems of referral to appropriate Federal and State departments or agencies that provide assistance with problems related to health insurance coverage. She stated that they provide training twice a year for staff and volunteers.

Amanda Enochs, Division of Quality Living, Department of Aging and Independent Living, gave a brief overview of the importance of the volunteer positions with SHIP and how to access the program.

The Subcommittee adopted the following recommendations:

-- Urge the General Assembly to provide continuation funding at the current level for Area Agencies on Aging to support Senior Programs due to the current economic climate, but urge the General Assembly to increase much needed funding to at least 5% when the economy improves.

--Urge the General Assembly to require long-term care insurance carriers to submit rate increases to the Attorney General, as well as the Office of Insurance, to allow intervention by the Attorney General as needed.

--Urge the General Assembly to continue to address the state employee and other state supported retirement system funding including insurance benefits.

--Urge the General Assembly to fund marketing efforts to advertise the toll-free numbers for Kentucky Resource Market.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE Minutes

November 5, 2008

The 11th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, November 5, 2008, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Carroll Gibson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Carroll Gibson, Co-Chair; Representative Rick Rand, Co-Chair; Senator Charlie Borders; Representatives Royce W. Adams, James R. Comer Jr., Tom McKee, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Diane Fleming, and Angela Blank, Governor's Office of Agricultural Policy; Tim Hughes, Kentucky Agricultural Finance Corporation; and Steve Coleman, Kentucky Division of Conservation.

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

Minutes of the October 1, 2008 meeting were approved, without objection, by voice vote, upon a motion made by Representative Rand, seconded by Senator Borders.

The presiding chair, Senator Gibson, asked Mr. Roger Thomas, Executive Director, Governor's Office of Agricultural Policy (GOAP), to report on the projects considered for funding during the October Agricultural Development Board (ADB) meeting. Accompanying him were Mr. Joel Neaveill, Chief of Staff, and later during the meeting, Ms. Diane Fleming, General Counsel.

Co-chair Gibson asked a series of questions related to two projects – Foothills Products and Services Inc., and Johns Custom Meats LLC, two meat processing companies. In its October meeting the ADB approved a total of \$498,500 in county grants and a loan from state funds for the Foothills project, but decided to allow only county grants totaling \$20,000 for the Johns Custom Meats project. Johns Custom Meats had received an earlier forgivable loan.

According to Mr. Thomas, responding to a series of questions from the co-chair, Foothills, located in Wayne County, had participation from several people and the project would serve many farmers in the area. According to Mr. Thomas, the board wanted to wait to allow the forgivable loan requirements on the Johns Custom Meats project to begin and then perhaps "tweak" the financial arrangement at that time.

During discussion, Co-chair Gibson suggested that GOAP staff specify the employment opportunities that projects might create.

Regarding the Foothills project, Mr. Thomas said the board has been supportive of small processing facilities that enable farmers to retail their products.

Following the projects review, Ms. Fleming described some of the ways the GOAP is working to comply with recommendations contained in the recent Allied Food Marketers West audit. She mentioned creation of a financial disclosure and conflict of interest statement and an on-going review existing contracts. She also said GOAP project analysts will be following up on existing projects through site visits.

Representative McKee complimented the agency for undertaking the changes and reviews. He also cautioned the agency regarding forgivable loans. According to the representative, GOAP officials should check the forgivable loans to assure that loan recipients are meeting their obligations. Mr. Thomas said they agreed with that observation.

On some other issues, Mr. Thomas noted the United States Department of Agriculture had approved a disaster declaration for 108 Kentucky counties affected by drought and damaging winds during the summer. He said a total of \$11,114,135 had been authorized for distribution under the Kentucky Agricultural Relief Effort. Further, discussions were under way to expand the farmers' markets to state grounds in addition to the Capitol complex.

Mr. Thomas also responded to some

questions from Representative Comer regarding two issues – the recent Allied Food Marketers audit and a forgivable loan granted in 2004 PIC USA Inc.

Representative Comer asked about the business dealings of Allied and whether the audit would lead to further conclusions. According to Mr. Thomas, responding to the representative, Allied is still a registered company and did some other marketing work similar to the work for the ADB. Mr. Thomas mentioned a University of Kentucky evaluation of the effectiveness of tobacco settlement fund investments in agriculture, agribusiness, and leadership since the inception of the agricultural development program. Mr. Thomas said the study will show a return of \$3.15 for every dollar invested in the agricultural diversification effort. He said it will also show the marketing and promotion by the Department of Agriculture through Kentucky Proud was more successful than the Allied effort.

Mr. Thomas also responded to questions from Representative Comer regarding the status of a forgivable loan granted in 2004 to PIC USA to construct a swine breeding facility in Allen County. Since that time, PIC moved its Kentucky operations from Simpson County to Tennessee. According to Mr. Thomas, a prior agreement required PIC USA to financially support Kentucky Pork Producers and Kentucky Young Farmers' annual meetings as a part of the loan forgiveness credit. The firm will be repaying the obligation, minus the annual meeting financial support, according to testimony. Mr. Thomas said he had met with a PIC official regarding the loan. Representative Comer asked about taking legal action against PIC USA. Mr. Thomas said he would ask Ms. Fleming to review the contract to determine if there is any leeway in that regard.

Next, the Co-chair Gibson called on Mr. Steve Coleman, Executive Director of the Kentucky Division of Conservation, to address the committee regarding the Soil Erosion and Water Quality Cost Share Program and the Environmental Stewardship Program, both largely funded with tobacco settlement revenues.

During his presentation, Mr. Coleman spoke briefly about the history of the program, persons affected, the administration of the program, and the priority and criteria system used to grant cost share funding. According to the report, funds are used to combat agricultural pollution problems. Many types of best management practices are emphasized.

Continuing, Mr. Coleman discussed funding for the programs. Tobacco settlement moneys ranging from \$9 to \$11 million have been granted to the programs since 2000. Several environmental and conservation practices are eligible for funding. According to Mr. Coleman's report, the application process consists of initial application and a site visit, an application ranking and approval, engi-

neering designs and permits, contractor selection and construction, practice completion and inspection, and cost reimbursement.

Mr. Coleman told the committee that applications rose significantly from 2007-2008 to 2008-2009, going from 2,204 to 13,094. The speaker also discussed efforts by his agency to deal with watershed issues. The speaker updated the committee on the status of the Agriculture Water Quality Act and the corrective measures undertaken under the law.

Mr. Coleman discussed the progress made by the Green River Conservation Reserve Enhancement Program, which, in a decade, has resulted in \$110 million in federal, state, and private funds going toward environmental and conservation work in the Green River area. He also mentioned a smaller conservation project, the Mill Branch stream restoration project in Knox County.

Committee members raised some questions during the presentation. Mr. Coleman responded to Co-chair Gibson that the programs have been funded mostly with tobacco settlement funds and some Department of Agriculture funds in recent years. He indicated there has been a "tremendous demand for funds by landowners," but by leveraging state appropriations with federal funds, they hope to still meet demand without asking for added funds.

Mr. Coleman discussed various conservation environmental grants offered by the division, such as dead farm animal disposal. Responding to Representative Rand, he said the Department of Agriculture has had to curtail its grant funding to counties for dead animal removal. The Division of Conservation still offers individual grants, totaling a maximum of \$7,500. He said the cost of dead farm animal removal is rising. Counties provide some funding as well, according to Mr. Coleman. Also, he said they are working with the Department of Agriculture and the Office of State Veterinarian to foster alternatives to removing dead farm animals to rendering facilities, such as on-site disposal.

Responding to Representative Adams, Mr. Coleman indicated funding for tire pickup is seldom requested because of a separate state tire disposal program.

The speaker responded to questions from Co-chair Gibson regarding the scope of the Green River Conservation Reserve Enhancement Program, which has funded improvements on 100,000 acres of farmland in 14 counties. Mr. Coleman indicated to the co-chair that there have been discussions regarding expanding the existing area of the program or undertaking similar programs in other areas. He said the rules for granting federal funds have tightened.

In continuing discussion, Representative McKee recalled the work on House Bill 611 in the 2000 session and dialogue

regarding conservation. He observed that the annual \$9 million appropriation forms the base for the soil erosion, water quality, and environmental stewardship programs.

Mr. Coleman indicated that con-

servation needs remain and recently, droughts and wind damage have impacted farmers.

He said environmental problems for landowners are constantly changing. Also, farm operational approaches

change.

Representative Rand, who sponsored the original Water Quality Act, observed that land improvements brought about by the environmental and conservation programs are evident throughout

the state.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library.

The meeting ended at approximately 11:15 a.m.

2009 Prefiled Bills

BR 12 - Senator Dorsey Ridley, Senator Jerry P. Rhoads (11/24/08)

AN ACT relating to public infrastructure authorities.

Establish KRS Chapter 175B and create new sections thereof to provide definitions; establish the Kentucky Public Transportation Infrastructure Authority; specify membership, meeting requirements, staffing, and operations; state the purpose and powers of the authority; direct the authority to evaluate potential projects; require that projects be proposed by a local government and approved by the department; permit tolling, establish requirements for level of tolling, and direct how proceeds of tolls and other revenues shall be used; permit the authority to contract with the department for construction and operations; specify that the authority shall maintain control of projects and revenues from projects; authorize projects constructed by the authority to include interchanges with existing roadways; permit the authority to issue administrative regulations; permit public utilities to utilize rights-of-way under specific circumstances; permit agreements for use of real estate assets of the authority by the Commonwealth; authorize issuance of bonds; provide that bonds are not a debt of the Commonwealth; permit incidental use of rights-of-way for specified purposes; authorize trust relationships; authorize state agencies and localities to invest in bonds; exempt bonds from state taxation; allow the authority to contract for provision of maintenance services; direct that projects shall revert to ownership by the Commonwealth when all bonds are retired; require issuance of an annual report, require an annual audit; prohibit officers and employees from directly investing in authority bonds; indemnify board members and employees from personal liability; authorize previous planning and other work to become a part of the function of the authority; amend KRS 176.420

to require the activity of the authority to be evaluated as a part of the six-year road plan.

(Prefiled by the sponsor(s).)

BR 15 - Representative Jim Wayne (11/24/08)

AN ACT relating to voting.

Amend KRS 117.085 to allow voting before election day for caretakers of voters who are scheduled to have surgery that will require hospitalization on election day.

(Prefiled by the sponsor(s).)

BR 21 - Representative Melvin B. Henley (06/19/08)

AN ACT relating to voluntary student expression of religious viewpoints in public schools.

Amend KRS 158.183 to permit students to voluntarily express religious viewpoints in school assignments free from discrimination and organize prayer groups, religious clubs, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups; create a new section of KRS Chapter 158 to require each board of education to adopt and implement a policy regarding voluntary student expression of religious viewpoints and to establish a limited public forum for student speakers at all school events at which a student is to publicly speak, including graduation; designate procedure for selection of student speakers; require subject of speech to be relevant to event; require district disclaimer indicating nonendorsement of the content of voluntary expressions by students.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 24 - Representative Jimmy Higdon (08/29/08)

AN ACT relating to primaries.

Amend KRS 116.055 to permit a registered independent to vote in the primary of one party for each primary; amend KRS 118.125 to provide that a primary candidate shall not be a registered independent; amend KRS 117.125 to provide that electronic voting machines be reprogrammed to allow a registered independent to vote for a party's candidates in a primary.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 28 - Senator Gary Tapp, Senator Dan Seum (07/07/08)

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define "low-speed electric vehicle" and amend the definition of "motor vehicle" to include a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 45 miles per hour or less; require low-speed electric vehicles operated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with Chapter 186A, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than 45 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 33 - Representative Jim Wayne, Representative Charles Siler (07/28/08)

AN ACT relating to tax credits for hiring legally blind or severely disabled individuals.

Create a new section of KRS Chapter 141 to create a community rehabilitation tax credit for the amount paid to a nonprofit agency or work center for work performed by individuals who are legally blind or severely disabled, define terms; amend KRS 141.0205 to establish the order in which the credit shall be taken.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 34 - Senator Tom Buford (07/17/08)

AN ACT relating to donations.

Create a new section of KRS 367.170 to 367.300 to require for-profit entities that collect donated items for resale to affix a permanent sign on the collection bins that states that the collections are not charitable in nature and do not qualify for a charitable deduction, and that provide the name and contact information for the entity; provide that a violation of this section is an unlawful act under KRS 367.170; provide that the provisions may be enforced by the Attorney General or the county attorney.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 35 - Representative Ron Crimm (11/17/08)

AN ACT relating to the titling and registration of mopeds.

Amend KRS 186A.010 to define "motor vehicle" for KRS Chapter 186A to include mopeds; add mopeds to the automatic motor vehicle titling and registration system; amend KRS 186.010 to include mopeds in the definition of "motor vehicle" as used in KRS 186.020 to 186.260 to provide

for the registration of mopeds; specify minimum cylinder capacity within the definition of “motorcycle”; amend KRS 186A.080 to remove title and registration exemptions for mopeds; amend KRS 186.050 to set the annual registration fee for a moped; amend KRS 304-39.020 to include mopeds within the definition of “motor vehicle” for Subtitle 39 of KRS Chapter 304.

(Prefiled by the sponsor(s).)

BR 37 - Senator Katie Stine (06/19/08)

AN ACT relating to the promotion of physical activity in schools.

Create a new section of KRS 160 to require the Kentucky Department of Education to promulgate an administrative regulation to require all public preschool to eighth grade programs, no later than the 2009-2010 school year, to implement 30 minutes per day or 150 minutes per week of structured moderate-to-vigorous physical activity in a minimum of 10 minute intervals incorporated into the school day; permit the physical activity to include a combination of classroom-based physical activity, structured recess, or other structured physical activities; require the Kentucky Board of Education to promulgate administrative regulations to implement the physical activity requirement; amend KRS 160.345 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 38 - Senator Joey Pendleton (10/09/08)

AN ACT relating to fuel ethanol-blended gasoline.

Create new section of KRS 363.900 to 363.908 to define terms; require that all fuel terminals that sell gasoline in Kentucky offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline; provide that terminals that only offer for sale federal reformulated gasolines shall be exempt from the requirement to offer for sale unblended gasoline; permit all fuel retail facilities, wholesalers, distributors, and marketers to purchase ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier; permit biodiesel-blended fuel to be freely mixed or co-mingled

with conventional diesel fuel and sold at retail without any penalty, fine, punishment, or regulatory impediment; and permit fuel ethanol-blended gasoline to be freely mixed or co-mingled with unblended gasoline and sold at retail without any penalty, fine, punishment, or regulatory impediment.

(Prefiled by the sponsor(s).)

BR 41 - Representative Addia Wuchner, Representative Tom Burch (07/30/08)

AN ACT relating to physical activity for children.

Create a new section of KRS Chapter 156 to require the Kentucky Department of education to identify and disseminate model resources for integrating physical activity during the school day; encourage schools to utilize certified physical education teachers in the development of physical activity plans; develop a reporting mechanism for schools containing grades K-5 to report on results of physical activity and wellness programs; require the Department of Education to report no later than November 1 of each year to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare; amend KRS 160.345 to require that school council wellness policies provide for at least 30 minutes of structured moderate to vigorous physical activity, 150 minutes per week or the equivalent per month; require school councils to report progress data; require that structured physical activity be considered part of the instructional day; prohibit exclusion from structured physical activity as a form of discipline; encourage schools with grades 6-8 to adopt similar policies; amend KRS 158.6453 to require inclusion of physical activity and wellness data in school report card; create the Healthy Kids Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 42 - Representative Melvin B. Henley (08/05/08)

AN ACT relating to substance abuse screening pilot programs for public assistance recipients.

Amend KRS 205.200 to create two pilot substance abuse screening programs for recipients of public assistance.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 45 - Senator Bob Leeper (10/10/08)

AN ACT relating to nuclear power.

Amend KRS 278.600 to require that nuclear power facilities have a plan for the storage of nuclear waste rather than a means for permanent disposal; define “storage”; amend KRS 278.610 to delete the requirement that the Public Service Commission certify the facility as having a means for disposal of high-level nuclear waste; change all references to the disposal of nuclear waste to the storage of nuclear waste; repeal KRS 278.605.

(Prefiled by the sponsor(s).)

BR 49 - Representative Brent Yonts (07/18/08)

AN ACT relating to clerks of the circuit court.

Amend KRS 30A.010 to require that the salary of a clerk of the circuit court be set according to the salary schedule used for local officials in KRS 64.5275; delay the salary provisions until July 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 55 - Representative Ted Edmonds (11/24/08)

AN ACT relating to the titling of all-terrain vehicles.

Create a new section of KRS Chapter 186A to require the titling of all-terrain vehicles to be administered through the automated motor vehicle and titling registration system; establish that procedures for titling all-terrain vehicles be consistent with motor vehicle titling; establish guidelines for promulgation of regulations relating to titling of all-terrain vehicles; ensure the capability of receiving and discharging liens; amend KRS 186A.070 to require any state resident who purchases a new all-terrain vehicle or creates a security interest in an all-terrain vehicle after January 1, 2010, to apply for a certificate of title; prohibit the operation of an all-terrain vehicle on the roadway, except as provided by KRS 189.515.

(Prefiled by the sponsor(s).)

BR 56 - Representative Steve Riggs (09/02/08)

AN ACT relating to motor vehicles.

Amend KRS 186.010 to define “low-speed electric vehicle” and amend the definition of “motor vehicle” to include a low-speed electric vehicle; amend definition of “motorcycle” to exclude vehicles that are 3-wheeled and meet all the requirements of a low-speed electric vehicle; create a new section of KRS Chapter 189 to allow the use of low-speed electric vehicles on highways with a posted speed limit of 35 miles per hour or less; require low-speed electric vehicles operated on a highway to be insured in compliance with KRS 304.39-080, titled in accordance with Chapter 186A, and registered as a motor vehicle in accordance with KRS 186.050(3)(a); permit low-speed electric vehicles to cross a roadway with a posted speed limit of more than 35 miles per hour if the intersection is equipped with an electric traffic signal.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 57 - Representative Darryl T. Owens (10/08/08)

AN ACT relating to paternity.

Amend KRS 406.011, to establish that the presumption of paternity is a rebuttable presumption, to update the evidentiary language, and permit an evidentiary showing that a man other than the husband is the father of the child to prove the child was born out of wedlock; amend KRS 406.021, to clarify how paternity may be determined, to add references to Family Court, and to permit either parent to petition the court for a parentage determination; amend KRS 406.035, relating to written paternity orders, to include references to Family Court judges; amend KRS 406.051 to include references to Family Court and clarify how an appeal is to be made; amend KRS 406.151, to include the county where the child resides as an appropriate venue in paternity cases.

(Prefiled by the sponsor(s).)

BR 60 - Representative Ron Crimm (09/04/08)

AN ACT relating to domestic relations and declaring an emergency.

Amend KRS 403.200, relating to temporary orders, to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; amend KRS 403.270, relating to custodial issues, to add the promotion of a healthy relationship between the child and other custodian or parent as a factor for the consideration of awarding custody of children; amend KRS 530.050, relating to nonsupport and flagrant nonsupport, to add spouse and former spouse; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 61 - Senator Ray S. Jones II (08/21/08)

AN ACT relating to driving under the influence.

Amend KRS 189A.010 to establish a per se violation of the DUI statute if the driver has at least a certain amount of a controlled substance in the blood; create a defense if the person took the controlled substance in compliance with a valid prescription; reduce the required alcohol concentration for an aggravating circumstance from 0.18 to 0.15; amend KRS 189A.105 to lower the alcohol percentage from 0.18 to 0.15 for increased penalties; amend various other statutes to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 63 - Representative Brent Yonts (11/13/08)

AN ACT relating to high school newspapers.

Create a new section of KRS Chapter 160 to provide that public high school student journalists have right to exercise freedom of speech and press in school-sponsored media; direct that student journalists are responsible for determining content of school-sponsored media; provide limitations for content determined by high school students; provide that school boards are immune from civil and criminal liability based on student expression in school-sponsored media; require local board adoption of student freedom of expression policy.

BR 68 - Representative Ron Crimm (08/12/08)

AN ACT relating to jury service.

Amend KRS 29A.010, relating to jury service, to define “calendar day”; amend KRS 29A.130, relating to limitations on jury service, to increase the interval between eligibility for jury service from 24 months to five years; change “court days” to “calendar days” with regard to 30 days of service being required.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 69 - Senator Ray S. Jones II (08/21/08)

AN ACT relating to the civil rights of deaf and hard of hearing persons.

Amend KRS 163.510 to require the Commission on the Deaf and Hard of Hearing to advise the Commission on Human Rights on adequate technological means of providing closed captioning for motion picture theaters; amend KRS 344.130 to require movie theaters with five or more screens to provide closed captioning for deaf and hard of hearing persons; amend KRS 344.190 to require the Commission on Human Rights to review and approve available closed captioning technologies and set the minimum numbers of closed captioned showings of a movie which must be offered at each covered theater.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 73 - Representative Tom Burch (10/15/08)

AN ACT relating to video lottery terminals, making an appropriation therefor, and declaring an emergency.

Create new sections of KRS Chapter 154A to establish video lottery terminals at licensed racetracks and in each county that authorizes video lottery terminals by a vote of the people of the county; direct the Lottery Corporation to purchase any video lottery terminals utilized in Kentucky; require that persons wishing to operate video lottery games allotted to counties obtain a contract from the Lottery Corporation after having acquired prior approval from the local governing board where the terminals will be located; place the oversight of the games under the jurisdiction of the

Lottery Corporation; limit the number of video lottery terminals to 25 at any one premises unless the premises is a racetrack or a qualifying hotel; set qualifying hotels as those within five miles of a convention center or facility that seats 2,000 or more people; allow these hotels to operate up to 75 video lottery terminals; establish that the three types of video lottery terminal allocation are racetracks, uniform county allotment, and county allotment based on population; limit racetrack allocation to a set formula, uniform county allotment to 50 per county, and a total county population allotment to 6,000 video lottery terminals distributed to the counties proportionate to population; establish the duties and responsibilities of the corporation, its agents, and its employees; prohibit ex parte communications between lottery board members and contract holders, licensees, and applicants for such contracts or licenses; allocate a base number of 500 video lottery terminals to each licensed racetrack; grant additional video lottery terminals to each track based on the number of days of live racing held at the track; set additional allotment at 15 video lottery terminals for each race day run beyond 30 and up to 50 race days, with an additional 10 video lottery terminals for each race day beyond 50 race days; prohibit operation of video lottery terminals on race days at the track where the live racing is being conducted from 30 minutes before the post time of the first race of the day until after the last race of the day has been run; allow a track to lease its machines to another track located in the same county; require tracks to run the same number of race days as in 2008 to remain eligible for video lottery terminals, with exemptions for extreme circumstances; prohibit any person less than 21 years of age from being on the premises or any portion of the premises where video lottery games are conducted; establish qualifications and responsibilities of video lottery retailers and licensees; list grounds by which a video lottery retailer or applicant may have his or her contract rescinded, revoked, suspended, or not renewed; permit the corporation to issue temporary licenses; prohibit the transfer of licenses without obtaining prior approval from the corporation; create an exemption to allow facilities developed for video lottery gaming activities to be considered permitted uses for zoning purposes; maintain other applicable zoning and building codes; specify how the moneys earned

from the conduct of video lottery games are expended; cap the amount the corporation may spend on administrative and operating expenses to no more than seven percent of net terminal income; pay the lesser of 0.25% or \$2,000,000 to the compulsive gamblers’ assistance fund, and the lesser of 0.4% or \$3,000,000 to develop testing methods to detect growth hormones and performance-enhancing or illegal drugs in racehorses; allot the lesser of 0.3% or \$3,000,000 of the net terminal income from racetracks to conduct post-race testing of racehorses for illegal drugs; devote remaining moneys to education, Medicaid matches, prescription drug program for seniors, equine industry program, video lottery retailers, budget reserve fund, and county governments where video lottery games are located; require the Auditor of Public Accounts to conduct an annual audit of the corporation’s disbursements and expenditures; create a committee to conduct a study on video lottery games operating in the state and their impact on the economy; indicate the committee’s membership; direct each county to conduct a local option election on video lottery terminals at the next general election that occurs more than 90 days after video lottery terminals are authorized generally; allow for subsequent elections on the issue after at least three years have passed since the last referendum; make racetrack employee collective bargaining agreements for nonsupervisory employees applicable to the track’s video lottery terminal employees; generate a list by which undesirables may be ejected or excluded from any premises where video lottery games are being conducted; set out criteria to be used in making a determination as to whether or not such persons should be excluded or ejected; allow an individual to have himself or herself voluntarily added to the exclusion list; require the commission to notify a person placed on the exclusion or ejection list; establish a procedure by which a person ejected or excluded may appeal the decision to eject him or her; define the term “cheat” and establish penalties for persons who cheat; create the compulsive gamblers assistance fund; determine how expenditures from the compulsive gamblers assistance fund will be utilized; require the commission to prepare an annual report detailing activities and expenditures of the compulsive gamblers assistance fund; encourage video lottery retailers to cooperate with local business and community organizations to stimulate

the economy through tourism; make the Lottery Corporation's board members, executive director, and employees subject to the executive branch code of ethics; amend KRS 154A.010; 154A.030, 154A.040, 154A.050, 154A.060, 154A.063, 154A.070, 154A.080, 154A.090, 154A.110, 154A.130, 154A.400, 154A.420, 154A.650, 230.357, 230.550, 243.500, 243.505, 525.090, 528.010, 528.100, 154A.990, and 15.380 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 74 - Representative Jim DeCesare (08/01/08)

AN ACT relating to writing portfolios.

Amend KRS 158.6453 to remove writing portfolios from the state-wide CATS assessment program for elementary school students; require elementary schools to use writing portfolios as an instructional tool for continuous assessment of students.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 75 - Representative Jim DeCesare, Senator Bob Leeper (08/01/08)

AN ACT relating to accounting for the expenditure of state funds.

Create new sections of KRS Chapter 42 to require the Finance and Administration Cabinet to create a searchable Web site to provide certain information on the expenditure of state funds; provide that the new sections shall be known as the "Taxpayer Transparency Act of 2009."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 76 - Representative Jim DeCesare (08/01/08)

AN ACT relating to a legislative time-out prior to voting on a floor amendment or a free conference report related to an appropriation measure or a revenue measure.

Create a new section of KRS Chapter 6 to require a legislative time-out period of 24 hours prior to a vote on an appropriation or revenue bill or amendment.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee

on Appropriations and Revenue

BR 78 - Representative Jim Gooch Jr., Representative Hubert Collins (09/05/08)

AN ACT relating to motor vehicle license plates.

Create a new section of KRS Chapter 186 to establish an In God We Trust license plate as an alternate standard issue license plate; set forth design characteristics and eligibility standards; amend KRS 186.240 to conform; EFFECTIVE January 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 79 - Representative Jimmy Higdon (08/29/08)

AN ACT relating to automated or recorded political telephone messages.

Create a new section of KRS Chapter 367 to prohibit use of automated calling equipment or recorded political telephone messages from or by a political party or campaign; make use of such equipment for communicating political messages by a political party or campaign a Class B misdemeanor; provide that each prohibited automated call or recorded political message shall be punishable by a civil penalty of not less than \$5,000; provide that an injured person may bring a cause of action for damages up to the amount of actual damages or \$1,000 whichever is greater.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 82 - Representative Charles Siler (08/29/08)

AN ACT relating to Kentucky State Parks.

Create a new section of KRS Chapter 148 to provide qualified Kentucky residents who are permanently and totally disabled veterans an exemption from the relevant overnight accommodations rate at any Kentucky State Park, Sunday through Thursday of each week; require the exemption to apply to a maximum of three overnight stays per calendar year at lodge rooms and campsites at any Kentucky State Park; limit reservations during peak months to ten consecutive days; require the exemption to be subject to

space availability; require the Department of Parks to promulgate administrative regulations relating to the proof of eligibility for persons entitled to the exemption.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection

BR 84 - Representative Jimmy Higdon (08/29/08)

AN ACT relating to jurisdictional limits for Kentucky courts.

Amend KRS 24A.230 and 24A.290 to increase the jurisdictional limit of the small claims division of the District Court from \$1,500 to \$3,000 for both claims and counterclaims.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 90 - Representative Bill Farmer (11/21/08)

AN ACT relating to taxation.

Amend various sections of KRS Chapter 139 to expand the sales and use tax base to include certain services and rental of commercial real estate, repeal certain exemptions, and lower the tax rate; create a new section of KRS Chapter 141 to apply the provisions of that chapter to taxable years beginning before January 1, 2010; amend KRS 141.020, 141.040, and 141.0401 to make the individual income tax, corporation income tax, and the limited liability entity tax effective for taxable years beginning before January 1, 2010; amend KRS 138.358 and 139.260 to conform; repeal KRS 139.485 and 139.486; EFFECTIVE July 1, 2009.

(Prefiled by the sponsor(s).)

BR 94 - Representative Tom Burch (09/04/08)

AN ACT relating to horse racing.

Amend KRS 230.260 to require the Kentucky Horse Racing Authority to promulgate administrative regulations compelling racetracks to report to the authority and to the horsemen's associations their daily on-track attendance and the daily on-track and off-track handle within 24 hours after the last race on the day in question; state that the report is to list moneys wagered on-track, off-track,

through advance deposit wagering, and all other sources in the host track wagering pool; indicate that the report should also list how all wagering moneys retained by the track are credited to be paid to the state, the horsemen's purse account, the relevant horse development fund, and the track itself; direct that the Kentucky Horse Racing Authority promulgate administrative regulations to mandate submission of a report to the authority any time a racehorse, while training or racing in Kentucky, incurs a catastrophic, race-career ending injury or an injury requiring surgery; indicate that separate reports are to be filed by the premises where the injury occurred, the attending veterinarian, and the horse's trainer; disclose on the report whether the horse has ever been given growth hormones or anabolic steroids, corticosteroids within 10 days of the injury, any mental or physical changing medications within 30 days of the injury, or had any corrective surgery or other techniques that could have altered the horse from its natural birth configuration; make reports available to the public upon request; penalize failure to report with a \$500 fine for the first offense and a six-month license suspension for each subsequent offense.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 103 - Representative Mary Lou Marzian (10/15/08)

AN ACT relating to the expansion of the film industry in Kentucky.

Create new sections of KRS Chapter 148 to provide individual income tax, corporation income tax, limited liability entity tax, and sales tax incentives for locating a film production facility in Kentucky or filming or producing a motion picture production in Kentucky; define terms; establish qualifications including minimum capital investment and minimum qualifying expenditures and minimum qualifying payroll expenditures, application and reporting requirements; require the Kentucky Film Office to administer the incentive program; authorize the Kentucky Film Office to enter into a film industry tax incentive agreement; authorize the promulgation of administrative regulations by the Kentucky Film Office and the Department of Revenue; create a new section of KRS 141 to create a motion picture film production nonrefundable income tax credit for the construction of a new

film production facility or the renovation of an existing structure to become a film production facility and a motion picture production that is filmed or produced in Kentucky against the tax imposed under KRS 141.020 or 141.040 and KRS 141.0401 for taxable periods beginning after December 31, 2008; allow credit to be carried forward 5 years; amend KRS 141.0205 to establish the order in which the credits may be taken; amend KRS 139.538 to provide refund of the sales and use tax paid on the purchase of tangible personal property that is permanently incorporated into a film production facility or is used to initially equip the film production facility; provide for a refund of the sales and use tax paid by an approved company on qualifying expenditures if used in the filming or production of a motion picture production in Kentucky.

(Prefiled by the sponsor(s).)

BR 106 - Representative Sal Santoro (10/10/08)

AN ACT relating to noncommercial swimming pools.

Amend KRS 67.083 to allow counties to regulate above-ground noncommercial pools.

(Prefiled by the sponsor(s).)

BR 109 - Representative Kevin D. Bratcher (09/23/08)

AN ACT relating to postsecondary education finance.

Amend KRS 164.7874 and 164.7883 to clarify that an approved out-of-state institution at which eligible students may use KEES scholarships must be located in a state contiguous to Kentucky or be a participant in the Academic Common Market agreement.

(Prefiled by the sponsor(s).)

BR 120 - Representative Rick G. Nelson (09/15/08)

AN ACT relating to motor vehicle license plates.

Create a new section of KRS Chapter 186 to establish an "In God We Trust" license plate as an alternate standard issue license plate; set forth design characteristics and eligibility standards; amend KRS 186.240 to conform; EFFECTIVE January 1, 2010.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 123 - Representative Brent Yonts (11/18/08)

AN ACT relating to allowable uses of personal information obtained under the Driver Privacy Protection Act.

Create a new section of KRS Chapter 186 to clarify that a business that obtains information from a driver's license or personal ID card, shall not retain or use the information obtained from the driver record; set fine for violation.

(Prefiled by the sponsor(s).)

BR 134 - Representative David Floyd (10/31/08)

AN ACT relating to motor vehicle operator's licenses.

Create a new section of KRS 186.400 to 186.650 to exempt 17-year olds who have enlisted in the military from the requirement to obtain an intermediate license; amend KRS 186.412, 186.450, 186.452, and 186.454 to conform and to clarify that individuals over the age of 18 are exempt from graduated driver's licensing provisions.

(Prefiled by the sponsor(s).)

BR 135 - Representative David Floyd (11/07/08)

AN ACT relating to the operation of a motor vehicle.

Create a new section of KRS 189 to define terms; prohibit the use of a personal communication device without the use of a hands-free device by the operator of a motor vehicle, and provide limited exceptions; amend KRS 189.990 to provide for period ending January 1, 2010 during which courtesy warnings will be issued for a violation of Section 1 and set a fine of between \$20 and \$100 for a violation of Section 1 on or after January 1, 2010.

(Prefiled by the sponsor(s).)

BR 142 - Senator Dan Seum (09/26/08)

A CONCURRENT RESOLUTION urging the United States Congress to appoint an independent counsel to investigate the issue of

American prisoners of war and those missing in action.

Urge Congress to appoint an independent counsel to investigate the issue of American prisoners of war and those missing in action.

(Prefiled by the sponsor(s).)

BR 143 - Representative Bill Farmer (11/12/08)

AN ACT relating to campaign finance reports.

Amend KRS 121.180, relating to campaign finance reports, to allow a filer to designate an entry reading "No change since last report" if the filer has received or spent nothing since the date of the filer's last report; if entry is designated, require the filer to specify only the balance carried forward from the last report.

(Prefiled by the sponsor(s).)

BR 147 - Representative Tanya Pullin, Representative Scott W. Brinkman (09/16/08)

AN ACT relating to income tax credits for small businesses.

Create new sections of KRS Chapters 141 and 154; amend KRS 141.0205 to establish a small business tax credit.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 149 - Representative Stan Lee (10/30/08)

AN ACT relating to sexual offenders.

Amend KRS 17.545 to prohibit a person required to register as a sexual offender, for an offense committed against a victim who was a minor, from residing in specified areas and from participating in any Halloween activity with a minor.

(Prefiled by the sponsor(s).)

BR 158 - Representative Robert R. Damron (11/24/08)

AN ACT relating to Kentucky Access.

Amend KRS 304.17B-015 to require Kentucky residency for eligibility in Kentucky Access and to provide that an individual who is eligible under another group health plan is not eligible for Kentucky Access.

(Prefiled by the sponsor(s).)

BR 162 - Representative Brent Yonts, Representative Jody Richards (09/26/08)

A JOINT RESOLUTION restoring the salary of the Legislative Research Commission Director to an acceptable level.

Express sense of General Assembly regarding salary increase for director of Legislative Research Commission; rescind Legislative Research Commission action giving salary increase to director; set salary at level of position on August 31, 2008; require director to repay any increase in salary; RETROACTIVE.

(Prefiled by the sponsor(s).)

BR 163 - Representative Brent Yonts, Representative Jody Richards, Representative Dottie Sims (09/26/08)

A RESOLUTION urging the Legislative Research Commission Director to reject his salary increase.

Express sense of House regarding salary increase for director of Legislative Research Commission; urge director to reject salary increase, agree to a cost of living increase of 1%, and repay any salary increase received as a result of the LRC's September 24, 2008 vote.

(Prefiled by the sponsor(s).)

BR 175 - Representative Mary Lou Marzian (10/21/08)

AN ACT relating to wage discrimination.

Amend KRS 337.423 to prohibit wage discrimination on the basis of sex, race, or national origin by prohibiting wage differentials for employees who perform equivalent jobs; provide exceptions for wage differentials based on seniority or merit systems, systems that measure wages by quantity or quality of production, and factors other than sex, race, or national origin; amend KRS 337.420 to define equivalent jobs as those that are equal under the federal Equal Pay Act, or jobs that are dissimilar but equivalent in skill, effort, responsibility, and working conditions; and amend KRS 337.425 to require promulgation of administrative regulations on or before July 1, 2010 to specify criteria for determining jobs that are dominated by

employees of a particular sex, race, or national origin, and acceptable methodology for determining equivalent skill, effort, responsibility, and working conditions; EFFECTIVE July 1, 2011.

(Prefiled by the sponsor(s).)

BR 176 - Representative Mary Lou Marzian (10/28/08)

AN ACT relating to boards and commissions.

Amend KRS 12.070 to allow the Governor, when appointments to boards and commissions are made from lists submitted to him, to appoint a male or female so as to achieve as much gender equity as possible.

(Prefiled by the sponsor(s).)

BR 177 - Representative Mary Lou Marzian (10/14/08)

AN ACT relating to health care services provided in clinical trials for the treatment of cancer.

Create a new section of Subtitle 17A of KRS Chapter 304 to prohibit a health benefit plan from excluding coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare cost had it not been incurred in a cancer clinical trial; provide that nothing in this section requires a policy to offer, nor prohibit a policy from offering, cancer clinical trial services by a participating provider; provide that nothing in this section requires services that are performed in a cancer clinical trial by a non-participating provider of a policy to be reimbursed at the same rate as those performed by a participating provider of the policy.

(Prefiled by the sponsor(s).)

BR 179 - Representative Steve Riggs (11/25/08)

AN ACT relating to compensation for legislative branch employees.

Amend KRS 7.090 to require that the salary of the Director of the Legislative Research Commission shall be approved by the General Assembly except for cost-of-living adjustments provided to all Commission employees.

(Prefiled by the sponsor(s).)

BR 180 - Senator Jack Westwood (10/08/08)

AN ACT amending 2008 Kentucky Acts Chapter 127, relating to corrections, and declaring an emergency.

Amend 2008 Kentucky Acts Chapter 127, the state/executive branch budget bill, to delete language pertaining to the calculation of probation and parole credit and to the minimum expiration of sentence required for final discharge of prisoners; include noncodified provision relating to the effect of the bill's provisions after the bill's effective date; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 182 - Senator Ken Winters (10/13/08)

AN ACT amending 2008 Kentucky Acts Chapter 127, relating to corrections, and declaring an emergency.

Amend 2008 Kentucky Acts Chapter 127, the state/executive branch budget bill, to delete language pertaining to the calculation of probation and parole credit and to the minimum expiration of sentence required for final discharge of prisoners; include noncodified provision relating to the effect of the bill's provisions after the bill's effective date; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 187 - Representative Darryl T. Owens, Representative Larry Clark (11/20/08)

AN ACT relating to early voting.

Create a new section of KRS Chapter 117 to allow early voting by requiring in-person absentee voting to be conducted for at least 12 working days before the Sunday prior to election day; require this voting to be held in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections; amend various sections of KRS Chapter 117 to conform.

(Prefiled by the sponsor(s).)

BR 191 - Representative Dennis Keene (10/22/08)

AN ACT relating to the provision of county offices.

Amend KRS 67.035 to allow the sheriff and county clerk, in certain counties, to maintain offices in cities other than the county seat; amend KRS 132.410 to allow the PVA, in certain counties, to maintain offices in cities other than the county seat; amend KRS 133.047 to conform.

(Prefiled by the sponsor(s).)

BR 195 - Representative Tommy Thompson (11/03/08)

AN ACT relating to the expansion of the film industry in Kentucky.

Create new sections of KRS Chapter 148 to provide individual income tax, corporation income tax, limited liability entity tax, and sales tax incentives for locating a film production facility in Kentucky or filming or producing a motion picture production in Kentucky; define terms; establish qualifications including minimum capital investment and minimum qualifying expenditures and minimum qualifying payroll expenditures, application, and reporting requirements; require the Kentucky Film Office to administer the incentive program; authorize the Kentucky Film Office to enter into a film industry tax incentive agreement; authorize the promulgation of administrative regulations by the Kentucky Film Office and the Department of Revenue; create a new section of KRS 141 to create a motion picture film production nonrefundable income tax credit for the construction of a new film production facility or the renovation of an existing structure to become a film production facility and a motion picture production that is filmed or produced in Kentucky against the tax imposed under KRS 141.020 or 141.040 and KRS 141.0401 for taxable periods beginning after December 31, 2008; allow credit to be carried forward 5 years; amend KRS 141.0205 to establish the order in which the credits may be taken; amend KRS 139.538 to provide refund of the sales and use tax paid on the purchase of tangible personal property that is permanently incorporated into a film production facility or is used to initially equip the film production facility; provide for a refund of the sales and use tax paid by an approved company on qualifying expenditures if used in the filming or production of a motion picture production in Kentucky.

(Prefiled by the sponsor(s).)

BR 202 - Representative Ron Weston (11/25/08)

AN ACT relating to coroners.

Amend KRS 72.450 to allow a coroner in any county containing a consolidated local government who is in possession of a body to elect to cremate a body in lieu of burial.

(Prefiled by the sponsor(s).)

BR 204 - Representative Dennis Keene (10/22/08)

AN ACT relating to live organ donation.

Create a new section of KRS Chapter 141 to provide a tax credit for individuals who donate live organs in the amount of the lesser of actual expenses or \$10,000; define "live organ donation expenses"; amend KRS 141.0205 to conform; create a new section of KRS Chapter 18A to provide that state employees who donate a live organ be entitled to 30 days paid leave; provide that Sections 1 and 3 of the Act shall be known as "Beth's Bill."

(Prefiled by the sponsor(s).)

BR 209 - Representative Mary Lou Marzian (10/21/08)

AN ACT relating to the Kentucky Recreational Trails Authority.

Amend KRS 148.795 to add a member of the Brain Injury Association of Kentucky to the Kentucky Recreational Trails Authority.

(Prefiled by the sponsor(s).)

BR 216 - Representative Brent Yonts (11/13/08)

AN ACT relating to government contracts.

Amend various sections in KRS Chapter 45A to expand and refine the list of entities included in definition of "contracting body"; allow committee to determine the definition of "governmental emergency"; refine the definition of memorandum of agreement (MOA) and include grant and research agreements; correct references to universities and colleges and institutions of higher education; require reporting of federal grant and research projects; refine the definition of "personal service contract" (PSC) to specifically include contracts for personal or professional services and

group health care for public employees; allow the committee to establish reporting schedule for exempt PSC's; exempt health maintenance organization or Medicaid-managed health care service contracts with the Cabinet for Health and Family Services, but require reporting of such contracts; exempt contracts between postsecondary institutions and health care providers, but require reporting of such contracts; exempt PSC's of postsecondary institutions for federal grant and research projects, but require reporting of such contracts; exempt contracts \$40,000 and under from Request for Proposals process, but require three quotes when feasible, and determination of unfeasibility may be reviewed by the secretary of the Finance and Administration Cabinet or the committee; exempt contracts \$40,000 and under from routine review process, but require filing within 30 days for informational purposes; allow meetings of the committee as necessary, but not less than once per month; prohibit delegation of decision-making authority by secretary of the Finance and Administration Cabinet, except with respect to institutions of higher education that have elected to implement procurement procedures in accordance with statutory authority; delete requirement for annual reports; delineate powers of the committee; specify that competitive bids may not be required for authorized contracts with risk-bearing organizations responsible for Medicaid-managed health care services.

(Prefiled by the sponsor(s).)

BR 218 - Representative Joni L. Jenkins (11/19/08)

AN ACT relating to dating violence.

Amend KRS 403.720 to include dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 431.005 to reference the definition of "unmarried couple" in KRS 403.720.

(Prefiled by the sponsor(s).)

BR 220 - Representative Joni L. Jenkins (11/19/08)

AN ACT relating to employment.

Amend KRS 337.415, relating to court-ordered appearances by employees, to define terms; prohibit employers from discharging or retali-

ating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with the crime; require employee to give employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave time; require employer to maintain confidentiality of records and communications with employee crime victim; create a penalty for failing to maintain confidentiality.

(Prefiled by the sponsor(s).)

BR 258 - Representative Brent Yonts (11/24/08)

AN ACT proposing to amend Sections 147 and 148 of the Constitution of Kentucky relating to voting.

Propose to amend Sections 147 and 148 of the Constitution of Kentucky to permit qualified voters who choose to do so to vote by absentee ballot in-person on the days prior to the regular election and to require the state to reimburse counties for the cost of early voting; submit to voters for approval or disapproval.

(Prefiled by the sponsor(s).)

BR 263 - Representative Robert R. Damron (11/24/08)

AN ACT relating to firearms certification.

Amend KRS 237.140, relating to federal Law Enforcement Officer Safety Act certification and recertification of active and retired peace officers, to permit any peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course to certify persons under KRS 15.383 and 237.140.

(Prefiled by the sponsor(s).)

BR 267 - Representative Rick G. Nelson (11/17/08)

AN ACT relating to personal communication devices.

Create a new section of KRS Chapter 189 prohibiting the use of a personal communication device by an operator of a motor vehicle, motorcycle, or moped that is under the age of 18; provide a grace period during which a warning will be issued until January 1, 2010; provide that after January 1, 2010, a fine will be imposed for violation.

(Prefiled by the sponsor(s).)

BR 289 - Representative Jesse Crenshaw (11/20/08)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to exclude a convicted felon from the right to vote only until expiration of probation, final discharge from parole, or maximum expiration of sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

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Appointments to Boards and Commissions, Governor permitted to achieve gender equity - BR176

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Chief Justice, from page 2

anymore because the court system's full."

Action taken by the Court of Justice to implement its current budget, passed during the 2008 Regular Session, has included enhanced pay for deputy court clerks, an increase in civil filing fees, steps to collect un-

Grapes and wine, from page 3

"That was a big issue this year that we had not seen in past, partially because of the (increased grape) production we had this year," said Bruce Kunze, a Daviess County grape grower. "One of the issues we found was that growers are not working on contract with wineries. It's part of the evolution of this whole industry we're in that contracts are going to become extremely important for growers and wineries. One of the things we're working on is identifying all the growers in the state and putting together a system with contracts so that growers know who they are going to sell to."

Figuring out a way to grade the quality of grapes will be part of the

collected court costs and discouraging diversion programs that generate revenue outside the state court system, said Minton.

He said he looks forward to working with the General Assembly in the future.

"As our presence here today

effort to establish more contracts between growers and wineries, Kunze said.

Kentucky's grape growers had a bumper crop this year. "There was good water early for vine production," Stone said. "It was dry during harvest season so the grapes had good PH and sugar content."

The bumper crop highlighted some signs that the grape industry is still relatively young and fine-tuning itself. In some instances, growers grew so many different varieties of grapes that they didn't have enough of the kinds in highest demand, while some other growers grew large amounts of varieties that weren't needed, Stone

should demonstrate, this Court of Justice is committed to promoting and enhancing constructive relationships between the Court of Justice and the General Assembly," he said.

"And I hope (this) is evidence of that commitment to you."

said.

Rep. Dennis Keene, D-Wilder, asked if the Department of Agriculture has made any projections on the future of the grape and wine industry. "It appears to me you are in the infant stages of your industry and that it can only be going up," he said.

Stone said no sales projections have been made. "This downturn in the economy and fuel prices certainly slowed down tasting room activity, so I think a lot of those factors are a little beyond our control," he said. "But the quality of wines is improving. Conversations about the quality of wines are improving. ... There's a lot of quality and a lot there."

Dairy, from page 3

sion during the 2008 Regular Session. The commission, proposed in 2008's House Bill 623 and Senate Bill 184, would have collected data on the state's milk industry and looked into whether a state milk price regulation system should be established or amended.

If such a system were established, the legislation said it must not unlawfully favor Kentucky dairies or violate interstate commerce law.

Similar legislation has not yet been prefiled for the upcoming 2009 Regular Session, which begins in January.

Milk processors had a different view of the board proposed by the 2008 legislation. Mike Chandler with Southern Belle—which receives between 60 to 95 percent of its milk from Kentucky producers—said his company supports KDDC, but that improvements at the dairy level are more helpful than "another layer of pricing regulation."

"It causes us to be uncompetitive here. We lose business," said Chandler.

Processors were also concerned about provisions in the 2008 bills that would have given the proposed commission access to certain company data. Flav-O-Rich's Mark Flagg said requiring businesses to open their records to such a commission could increase cost and "may lead to an increase in milk prices for Kentucky consumers." Representatives from Dean's Milk in Louisville said more regulation would not help dairy farmers sell more milk.

KDDC official Maury Cox said milk commissions in other states such as Virginia and Wisconsin are helping dairy farmers there.

He co-wrote a letter from KDDC to the Senate Agriculture and Natural Resources Committee during the 2008 session that said KDDC supported the bills "because the dairy industry is a

vital sector of Kentucky agriculture. It creates a positive economic impact in Kentucky communities and supports many allied industry organizations. If left to the current milk market strategies and policies, the number of dairy producers and the milk they supply will continue to erode along with state and local tax revenues."

Barlow, who explained the potential of the dairy industry to be major economic force in the state, said it is important for lawmakers to "look at us in a different light."

"We need state economic development incentives, we need tax credits for expansion of our existing dairies," he said, telling lawmakers that clustering dairies in some counties together would be a formidable industrial park.

"Why not give tax credits to those who live in our communities, who are going to spend those dollars in our communities?"

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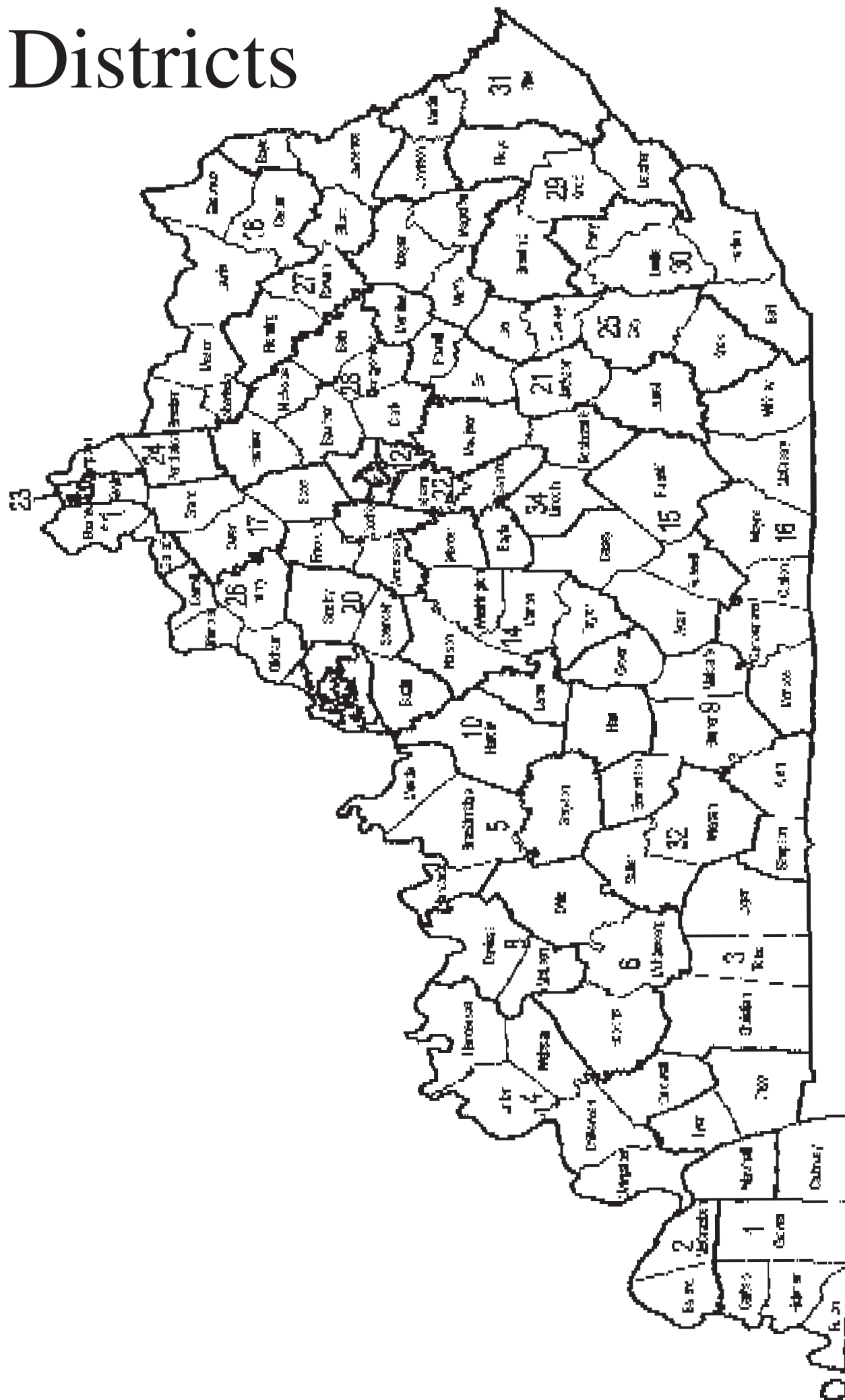
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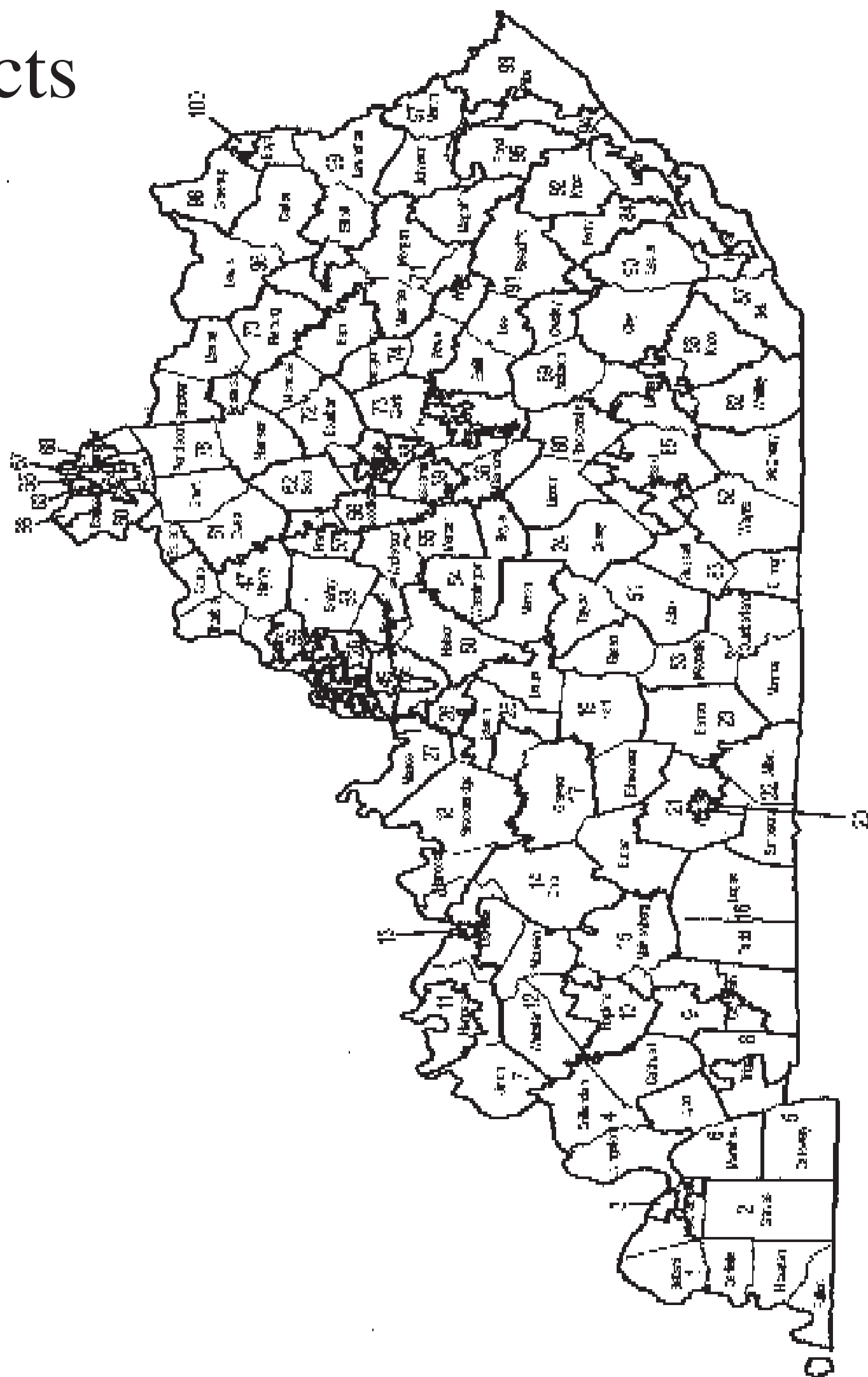
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Senate Districts



Senate Plan (SH001A09) became law (KRS 5.101 - 5.133) January 31, 2002, with enactment of House Bill 1.

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House Plan (HJR001A11) became law (KRS 5.201 - 5.300) January 31, 2002, with enactment of House Bill 1.



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