

Jobless trust fund hurting, lawmakers told

by Rebecca Mullins
LRC Public Information

With a jobless rate of at least 10.9 percent, Kentuckians need unemployment benefits.

But after borrowing over half a billion dollars from the federal government already to cover a shortfall in the state unemployment insurance trust fund, Kentucky realizes it must correct an imbalance in the trust fund that has the state paying out millions more in benefits than it receives in revenue.

Education and Workforce Development Cabinet Secretary Helen Mountjoy told the state legislative Interim Joint Committee on Labor and Industry last month that the Governor's Task Force on Unemployment Insurance, now compiling a report on the issue, is preparing to recommend ways Kentucky can continue to provide benefits to the unemployed while restoring stability to the trust fund and keeping Kentucky employers competitive.

The recommendations are expected to be made in time for consideration by the 2010 Kentucky General Assembly, which begins meeting in

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Rep. Jimmy Stewart, R-Flat Lick, at left, talks with Rep. Tom Riner, D-Louisville, at the Nov. 19 meeting of the Interim Joint Committee on Labor and Industry.

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RECORD

Sports safety implementation right on schedule

by Chuck Truesdell
LRC Public Information

More than 8000 coaches and staff have completed a school safety course required by the General Assembly earlier this year, high school athletic officials reported last month.

House Bill 383, passed during the 2009 Regular Session, mandated that at least one person at every high school sports practice and contest have completed the course by the beginning of this school year. Julian Tackett, the Kentucky High School Athletic Association's Assistant Commissioner, reported that by next school year, course completion will be a pre-hiring requirement for all coaches.

KHSAA officials moved swiftly to put the on-

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Expectations high for Louisville Zoo's Glacier Run

by Rob Weber
LRC Public Information

When completed, the Louisville Zoo's Glacier Run exhibit won't just be a world-class home for polar bears, seals and sea lions. It will be an economic boost for Louisville and the state, zoo officials told members of the General Assembly's Economic Development and Tourism Committee during the panel's Nov. 19 meeting.

"Every time there's a new project, especially a big project, we get a real pickup in attendance of 15, 20, or 25 percent. We're expecting that with Glacier Run," said Gary L. Stewart, Louisville Zoo Foundation board member.

Annual attendance at the zoo is expected to top 900,000 once Glacier Run is fully open. "A million in attendance is not out of reach at all," Stewart said.

In addition to raising revenue for the zoo, the rising number of visitors will provide a boost for city and state government, Stewart said. "State tax revenue would be up nearly \$2 million and local revenue

would be up about \$1 million. This truly is an investment in an economic project that will have a great return and great dividends for the local and commonwealth's economy."

In 2010, sea lions and seals will be added to the exhibit. In 2011, the polar bears exhibit will open.

executive director.

Amusement venues need a new attraction every three to five years to avoid a drop-off in attendance, Stewart said. "And we can expect that kind of decline if we don't move ahead enthusiastically with

this project."

The zoo has already raised about \$23.5 million for the exhibit, but still needs to raise another \$5.6 million. It is asking the state to pledge \$4 million to the project.

"When we started six years ago, we requested \$6 million. With the success we've had in other fundraising efforts and Louisville Metro stepping up beyond its original pledge, we now would be comfortable with a \$4 million pledge from the state to allow us to complete the project," Stewart said. "... We're going to complete this one way or another. But the sooner we complete the project the more quickly we see the economic benefits."

In response to a question from Rep. Jim Gooch, D-Providence, about the approach Glacier Run will take in educating students about the environment and causes of threats to polar bears, Walczak responded that the exhibit will offer scientific information, such as the fact that the number of polar bears in the arctic

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line course in place, Tackett said. The legislation required the course to be taught by a medical professional licensed in Kentucky, but “there was no program out there that fit all the criteria,” he said.

The KHSAA worked with the Kentucky Medical Association to put together its own course.

The online program will allow changes to be implemented quickly, said KHSAA Commissioner Brigid Devries.

“We tried to build it for the future” despite the rush to bring it online quickly, Tackett added. Most coaches have completed the online course’s seven modules in 5-7 hours, he said.

Dr. Peter Bowles, who helped design the curriculum, said the program is unique. “Kentucky is viewed as a leader in this area,” he noted. “This is the only course that’s online in the entire country.”

Bowles also noted that the work was done efficiently. “We’re doing a

very good job at a very good price,” he said. Tackett noted that the course was free for everyone who took the course.

Members of the Interim Joint Committee on Education took the opportunity to make other suggestions to improve student-athlete safety. Rep. Derrick Graham, D-Frankfort, remarked that automated external defibrillators would be a wise investment for schools.

“A thousand dollars for a small school sounds like a lot, but compared to a child’s life, that’s nothing,” he said while pointing that an AED requirement was considered but left out of the final version of HB 383.

Rep. Charlie Miller, D-Louisville, agreed with a particular suggestion included in the report of the Sports Safety Work Group.

“We need to have athletic trainers in all our schools” he said.

Among the other findings of the work group was that the current curriculum for high school coaches would be sufficient if required for middle school coaches as well.

Jefferson County Schools required all middle school coaches to take the course, Tackett said.

Zoo, from page 1

has declined from 26,000 ten years ago to 20,000 today. “What we share with children is objective scientific information and we always leave them with a way that they can be part of the solution to make the world a healthier place,” he said.

Rep. Kevin Bratcher, R-Louisville, asked zoo officials for an update on the June accident at the zoo in which a small train carrying visitors overturned and injured 22 riders.

“The accident is still pending investigation,” Walczak said. “We’re working completely and cooperatively with (state investigators). Right now, the ride’s not in operation. The outcome of the future of the ride is pending investigation.”

The closing of the train ride has resulted in about \$200,000 in lost revenue for the zoo, Stewart said.

Rep. John “Bam” Carney, R-Campbellsville, noted that economic constraints are making it harder for many schools to afford class field trips and suggested that the zoo provide



Rep. Adam Koenig, R-Erlanger, speaks during the Nov. 19 meeting of the Interim Joint Committee on Economic Development and Tourism.

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“virtual lessons” to classes across the state.

Walczak responded that the zoo has offered distance learning and wants to expand its offerings, in addition to offering a “Zoo to You” program that educates thousands of schoolchildren in the state.

Unemployment, from page 1

January.

“We have to look at a way that this program can become solvent and sustainable,” Mountjoy told lawmakers on the committee. “We know this is not the last recession, unfortunately,

The average weekly benefit payment last month was \$306 a week, with a maximum weekly benefit of \$415. The least amount drawn per week was \$39.

that our economy will have to suffer.”

One way that other states are improving solvency in their unemployment insurance systems is by increasing their taxable wage base, or the amount of

employee wages on which employers’ unemployment insurance taxes are based. Nine states have increased their taxable wage base, but Kentucky has not.

Mountjoy said Kentucky’s “low” taxable wage base of \$8,000 is the same as Virginia’s, but that Virginia—along with Tennessee and West Virginia—are among Kentucky’s seven border states that are not currently borrowing money from the federal government. Kentucky has borrowed over \$500 million from the federal government, and currently has the highest unemployment rate of any of its border states, Mountjoy said.

Kentucky can also increase its trust fund dollars by decreasing its jobless rate, but Mountjoy explained that will take time.

“It’s not going to (decrease) until employers feel confident they will have the resources on a go-forward basis to keep people employed,” she said.

Regular unemployment benefits paid by Kentucky the first three quarters of this calendar year totaled over \$872,460,000, while the state only received a little over \$329,450,000 in revenue from employers to pay the benefits, Mountjoy said.

Meanwhile, the average weekly benefit is increasing due to inflation and an increase in wages paid.



Sen. Julian Carroll, D-Frankfort, talks with Rep. Will Coursey, D-Benton, during the November Labor and Industry meeting.

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Information

The average weekly benefit payment last month was \$306 a week, Mountjoy said, with a maximum weekly benefit of \$415. The least amount drawn per week was \$39.

Rep. Charles Siler, R-Williamsburg, suggested more public education about problems plaguing the state unemployment insurance trust fund before the General Assembly considers the Task Force recommendations in the 2010 session.

“When it hits home, particularly to the small business community,

it’s going to make getting legislation through the next session very difficult,” said Siler, “because we hear all the time that it’s not wise to raise taxes during a down economic situation, and that’s what is going to be the parallel when action recommended has to be taken by the General Assembly.”

In response to a question by Rep. Brent Yonts, D-Greenville, Mountjoy said the state has up to two years to pay back more than \$500 million it has borrowed from the federal government.

2010 Session Calendar

2010 REGULAR SESSION CALENDAR

(Approved by LRC 9/2/09)

JANUARY

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8 *ER, 4P Parking required for pretrial House Films	9
		(1)	(2)	(3)	(4)	
10	11	12	13	14	15	16
	(5)	(6)	(7)	(8)	(9)	
17	18 Martin Luther King, Jr. Day HOLIDAY	19	20	21	22	23
		(10)	(11)	(12)	(13)	
24/31	25	26	27	28	29	30
	(14)	(15)	(16)	(17)	(18)	

*House Rule 49 states in part: "In the case of printed bills receiving a favorable report from the Interior Joint Committee to which they were assigned, printing by the clerk or the committee shall occur during the first week of the session, and these bills may be considered by the appropriate committee during the first three weeks of the session. No printing-request bill is required for these printed bills."

FEBRUARY

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

() Denotes Legislative Day

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 Last Day for New House Bills (38)	2 (39)	3 Last Day for New Senate Bills (40)	4 (41)	5 (42)	6
7	8 (43)	9 (44)	10 (45)	11 (46)	12 (47)	13
14	15 (48)	16 (49)	17 (50)	18 (51)	19 (52)	20
21	22 (53)	23 (54)	24 (55)	25 (56)	26 Concessions Only (57)	27
28	29 Concessions Only (58)	30 VETO	31 VETO			

APRIL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 VETO	2 VETO	3 VETO
4	5 VETO	6 VETO	7 VETO	8 VETO	9 VETO	10
11	12	13 SINE DIE (59)	14	15	16	17
18	19	20 (48)	21	22	23	24
25	26	27	28	29	30	



General Assembly

Senate	
Walter Blevins, Jr. 115 Hill N Dale Morehead 40351 Work 606-743-1212 Home 606-743-1200 FAX 606-743-1214	Joey Pendleton 905 Hurst Dr. Hopkinsville 42240 Home 270-885-1639 FAX 270-885-0640
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LEGISLATIVE RESEARCH COMMISSION Minutes of the 530th Meeting November 4, 2009

The 530th meeting of the Legislative Research Commission was held on Wednesday, November 11, 2009, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David L. Williams, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Carroll Gibson, Jerry P. Rhoads, Dan "Malano" Seum, Katie Kratz Stine, Robert Stivers II, Johnny Ray Turner, and Ed Worley; Representatives Rocky Adkins, Larry Clark, Bob M. DeWeese, David Floyd, Jeff Hoover, and John Will Stacy.

Guests: John Hicks,
LRC Staff: Bobby Sherman and Christy Glass.

Representative Stumbo called the meeting to order and the secretary called the roll. There being a quorum present, Representative Williams called for a motion to approve the minutes of September 2, 2009; accept items A. through H. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve and refer items C. through X. under New Business; accept and refer as indicated items I. through 26 under Communications; and approve Resolutions A. and B. A Motion was made by Representative Adkins and seconded by Representative Clark. A roll call vote was taken and the motion passed unanimously. The following items were approved, accepted or referred:

STAFF AND COMMITTEE REPORTS

Information requests for September and October 2009.

Committee Activity Report for September and October 2009.

Reports of the Administrative Regulation Review Subcommittee meetings of September 8, and October 13, 2009.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meetings of September 14 and October 12, 2009.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meetings of September 16 and October 21, 2009.

Committee review of Executive Reorganization Order 2009-754 by the Interim Joint Committee on Agriculture during its meeting of August 27, 2009.

Committee review of Executive Reorganization Order 2009-770 by the Interim Joint Committee on Health and Welfare during its meeting of September 16, 2009.

Committee review of Executive Reorganization Order 2009-771 by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting of October 8, 2009.

NEW BUSINESS

Referral of prefiled bills to the following committees: BR 139 (relating to industrial hemp) to Agriculture; BR 31 (relating to taxation and declaring an emergency); BR 159 (relating to sales tax on alcohol); BR 187 (relating to sales and use tax holidays and declaring an emergency); BR 210 (relating to encouraging healthy lifestyles); BR 239 (relating to sales tax); BR 240 (relating to the individual income tax); BR 265 (relating to the alcoholic beverage wholesale sales tax and declaring an emergency); and BR 276 (relating to live organ donation) to Appropriations and Revenue; BR 70 (relating to motor vehicle repair claims); and BR 96 (relating to health care services provided in clinical trials for the treatment of cancer) to Banking and Insurance; BR 79 (relating to public school academies); BR 107 (relating to college student financial awareness); BR 165 (supporting Charles "Ed" Massey's candidacy for the post of secretary-treasurer of the National School Board's Association); BR 169 (relating to school district vehicles and declaring an emergency); BR 231 (relating to digital citizenship); and BR 232 (relating to suicide prevention training) to Education; BR 15 (relating to mold remediation standards); BR 213 (relating to the continuity of health care); BR 216 (relating to the Colon Cancer Screening Program, and making an appropriation therefor); BR 229 (relating to the care of individuals with mental retardation or other developmental disorders); BR 230 (relating to child custody); and BR 263 (relating to pharmacy technicians) to Health and Welfare; BR 20 (relating to crimes and punishments); BR 95 (relating to crimes and punishments); BR 114 (relating to the Department of Corrections); BR 120 (relating to criminal gangs); BR 182 (relating to inmates); BR 185

(relating to the abolition of the death penalty); BR 202 (relating to sexual abuse); BR 237 (relating to criminal gangs); BR 251 (relating to the use of global positioning monitoring systems including monitoring-related restrictions and sanctions in domestic violence cases); BR 262 (relating to domestic violence); BR 275 (relating to driving under the influence); BR 277 (relating to public safety); and BR 341 (relating to crimes and punishments) to Judiciary; BR 48 (relating to the initial removal of dead human bodies); and BR 250 (relating to acupuncture) to Licensing and Occupations; BR 334 (relating to county consolidation) to Local Government; BR 86 (relating to retirement); BR 108 (designating burgoo as the state dish); BR 172 (proposing to amend Section 228 of the Constitution of Kentucky); BR 174 (relating to automated or recorded political telephone messages); BR 176 (relating to retirement); BR 178 (proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative services); BR 197 (commending Ridgetop Shawnee Tribe of Indians for their efforts on behalf of preserving Native American heritage); BR 222 (relating to primaries); BR 268 (designating June 2010 as Kentucky Rabies Awareness Month); and BR 300 (relating to administrative regulations and declaring an emergency) to State Government; BR 122 (relating to personal identification cards); BR 142 (naming a portion of Kentucky Route 840 in Harlan County in honor of Jerry Chestnut); BR 164 (relating to special license plates); BR 180 (relating to personal communication devices); BR 199 (relating to the operation of golf carts on public roads); and BR 238 (relating to motor vehicle license plates) to Transportation; BR 367 (relating to honoring military service) to Veterans, Military Affairs and Public Protection.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): 103 KAR 17:150 & E (New home credit) and 103 KAR 44:130 & E (New motor vehicle trade-in allowance) to Appropriations and Revenue; 307 KAR 8:010 & E (Application for Kentucky business investment programs) to Economic Development and Tourism; 16 KAR 7:010 (Kentucky Teacher Internship Program) and 102 KAR 1:310 (Benefit eligibility conditions for members providing part-time and substi-

tute services) to Education; 201 KAR 11:121 (Improper conduct); 201 KAR 11:215 (License recognition; application requirements); 201 KAR 11:250 (Listing and purchase contracts and other agreements entered into by licensees; provisions required; seller-initiated relisting request disclosure form); 201 KAR 11:300 (Use of facsimile and electronic-mail transmissions; electronic storage); 201 KAR 11:450 (Broker management course); 201 KAR 12:105 & E (School districts); 201 KAR 34:010 (Licensure of professional art therapies); 201 KAR 34:015 (Examination); 201 KAR 34:020 (Fees); 201 KAR 34:030 (Continuing education requirements); 201 KAR 34:040 (Code of ethics); 201 KAR 34:050 (Complaint procedure); 810 KAR 1:004 (Stewards); 811 KAR 1:015 (Race officials); 815 KAR 6:010 (Home inspector licensing requirements and maintenance of records); 815 KAR 6:020 (Advertising by home inspectors); 815 KAR 35:060 (Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060); and 815 KAR 35:090 (Electrical training program standards) to Licensing and Occupations; 401 KAR 5:310 (Surface water permit fees – Amended After Comments); 405 KAR 16:140 (Disposal of coal mine waste); 405 KAR 18:140 (Disposal of coal mine waste); and 805 KAR 1:190 (Gathering lines) to Natural Resources and Environment; 101 KAR 2:102 & E (Classified leave administrative regulations) and 101 KAR 3:015 & E (Leave administrative regulations for the unclassified service) to State Government.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Charlie Hoffman to the Land Stewardship and Conservation Task Force and designating him as House Co-Chair

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing

Representative Adam Koenig as a liaison member of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue; and appointing Representative Martha Jane King to the Special Subcommittee on Energy.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing the membership of the Poverty Task Force.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Tom Riner to the Subcommittee on the Penal Code and

Controlled Substance Act of the Interim Joint Committee on Judiciary.

From Senator Bob Leeper and Representative Rick Rand, Co-Chairs, Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on November 16 rather than the regular meeting date of November 26, which is Thanksgiving. There are no apparent conflicts.

From Senator David Givens and Representative Tom McKee, Co-Chairs, Interim Joint Committee on Agriculture: Memorandum requesting approval to meet on November 10 rather than the regular meeting date of November 11, which is Veteran's Day. There are four potential conflicts.

From Senator Jack Westwood and Representative Kent Stevens, Co-Chairs, Education Assessment and Accountability Review Subcommittee: Memorandum recommending appointments to the National Technical Advisory Panel on Assessment and Accountability.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing members to the Local Superintendents Advisory Council.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Senator Robin Webb to the following interim joint committees: Economic Development and Tourism, Labor and Industry, Licensing and Occupations, Local Government, and State Government

From Senator Tom Jenson and Representative Jim Gooch, Co-Chairs, Interim Joint Committee on Natural Resources and Environment: Memorandum requesting approval to meet on November 17 rather than the regular meeting date of November 27. There are no apparent conflicts

From Senator Damon Thayer and Representative Steve Riggs, Co-Chairs, Interim Joint Committee on Local Government: Memorandum requesting approval to meet on November 18, in Louisville, rather than the regular meeting date of November 26, which is Thanksgiving. This will be the third out-of-town meeting. There are five potential conflicts

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Ancel Smith to the Interim Joint Committee on Natural Resources and Environment.

From Senator Damon Thayer and Representative Mike Cherry, Co-Chairs, Interim Joint Committee on State Government: Memorandum requesting approval to meet on November 18 rather than the regular meeting date of November 25. There are six potential conflicts.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Senator Alice Kerr as Co-Chair of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education.

From Senator Bob Leeper and Representative Rick Rand, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on December 8. There are no apparent conflicts.

From Senate President David L. Williams, House Speaker Gregory D. Stumbo, Senate President Pro Tem Katie Stine, Senate Majority Caucus Chair Dan Seum, and Senate Majority Whip Carroll Gibson: Memorandum appointing Senator Robert Stivers to the Legislative Research Commission.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Senator Tom Jenson as a member and Senate Co-Chair of the Interim Joint Committee on Judiciary and appointing Senator Brandon Smith as Senate Co-Chair of the Interim Joint Committee on Natural Resources and Environment.

From Senator Damon Thayer and Representative Mike Cherry, Co-Chairs, Interim Joint Committee on State Government: Memorandum requesting approval for the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs to meet on November 17 rather than the regular meeting date of November 24. There are five potential conflicts.

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Reginald Meeks to the Interim Joint Committee on Appropriations and Revenue.

COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Reports for the months of July and August 2009.

From the Collaborative Center for Literacy Development: 2008-2009 Annual Report.

From the Cabinet for Economic Development: Annual Report for the Kentucky Investment Capital Network for FY 2009.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of August and September 2009.

From the Personnel Cabinet: Statewide Turnover Report for the 2nd and 3rd Quarters 2009.

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 2009.

From the Auditor of Public Accounts: Examination of Certain Bullitt County Internal Controls and Procedures Governing the Processing of Automated Payroll Transactions.

From the Cabinet for Economic Development: Linked Deposit Loan Investment Program FY 09 Annual Report.

From the Kentucky Personnel Board: FY 09 Annual Report.

From the Cabinet for Economic Development, Department of Financial Incentives: Kentucky Investment Fund Act FY 09 Annual Report.

From State Budget Director Mary E. Lassiter: September 2009 monthly updates on ARRA formula funding.

From State Budget Director Mary E. Lassiter: October 2009 monthly updates on ARRA formula funding.

From the Personnel Cabinet, Department of Employee Insurance: Kentucky Group Health Insurance Board, Kentucky Employees' Health Plan Ninth Annual Report.

From the University of Kentucky, Office of the Treasurer: University of Kentucky Capital Construction Report for FY 09.

From the Teachers' Retirement System of Kentucky: In-state Investment Report for FY 09 and Interim Financial Statements for the Quarter ended June 30, 2009.

From the Teachers' Retirement System of Kentucky: FY 09 Annual Report.

From the Cabinet for Health and Family Services, Office of the Secretary: Report of the Department for Community Based Services Tuition Waiver Program for Youth for the reporting period September 2008-August 2009.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the second quarter of 2009.

From the Cabinet for Economic Development, Department of Financial Incentives: Loan data sheets for each loan approved as of the quarter ending September 30, 2009.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs for the months of July and August 2009, and year-to-date activity for the period July 10 through July 31 and August 1 through August 31, 2009.

From the Auditor of Public Accounts: Lyon County Sheriff 2008 Fee Audit.

From the Auditor of Public Accounts: Simpson County Sheriff 2008 Fee Audit.

From the Auditor of Public Accounts: Trigg County Sheriff 2008 Fee Audit.

From the Auditor of Public Accounts: Trigg County Clerk 2008 Audit.

From the Auditor of Public Accounts: Simpson County Clerk 2008 Audit.

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

From the Kentucky Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending September 30, 2009.

From the Public Service Commission of Kentucky: Biennial Report for the period from July 1, 2005, through June 30, 2007.

From the Kentucky Legislative Ethics Commission: Recommended Changes to the Kentucky Code of Legislative Ethics, October 1, 2009.

From the University of Kentucky, Kentucky Tobacco Research & Development Center: Quarterly Report for the period July 1 through September 30, 2009.

From the Cabinet for Economic Development: Bluegrass State Skills Corporation Annual Report FY 09.

From the Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority: Financial Statements for the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, the Kentucky Higher Education Savings Plan Trust, and the Kentucky Affordable Prepaid Tuition Program for FY 09.

From the Education and Workforce Development Cabinet, Department of Education: Commonwealth Accountability Testing System: Validation and Research Agenda, September 2009.

From the Cabinet for Health and Family Services, Office of the Secretary: A report of the Operations and Activities of The Cabinet for Health and Family Services Related to Health Data Collection for Hospital Inpatient Discharge and Outpatient Services for FY 09; and The Cabinet for Health and Family Services Biennial Report on Health Care Transparency for the period July 1, 2007, through June 30, 2009.

From Kentucky's Affordable Prepaid Tuition: FY 09 Actuarial Valuation.

From the University of Kentucky: Audited Financial Statements of the University of Kentucky and its affiliated corporations for FY 09.

RESOLUTIONS

A RESOLUTION adjourning the Legislative Research Commission in honor and loving memory of Glenmoore "Ballie" Ray.

A RESOLUTION adjourning the

Legislative Research Commission in honor and loving memory of Howard N. "Nick" Johnson.

OTHER BUSINESS

Mr. John Hicks, Assistant State Budget Director, was then introduced as a guest speaker. Mr. Hicks updated the members on the progress on the ARRA expenditure status report on the formula grants that have been received by state government since the stimulus bill has been implemented.

Mr. Hicks pointed out that the Cabinet has split this report into the formula money that comes to all states through these various programs, which totals about \$3 billion. He said that the Cabinet has started adding a section of competitive grant awards that have been received by the various state government agencies through the various programs.

Mr. Hicks pointed out some notable inclusions in this month's report are several National Institute of Health research type grants and to the University of Kentucky, particularly. He advised that there are several criminal justice grants to the State Police, one of which will allow them to hire non-civilian personnel to help free up some of their sworn officers and to devote to higher priority areas. Mr. Hicks stated that Kentucky has received about \$2.5 million dollars to help update an informational technology system for electronic benefit transfer for the Women, Infants and Children Program. Also received was another small public health grant to help prevent infections in health care facilities. Mr. Hicks reported that one other piece of information that the Cabinet has forwarded to the members at the behest of President Williams was a second report that provides all of the various sub awards that state agencies receiving stimulus monies have made to the respective local governments, and other entities who have become the sub recipients of those awards.

Mr. Hicks then advised the members that one of the key events that has just taken place for all fifty (50) states has been the reporting process that the federal government requires quarterly. The first quarter reporting process ended September 30, and the Cabinet spent most of October providing the information to the Federal Government.

At that time, Speaker Stumbo asked for any questions or comments from the members.

Mr. Hicks responded to a question asked by President Williams regarding the sub recipient award under Department of Education, Title I. Mr. Hicks said that this was regarding the Individual Disability of Education Act, and those are the special education grants made through the

Department of Education to school districts.

Speaker Stumbo then asked if these grants were made by existing formula, to which Mr. Hicks responded, "yes, that's correct. In fact, it's a federally mandated formula."

There being no further business, the meeting was thereby adjourned at 1:45 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 8th Meeting of the 2009 Interim October 8, 2009

The 8th meeting of the Interim Joint Committee on Agriculture was held on Thursday, October 8, 2009, at 10:00 AM, in Scottsville, Kentucky, at the Allen County Extension Office. Senator David Givens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator David Givens, Co-Chair; Representative Tom McKee, Co-Chair; Senators David E. Boswell, Dan Kelly, Dorsey Ridley, and Damon Thayer; Representatives Royce W. Adams, James R. Comer Jr., C. B. Embry Jr., Richard Henderson, Charlie Hoffman, Don Pasley, Tom Riner, Dottie Sims, Kent Stevens, Wilson Stone, Tommy Turner, and Ken Upchurch.

Guests: Richie Sanders, Scottsville-Allen County Industrial Development Authority; Mayor Rob Cline; Allen County Judge Executive Bobby Young; Janet Johnson and Steve Osborne, Allen County Extension Agents; Al Pedigo, Allen County Agricultural Development Council; Jennifer Smith, Western Kentucky University; Buddy Steen, Central Region ICC/WKU Center for Research and Development; Dr. Ron Hustedde, Kentucky Entrepreneurial Coaches Institute; Jim Fortsch, UPS Capital; John McCarthy, McCarthy Strategic Solutions; Joel Neaveill and Angela Blank, Governor's Office of Agricultural Policy; Margaret Gerald, Allen County Extension District Board; Laura Knoth, Kentucky Farm Bureau.

LRC Staff: Biff Baker, Lowell Atchley, and Kelly Blevins.

Chairman Givens welcomed committee and audience members to the meeting. He then recognized Representative Wilson Stone; Scottsville Mayor Rob Cline; Allen County Judge Executive Bobby Young; Al Pedigo, Vice Chairman of the Allen County Agricultural Development Council; and Jennifer Smith from Western Kentucky University for welcoming comments. Chairman Givens then recognized Chairman McKee who expressed his thanks for the opportunity to tour agriculture across the south-central part of the state.

Richie Sanders, Scottsville-Allen County Economic Development Director, welcomed the committee to Scottsville and described some of the exciting entrepreneurial endeavors that were taking place in the community. He introduced Buddy Steen, the Executive Director of Central Region Innovation and Commercialization Center (Central Region ICC) located at Western Kentucky University's (WKU) Center for Research and Development. Mr. Steen stated that creating opportunities for young farmers is crucial to the state. He explained that the Central Region ICC's 3 areas of focus are:

Culture- Facilitating programs that strengthen the entrepreneurial culture;

Clientele- Assisting entrepreneurs to acquire resources necessary to locate and expand businesses in the region; and

Infrastructure- Creating, developing, and managing critical infrastructure required to create, grow, recruit, and retain science and technology.

Mr. Steen explained that companies with national and international markets are crucial; they not only bring money into the state, but they grow quickly and provide incredible opportunity. He noted that infrastructure is a necessity and that a company will quickly move to an urban area where infrastructure is available if it is not available in the rural area where the company is originally established. Mr. Steen noted that to move forward there is a need for a high-tech workforce and commercial broadband.

Sen. Boswell mentioned key issues of self-sustainability and affordable energy and noted how important those issues are to economic recovery. He asked if WKU is collaborating with the University of Louisville and the University of Kentucky Center for Applied Energy Research on renewable energy issues. Mr. Steen replied that there is collaboration but that more can be done to interrelate. He noted that WKU has done nationally renowned research on mercury reduction in coal-fired power plants by aiding them in removing that harmful agent. A copy of Mr. Steen's presentation is on file with the LRC Library.

Mr. Sanders then introduced Dr. Ron Hustedde, who discussed the Kentucky Entrepreneurial Coaches' Institute. He noted that the institute was developed after recognizing that rural leaders within communities did not know how to make their communities entrepreneurial friendly. He explained the three traditional development approaches: Industrial Recruitment, Business Retention and Expansion, and Entrepreneurship. He

noted that the United States Department of Agriculture estimates that by 2015 one-fourth of all rural residents will be self employed. Mr. Hustedde then explained the institute's objectives to encourage the diversification of the economies within tobacco dependent counties, to stimulate small business start-ups and expansions, to provide local grass roots leaders the tools needed to become community coaches, and to strengthen community groups and institutions and their receptiveness to entrepreneurs.

Mr. Hustedde responded to a question noting that the institute's funding comes from the Kentucky Agricultural Development Fund. The institute started in 2004 and was asked to stimulate entrepreneurship in 19 northeastern Kentucky counties. That project was very successful, and they are currently conducting another training class in several counties in south-central Kentucky, including Allen County. He said they had an investment of \$2.1 million over the past five years that has been used for speakers, lodging, national conferences, one full-time coordinator, and a new full-time alumni coordinator in northeastern Kentucky.

Mr. Miller Slaughter, Allen County businessman, noted how entrepreneurs are a necessity to communities. He asked what Dr. Hustedde sees as the largest obstacles to stimulating entrepreneurship in the communities and what can the state do to help the institute be successful. Dr. Hustedde responded that there are many keys to the success of entrepreneurship, including industrial recruitment, access to fiber optic cable, and recognizing the importance of agriculture. A copy of Dr. Hustedde's presentation is on file with the LRC Library.

Next, Mr. Sanders introduced Mr. Jim Fortsch of UPS. Mr. Fortsch explained how UPS and UPS Capital have been providing financing to United States companies to help them win more business overseas. He said that UPS provides the three critical components of global commerce; goods, information, and funds. This allows UPS to maximize its logistics capabilities and technology. He pointed out that based on 2008 data, Kentucky ranks twenty-first in terms of U.S. exportation of goods at \$19.7 billion.

Mr. Fortsch next explained two other programs that UPS administers. One provides term financing to emerging market-based companies to finance their purchases of capital equipment manufactured by U.S. companies. The other provides a line of credit for emerging market-based companies to finance their purchase of goods from U.S. exporters. A copy of Mr. Fortsch's presentation is on

file with the LRC Library.

Chairman Givens then introduced John McCarthy, who explained the New Market Tax Credit program. This program could provide access to capital for small businesses in Kentucky's low income communities. A copy of Mr. McCarthy's presentation is on file with the LRC Library.

There being no further business the meeting was adjourned at 12:30 pm.

**INTERIM JOINT COMMITTEE
ON AGRICULTURE
Subcommittee on Rural Issues
Minutes of the 1st Meeting
of the 2009 Interim
November 10, 2009**

The 1st meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture was held on Tuesday, November 10, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Johnny Bell, acting Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Johnny Bell, acting Co-Chair; Senators David Givens, Kathy W. Stein, and Ken Winters; Representatives Mike Cherry, James R. Comer Jr., C. B. Embry Jr., Tom McKee, Steven Rudy, Dottie Sims, Wilson Stone, and Tommy Turner.

Guests: Maury Cox, Executive Director, Kentucky Dairy Development Council; Bill Crist and Bob Klingenfus, Kentucky dairy producers; and Lewis Ramsey, Director, Kentucky Milk Safety Branch.

LRC Staff: Stefan Kasacavage and Susan Spoonamore, Committee Assistant.

Chairman Bell introduced Maury Cox, Executive Director, Kentucky Dairy Development Council, Bill Crist and Bob Klingenfus, Kentucky dairy producers to discuss the problems faced by the Kentucky Dairy Producers.

Mr. Crist, who has two dairy farms, one in Barren County and the other in Metcalfe County, stated that between both farms he has 270 cows, 250 heifers, and 2 steers. He said that in 2008 the gross income was \$2,300,000. In the past, he has been able to keep 10% to 20% of the gross income, and the other 80% - 90% went back into the general economy.

Mr. Crist said that presently he was operating and living on the equity that had accrued during the last 12 years. He said that the farms were losing approximately \$30,000 per month, and since January, they had lost \$190,000. In January, 2009, the debt per cow was less than \$800, but now the debt has increased to \$2,000 per cow. He said the goal of owning

500 cows debt free, purchasing land, and building new dairy facilities was not attainable in the current financial climate.

Mr. Crist asked that the legislators or the Milk Commission help find out what happens to the money on its way from the store back to the dairy producer. Dairy producers are getting paid less than 30% of the price of milk at the store.

Rep. McKee asked how much longer he would continue to milk with the prices being what they are today. Mr. Crist said that he would not be able to continue much longer. When the corn silage runs out, he will be selling his cows.

Rep. McKee and Rep. Rudy stated that the loss of dairies is declining to the point that it is becoming critical.

Sen. Stein asked if the federal government was playing a role in the supply and demand of dairy products. She also asked if producers were a part of the Kentucky Proud Program. Mr. Crist stated that the dairy industry is based on the world-wide market, and it fluctuates with the decline of the stock market. Dairy producers are not making money, but the processors are enjoying record earnings.

Mr. Cox explained that Kentucky actually imports milk. There are federal issues that are regulated through a federal system, just as the price of milk is set federally. There are four entities involved in the system: the federal government, the processors, the marketers, and the producers. The first three entities set the rules. The producers have very limited information with which to make decisions. Mr. Cox stated that producers are exploring opportunities to become a part of the Kentucky Proud Program.

Rep. Sims asked how many dairy producers have gone out of business, and how many dairy producers are still in business. Mr. Cox stated that there are 967 dairy farmers still in business. Over the past couple of years Kentucky has lost 200 dairy producers.

Chairman Bell stated that the dairy farmers in Barren County were losing at least \$10,000 a month. He was concerned that some entities associated with the milk producers were getting rich, while the producer was starving to death. He asked what action could be taken by the legislative body to help the producers. He asked for written information addressing the issues facing dairy producers.

Mr. Bob Klingenfus, a dairy producer from Oldham County, Kentucky stated that his family owns 300 acres and rents 1,200 acres. He milks 120 cattle and has 120 replacement heifers. He stated that 66% of his farm revenue comes from the dairy. He

said he has been milking for 45 years and has seen his share of bad years, but for the last ten months he has been losing approximately \$300 to \$400 a day – the worst ever. He said the most vulnerable producers are those who expanded their facilities and are now in debt.

Mr. Klingenfus explained that Kentucky dairy farmers produce 1.2 billion pounds of milk annually, but Kentucky dairy plants process 2.2 billion pounds of milk annually. In other words, milk must be transported into Kentucky for processing. Mr. Klingenfus said that he has concerns regarding cost sharing. For example, he said that Kentucky producers could very well be sharing the costs of supplying non-local milk for the market which would reduce the margins of profit for Kentucky producers. If that is happening, then the reduced margins would limit Kentucky producers' ability to expand and be competitive. He listed several issues for review by the Milk Commission.

Sen. Winters asked if the sale of raw milk would be an option for dairy producers. Mr. Cox, Mr. Crist, and Mr. Klingenfus all agreed that legalizing the sale of raw milk would not be beneficial.

Rep. Stone asked if Kentucky producers were at a specific disadvantage compared to other states. Mr. Cox stated that Kentucky producers should not have a different price for milk compared to other producers across the United States. He said that the disadvantage is the price for transportation costs of milk.

Sen. Givens stated that if federal officials would not listen to the Milk Commission's issues, then he would like the Commission to consider drafting a Resolution and present it to the Agriculture Committee for consideration.

Sen. Givens also asked if Kentucky milk should be branded. Mr. Cox stated that before branding could happen, the whole industry would need to agree and participate. He also stated that the Secretary of Agriculture is in the process of forming a Dairy Advisory Committee.

Mr. Cox stated that it was important to connect the producers with the consumers and processors. The Milk Commission will be meeting soon and would like to come back and speak to the Committee around the first of the year.

Rep. Sims asked how many facilities produce Grade A products. Lewis Ramsey, Director, Kentucky Milk Safety Branch, stated that there are 24 facilities that produce Grade A products, and 8 fluid plants where bottled milk is processed. There are 200 milk haulers and approximately 120 samplers who sample the milk at the plants.

Sen. Givens asked if Mr. Ramsey worked with Chris Thompson of the University of Kentucky Regulatory Services. Mr. Ramsey stated they have been able to work with them to create a milk truck with cutting edge technology that has a security system that can be locked down. The hauler has a hand-held computer which allows him to input data that was once done by hand. Mr. Thompson has developed a new way to pull milk samples from the tank to test for antibiotics.

Chairman Bell thanked the presenters and the committee members for their attendance. There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

**Minutes of the 4th Meeting
of the 2009 Interim
October 22, 2009**

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators David E. Boswell, Tom Buford, Denise Harper Angel, Ernie Harris, Dan Kelly, Alice Forgy Kerr, R.J. Palmer II, Joey Pendleton, Brandon Smith, Robert Stivers II, Gary Tapp, Elizabeth Tori, and Jack Westwood; Representatives Royce W. Adams, John A. Arnold Jr., Scott W. Brinkman, Dwight D. Butler, James R. Comer Jr., Jesse Crenshaw, Mike Denham, Bob M. DeWeese, Danny Ford, Derrick Graham, Keith Hall, Jimmy Higdon, Jimmie Lee, Harry Moberly Jr., Lonnie Napier, Fred Nesler, Marie Rader, Jody Richards, Charles Siler, Arnold Simpson, Tommy Thompson, Tommy Turner, Jim Wayne, Ron Weston, and Brent Yonts.

Guests: Judge James Shake, Mr. David Nicholson, and Mr. Dan Albers, Jefferson County Circuit Court; Ms. Dana Jackson, Making Connections Network; Jeff Been, Executive Director, Legal Aid Society; Brenda Walker, Kentucky Housing Corporation; Mr. Daniel Bork, Vice-President of Tax for Lexmark International, Inc.; Mary Jean Riley, CFO at North American Stainless; Mr. Anthony Touns, Senior Vice President of Advantage Capital Community Development Fund; Mac Wall, Tim Bishop, Nancy Carpenter, Julie Schmitt, and Shay Hopkins, Kentucky Educational Television.

LRC Staff: Pam Thomas, Jennifer Hays, Charlotte Quarles, Sheri Mahan, Eric Kennedy, and Whitley

Herndon

Chairman Rand entertained a motion from Representative Denham to approve the minutes from the September 24, 2009 meeting. The motion was seconded by Senator Buford and passed by voice vote.

Chairman Rand recognized Randy Smith from Budget Review. He welcomed Mr. Smith back from his service with the National Guard in Iraq.

Mr. David Nicholson, Circuit Court Clerk, Judge James Shake, Chief Judge, Mr. Dan Albers, Master Commissioner of the Jefferson County Circuit Court, Ms. Dana Jackson, Making Connections Network, Jeff Been, Executive Director, Legal Aid Society, and Brenda Walker, Kentucky Housing Corporation addressed the committee regarding the Residential Foreclosure Conciliation Project. Mr. Nicholson told the committee that the Jefferson County Circuit Court has created a pilot program which attempts to bring together the homeowner and lender to explore alternatives to foreclosure. Mr. Nicholson stated that the program also helps relieve the Jefferson County Circuit Court's heavy workload, which has increased due to budget-related staff reductions. Judge Shake told the committee that 38.12 percent of the civil cases filed in the Jefferson County Circuit Court in 2009 are foreclosures.

Partners in the program include judges, the Circuit Clerk, the Master Commissioner, outreach workers, housing counselors, Legal Aid and pro bono attorneys, the Kentucky Homeowner Protections Center (KHC), and banks. The goal is to open the lines of communication and address both homeowner and lender frustration. This program is only available for owner-occupied properties. While not all foreclosures are resolved, positive outcomes can include a "graceful exit" from the home by allowing the homeowner more time.

Since the start of the pilot program in three divisions, fifty-five homeowners have returned hardship packets to the lender's attorney. Of the twenty-five resolved cases, twelve ended with the homeowners negotiating a solution which allowed them to remain in the home. The remaining ten divisions joined the program in July, and Judge Shake anticipates an increase in resolved cases.

Chairman Rand asked if foreclosures have slowed since the implementation of this project. Mr. Albers said it was too soon to tell. Chairman Rand asked if there were a commonality in the foreclosures that have been successfully negotiated under the project. Mr. Albers stated that the homeowners who are successful in this process are generally the ones

who have returned to work. Judge Shake added that many homeowners in the process had accelerated notes because of missed payments.

Representative Westin asked how willingly the lenders participate in the program. Judge Shake responded that lenders have become increasingly willing to participate. The program is attractive to lenders because it does not interrupt the foreclosure process. Since it is an "opt-in" program for the homeowners, it self-selects participants who have reason to believe they can work out a better arrangement to avoid foreclosure. Representative Westin asked about the biggest challenges to the success of the program. Judge Shake replied that the challenges are keeping on top of the process month-to-month, funding for the program, and outreach.

Representative Brinkman asked if there had been any problem because of the current trend of slicing up the ownership of mortgages and selling off pieces, which makes ownership difficult to track. Judge Shake replied that since the program was so new, they had not run into that issue yet but it has been discussed. When ownership is divided up, lenders sometimes owe fiduciary duties to the holders of the paper and cannot participate in the process. Mr. Albers added that in order for a plaintiff to receive a judgment in a foreclosure case, they have to trace the order of assignment to prove they are the owner of the paper.

Representative Denham asked about the response from regulatory agencies. Mr. Albers responded that there has been no negative feedback from agencies. Judge Shake has said that since the program emphasizes cooperation, agencies are able to be involved in the process. Representative Denham asked for the ratio of sales price to debt owed in houses foreclosed. Mr. Albers gave an educated guess of no more than 75 percent. He faulted the appraisal for the mortgage, saying they have been significantly higher than the court-ordered appraisal under the foreclosure. He attributed this over-valuation to the systemic problem in the lending industry at the time the loan was made. Representative Denham asked for the ratio between the sales price and the appraised price. Mr. Albers replied that it would vary, depending on the region, but with an estimated average of 80 percent. To defeat the right of redemption, bidding on the foreclosed house must start at two-thirds of the court-ordered appraisal value.

Senator Buford suggested that the program reach out to federal bank regulators to help them better understand the process and be more

lenient to allow more flexibility.

Senator Tori asked for the average cost of the homes in the twelve resolved cases. Mr. Albers stated the value of homes varied widely. The majority are in the middle-income range. There has not been a great deal of upper-income homes going through the program and the majority of lower-income homes are not owner-occupied. Mr. Albers noted that in the short time period of the program, the response from homeowners has been very encouraging. In Jefferson County, there are between 6,000 and 7,000 vacant and dilapidated houses, the vast majority having gone through the foreclosure process. Mr. Nicholson added that in addition to having the Mayor's office involved, Congressman Yarmuth's office is also involved. Mr. Nicholson stated he would find the average value of the houses involved in the program and provide that information to Senator Tori.

Representative Simpson noted that when the property is mortgaged over its fair market value, there can be a deficiency judgment even after the foreclosure which can cause some homeowners to go into bankruptcy. Also, some banks fail to record the deeds of properties, which then become a nuisance to the community. He asked if the program encompassed good business protocols and what it does about deficiency judgments. Mr. Albers stated good business practices are part of the program protocol. Deed in lieu of foreclosure is only going to be available in cases where a graceful exit has been worked out. One of the solutions has been an agreed sale date, which allows the property to be sold through the court system free and clear of the other liens on the property. Representative Simpson asked about banks that sell the deficiencies to debt agencies, creating problems for the homeowner. Mr. Albers replied that it is something that can be negotiated in the program.

Next, Mr. Daniel Bork, Vice-President of Tax for Lexmark International, Inc., and Mary Jean Riley, CFO at North American Stainless, addressed the committee on behalf of the Kentucky Single Sales Factor Coalition. Mr. Bork introduced the single sales factor as an important economic development issue, driven by a national trend in changes to the corporate apportionment formula.

Mr. Bork noted that in 1998, a study concluded that the three factor formula is an implicit tax on each factor. Subsequent studies have found improvement in employment by eliminating the property and payroll factors. Mr. Bork said that studies have concluded that states that reduce the property and payroll fac-

tors will gain jobs at the expense of other states. Mr. Bork presented a map showing states differing sales factor weights. He also presented a sample of how the current factor apportionment works in Kentucky and how it would change under single sales factor.

Mr. Bork concluded by asserting that the single sales factor apportionment has become the standard among states today. Current "home-based" companies are paying higher taxes in other states that have adopted the single factor apportionment formula. Changing Kentucky's formula will have no affect on small businesses that have all their sales within the state.

Chairman Rand asked how many states were using the single sales factor apportionment formula. Mr. Bork responded there were around twenty states under the single sales factor formula exclusively, a number more who are doing it for specific industries and more that are opting in. In total, there are approximately thirty states. Chairman Rand asked if states were using it as an economic development tool. Mr. Bork stated that economic development was the only reason he knew of why states were adopting the single sales factor formula. Chairman Rand asked if there would be any job growth associated with Kentucky adopting the single sales factor formula. Mr. Bork said there has been no direct tie to job growth but the possibility of job growth has been demonstrated in economic reports. Ms. Riley noted that existing business would take this into account when making decisions to expand and add job in Kentucky. Chairman Rand asked who the losers would be under a single sales factor formula. Mr. Bork answered the losers would be companies who do business in Kentucky but have no significant payroll or property in Kentucky.

Representative Wayne asked for the fiscal impact on the state. Mr. Bork responded that they did not currently have the data to determine the fiscal impact. He noted that other states fiscal impact have noted at 10-20 percent loss in short-term corporate revenue but that does not take into account a possible increase in employment.

Senator Leeper stated that Oregon's Department of Revenue said adopting the single sales factor formula cost \$77.6 million in fiscal year 2007. He asked for any fiscal impact of the factor when adopted by other states. Mr. Bork responded that he did not have data on other states. Ms. Riley noted there was one state which had an increase in revenue when a single sales factor formula was applied.

Representative Hall asked to see data about the seven surrounding states comparing the unemployment, specifically as regards manufacturing.

Senator Boswell asked how this would affect companies with headquarters in Kentucky, for example with a company like Toyota. Mr. Bork responded that it would depend how much payroll and property they had in the state. He guessed that they would be helped slightly because they have lots of payroll in other states, but that it is hard to know exactly.

Next, Mr. Anthony Toups, Senior Vice President of Advantage Capital Community Development Fund, spoke the committee about the New Market Proposal. The program is designed to create low cost capital for small businesses in poor communities throughout the state. It is modeled after a federal program. Upon passage of legislation, Mr. Toups explained that there would be immediately available pools of capital which would be lent out to businesses in low income communities. The legislation offered last year by Representative Webb would have created a pool of \$300 million. Mr. Toups reported that in similar programs in other states, each dollar lent turns over once in the seven year loan period. There is significant demand for this program and many states have used it.

Mr. Toups stated that the private sector investors would receive future credit against Kentucky taxes from participating in the program, with a two year delay before credit can be claimed. Thus, the cost to the state would accrue only after the third year. Congress has excluded certain groups from participating, like horse racing, gambling, and liquor stores. Loans are also not for residential, but rather focus on operating companies. Mr. Toups showed the committee the geographic areas in Kentucky that would qualify for the program; these areas must have 20 percent or higher poverty level. Data to determine qualification is taken from the census reports.

The loan level is capped at \$10 million and the credit level is capped at \$25 million per year, with no refunds, and the credit is non-transferable. Since the program can rely on the federal program for data, administrative costs will be very low. The entities making the loans, community development entities (CDE), are monitored by level of compliance. If that compliance is not reached, the tax credits will not be redeemable.

Chairman Rand asked which companies in Kentucky are currently taking advantage of the federal program. Mr. Toups responded there are

several CDEs operating in Kentucky. One example is Kentucky Highland Ventures, which will be working with Advantage Capital Community Development Fund. The law is intended to fund small businesses, as opposed to a specific project. Chairman Rand asked for the requirements of CDEs in terms of jobs. Mr. Toups replied that the federal government and other states have not put job creation requirements on the program, though experience has shown job creation. Mr. Toups noted the University of Kentucky School of Business will be doing an impact analysis, but other studies have shown that the program in other states was ultimately revenue positive.

Chairman Leeper asked if there are Kentucky entities currently participating in the federal program. Mr. Toups replied in the affirmative and said those entities would be eligible to participate in the Kentucky program. Chairman Leeper asked if there were any indication that there was large opportunity in Kentucky beyond what was already being served with the federal program. Mr. Toups replied that when similar programs have been enacted in other states, there was a huge demand. The federal program demand to availability is around five to one. The 2009 federal allocations, which will be released later this month, show a huge disparity between the amount of applications and the amount available to lend. Chairman Leeper asked if it were a finite, seven year program and, if the money is repaid back into the fund after seven years, what happens to that money. Mr. Toups explained the timeline of the program. Once the money is raised from investors, the CDE has twelve months to lend it out and must have all the money continuously out to qualified businesses. At the end, the money is returned to the investor. Chairman Leeper asked if any interest is paid. Mr. Toups replied that the borrowers pay interest on their loan. The federal program requires an interest of three to four basis points below prime, but the program is designed to have return to the investors. Finally, Chairman Leeper asked for any data on how this program has affected other state's budgets. Mr. Toups showed the committee a slide of data from Missouri.

Representative Brinkman asked how often in other states this lender is the only one available for qualified businesses. Mr. Toups replied he did not know for sure, but his sense was about half the time. The smaller loans were the ones that typically local banks and financial institutions were not particularly interested and the CDE was the sole lender.

Finally, Mac Wall, Executive Di-

rector, Tim Bishop, Director of Marketing, Nancy Carpenter, Director of Education, Julie Schmitt, Director of Community Relations and Shay Hopkins, Deputy Director of Content, all at Kentucky Educational Television (KET), spoke to the committee about KET's Educational Services. Chairman Rand announced that Mr. Wall is retiring after six years and asked the Secretary to read a Resolution Honoring Malcolm Wall. Chairman Rand entertained a motion from Representative Yonts to adopt the resolution. The motion was seconded by Representative Nesler and passed by voice vote.

Mr. Wall told the committee that, since 1968, KET has been providing state-of-the-art educational programs helping to break down the economic and geographic barriers of the state. KET includes three digital, over the air channels: KET, KET2, and KET KY. KET provides coverage of everything from the arts to the General Assembly. One million people use KET services each week. KET has been nationally recognized as the best model for a statewide educational television network. KET provides a wide variety of educational resources, from pre-school through higher education. Mr. Wall highlighted three of KET's educational services: Instructional Resources, Teacher Professional Development and GED Preparation.

Ms. Carpenter told the committee that KET works with the Kentucky Department of Education (KDE), which helps KET produce instruction and professional development resources to address the specific needs of the Commonwealth, based on achievement data and areas of need identified by KDE. KET has planned and produced hundreds of instructional resources in all curriculum levels and all grade levels, all based on the specific needs of Kentucky students.

KET is producing instructional resources, for example, in the area of Science, Technology, Engineering and Mathematics (STEM). One of KET's STEM instructional resources is the website Scale City. Scale City is produced in partnership with three other states and targets middle school math students.

Ms. Carpenter stated that KET's High School Distance Learning has a twenty year history. Currently, there are over 3,000 students enrolled in the Distance Learning classes of German, Latin, physics, and Arts & Humanities. Distance Learning allows every student in Kentucky to take four years of a foreign language or AP Physics program. In partnership with Kentucky Virtual High School (KVHS), KET is creating additional courses in trigonometry and Arts &

Humanities. All KET programs feature modern technology, such as video, virtual physics labs, telephone tutor and online social media to engage modern students.

At the same time KET started Distance Learning, it also started its professional development for Kentucky teachers. This professional development program has been key to the implementation of KERA by providing a state-wide network. For example, it demonstrates best practices by broadcasting video of outstanding teachers in Kentucky. Ms. Carpenter noted that KET looks forward to providing the extensive professional development necessary to implement SB 1.

Specifically, KET is looking to make its repositories of programs searchable. Every service is available on-demand and online, specifically through KET ED On Demand, KET EncycloMedia and PBS Digital Learning. Distance Learning programs are used in 98 percent of Kentucky schools and 100 percent of Kentucky Universities. One program, KET EncycloMedia, was introduced in 2005 and is about to hit five million discrete visits by a teacher or student. KET has a staff of five consultants to travel around the state, providing technical assistance and training. Ms. Carpenter showed a short video featuring a Kentucky teacher's experience with KET EncycloMedia.

Representative Adkins asked if KET could track how many school districts take advantage of the Virtual Physics Labs on a regular basis. Ms. Carpenter said enrollment can be tracked because each student logs in separately. Last year, there was a high interest in the program, increasing enrollment by a thousand. Currently, there are between two and three hundred students using the labs. KET is working to provide better professional development around the labs to make everything more user-friendly. Representative Adkins asked, because of the need for technology in the classroom in order to take advantage of KET's programs, how many school districts were using the programs. Ms. Carpenter responded that all school districts were using KET's programs. Because teachers using KET's resources register, KET can track how many classrooms around the state are using these programs. There are around 50,000 teachers with accounts. As far as usage of resources, an estimate is difficult. KET encourages teachers to download videos directly onto their own computers and run local servers, to help reduce the bandwidth pressure on KET. The result is that KET is unable to track how often its videos are played. Mr. Walls noted that EncycloMedia has been an

important resource used throughout the state, especially in coal county schools. Kentucky is the only state that is providing this kind of resource free of charge.

Representative Moberly thanked Mr. Walls for his service. He asked about the format for AP Physics. Ms. Carpenter responded that it was an online course, using technology like integrated videos and Pencast. There is a requirement there be a teacher at the location to help the student. Representative Moberly asked if there is a teacher physically at the location to assist the student. Ms. Carpenter said that there is a teacher on location for the whole class for supervision, though the teacher may not be well versed in the subject area of the class. The Virtual Classroom was designed twenty years ago to also be a professional development tool, so it was generally run by a teacher in the community. However, the program has evolved to be more student-oriented, rather than focused on professional development. Representative Moberly asked if there were enough capacity for all interested students. Ms. Carpenter said that KET has not had to cap participation in the courses. However, there is a limitation as to how many students can be in the classroom at a physical location where the program is being run. KET is working to increase staff for programs to ensure that all interested students can participate. Ms. Carpenter speculated that there would come a point where enrollment would have to be capped, but currently there is sufficient staff to accommodate demand. Representative Moberly asked if there are any dual credit courses. Ms. Carpenter replied that there were currently no dual credit courses but they were working on developing some dual credit courses.

Senator Harper Angel noted that she was currently serving on the Governor's Taskforce for Unemployment Insurance and one of provisions being discussed is tying benefits to enrollment in a GED course, but there was concern that some would not be able to pass the program. Ms. Carpenter said that KET has GED preparation programs, but before enrollment in the program, there is an assessment of level of ability. If a person is assessed to be not ready for the GED program, there are pre-GED programs which provide more basic adult education materials. With the expansion of online services, KET is planning on providing more materials for the GED and pre-GED programs.

Chairman Rand announced the committee would meet next on November 12, 2009. The meeting was adjourned at 3:25 PM.

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 2009 Interim October 22, 2009

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, October 22, 2009, at 10:30 AM, in Room 171 of the Capitol Annex. Representative John A. Arnold Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative John A. Arnold Jr., Co-Chair; Representatives Dennis Horlander, Dennis Keene, Lonnie Napier, Ruth Ann Palumbo, Marie Rader, Fitz Steele, Jim Stewart III, and Susan Westrom.

LRC Staff: Kelly Dudley, Perry Papka and Christina Williams.

Chairman Arnold called the meeting to order at 10:37 A.M. He welcomed Representative Keene and the Southbank Partners and thanked them for coming to present information about the organization to the committee. Senator Harris stated that normally the Northern Kentucky people that come before the committee are very unified and have their priorities set and are ready to present to the committee what their needs are in a very unified manner. He commended them for doing so; however, he was curious as to how Southbank fits into the equation and what it is that Southbank does.

Representative Keene thanked the committee for allowing them to present and proceeded to answer Senator Harris' question and inform the committee as to what the mission of Southbank Partners is in depth. Representative Keene introduced Mr. Jack Moreland, President of Southbank Partners and also one of Southbank's Board of Directors, Mr. Roger Peterman.

Mr. Peterman informed the committee of the history of Southbank Partners.

President Moreland proceeded with a PowerPoint presentation to further inform the committee about Southbank and some past and current developments in Northern Kentucky that it has been either in charge of, or associated with. A DVD was also

shown to help illustrate the vision of Southbank Partners.

Senator Harris asked in reference to the "Phase I" subject within the presentation if the piers for the boats to dock were only temporary. Mr. Peterman stated that was correct. He further indicated that there is debris that flows out of the Licking River during heavy storms and collects along the shoreline. He stated the collection of the debris is another major issue that needs to be tackled.

Representative Horlander asked if Southbank and its Northern Kentucky counterparts come to the General Assembly for assistance for each project or if they are located in an ADD district. Mr. Peterman stated they come to the General Assembly per individual project and they are not in an ADD district.

Chairman Arnold asked if Southbank has any say so as to how funding is funneled through the projects, when money is granted to Northern Kentucky by the General Assembly. Mr. Peterman stated they do not and that the monies are funneled through the cities and counties, not through Southbank. Representative Keene stated that the organization and all the surrounding cities and counties work together to prioritize projects.

Senator Harris commented that the "nit picking" is being done at the local level in Northern Kentucky, and when they approach the General Assembly, Northern Kentuckians seem to have their priorities and requests in order and are united in their purpose. He stated he appreciates that as a Senator.

Representative Palumbo stated that she was very impressed that Northern Kentucky has a Developers Day. She further stated she would love to attend it next year.

Representative Westrom stated she was impressed as well with Southbank and its Northern Kentucky counterparts and the progress that they have made. Representative Westrom stated what a walkable community Northern Kentucky was and how it would be a nice place to retire in the future.

Representative Napier stated that the key to success is that everyone is on the same page. He further stated that if a community works together like Northern Kentucky is doing, things will come together. He indicated that his small community works together and is successful because everyone is on the same page and encourages Northern Kentucky to continue to do so.

Representative Keene stated that a bank in China has recently expressed interest in investing \$2 billion in commercial real estate somewhere along the Indiana, Ohio and Kentucky riverfront. He further stat-

ed jobs in Kentucky will be created if that occurs.

Representative Steele asked approximately how many people attend the Fireworks show on Labor Day weekend, and of that amount how many people attend on the Kentucky side.

President Moreland stated there are approximately 500,000 people per year that attend the show and he estimated about half attend on the Kentucky side. He further stated the waterfall off of the bridge in the fireworks show is off of the Purple People Bridge.

Senator Harris stated he believed the convention center that was developed as a result of the 1995 special session, has been a main cause in helping develop the Northern Kentucky area.

President Moreland stated Senator Harris was correct and that is why Southbank was formed and anything Southbank has done has been because of the development of that convention center. President Moreland stated if an expansion was made to the convention center, more business could be brought in, because as of now meetings are being turned away because there are not enough meeting rooms in the center.

Chairman Arnold thanked Southbank and Representative Keene for their presentation and adjourned the meeting at 11:43 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, and Public Protection Minutes of the 2nd Meeting of the 2009 Interim October 22, 2009

The second 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, October 22, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Royce W. Adams, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Brian Bishop, Executive Director, Kentucky Board of Dentistry; Tamara McDaniel, Chair, Kentucky Board of Respiratory Care; Mike Burleson, Executive Director, Kentucky

Board of Pharmacy; Sue Derouen, Operations Manager, Kentucky Board of Nursing; and Rob Jones, Executive Director, Office of Policy and Audit, Finance and Administration Cabinet.

LRC Staff: L. Bart Hardin, Tom Willis, Randy Smith, Katherine Halloran, Melissa Hagan, and Spring Emerson.

Chairman Adams began by welcoming the members and guests to the meeting. He then requested a motion to approve the minutes of the June 4, 2009 meeting. A motion was made by Representative Combs, seconded by Representative Butler, and the minutes were approved by voice vote.

Mr. Brian Bishop, Executive Director, Kentucky Board of Dentistry introduced Tamara McDaniel, Chair, Kentucky Board of Respiratory Care; Mike Burleson, Executive Director, Kentucky Board of Pharmacy; and, Sue Derouen, Operations Manager, Kentucky Board of Nursing. Mr. Bishop provided an update of budgetary issues relating to the Kentucky Board of Dentistry. He also provided a brief overview of budgetary issues for the Kentucky Board of Physical Therapy, in the absence of Becky Klusch, Executive Director.

Senator Carroll asked if the Boards were aware of pending litigation challenging the sweeping of funds from restricted accounts, and if any of the Boards were participating in that litigation. They all responded they were aware of the litigation but were not participants in it.

Senator Carroll inquired about services provided by state government for the Boards, specifically payroll services. Mr. Bishop replied that their payrolls are paid from the agency funds, but are paid through the State Treasury. Senator Carroll asked if their funding was provided by the Office of State Budget Director (OSBD). Mr. Bishop replied in the affirmative. Senator Carroll asked if state government is paid for those services. Mr. Bishop replied that they do not pay for the services provided by the OSBD and the Treasury.

Representative McKee inquired about the fact that the Boards generate their own funds, and asked where those funds come from. Mr. Bishop replied that all licenses for the Board of Dentistry are on a two-year renewal cycle, with dentists' license fees of \$230 being due on odd-numbered years and hygienists' license fees of \$150 being due on even-numbered years. He said money is also generated from disciplinary cases and fines. He added those are the only means of generating revenue, as no General Fund money is used. Representative McKee asked if the fees can be raised independently. Mr. Bishop replied that the fees are set by stat-

ute and legislation would be necessary to increase the Board's fees. Mr. Burleson said the Kentucky Board of Pharmacy could only increase fees to a limited point and when that point is reached, the regulatory process would require legislation.

Mr. Bishop explained that fees are paid to the state for internet, email, and phone services through the Commonwealth Office of Technology. He also said the Kentucky Board of Dentistry and a few of the other Boards utilize the Attorney General's office for their legal services. Ms. Derouen added they also pay for training expenses.

Representative Pullin expressed her appreciation of the Boards and Commissions and the services they provide. She asked for a comparison of fees, fines, and other sources of income. Ms. McDaniel replied that the Kentucky Board of Respiratory Care had very few fines. Most of them are for non-renewal of licenses, and are very few. She said the majority of the funds generated come from new licensing and renewals. Ms. Derouen replied that most of the funds generated by the Kentucky Board of Nursing come from fees as well. She indicated that fines do not cover expenses for investigations and hearings that are necessary to collect them. Mr. Burleson said the Kentucky Board of Pharmacy receives only 6% to 7% of its funds through disciplinary actions. He said it is hard to predict how that would affect the budget. Mr. Bishop stated the Kentucky Board of Dentistry is very similar to the other Boards in that it generates most of its funds from licensing fees.

Representative Riggs expressed his concern regarding the sweeping of agency accounts and the tracking of those funds. He asked how many of the Board of Dentistry's 108 disciplinary cases resulted in forfeiture of licenses. Mr. Bishop replied that the philosophy of the Board is to rehabilitate as many practitioners as possible in order to help them keep their licenses and stay in practice. He stated that there have been no licenses revoked in the year he has been with the Board.

Representative Montell asked if Board employees participate in Kentucky Retirement Systems and if the employee portion of health insurance is paid with Board funds. Mr. Bishop replied in the affirmative. Ms. Derouen added that retirees' health insurance is also paid from their agency funds. Representative Montell asked if the Actuarial Required Contribution (ARC) for retirement is paid with agency funds as well. Ms. Derouen replied in the affirmative.

Senator Westwood asked how state budget cuts would affect the

Boards if they do not receive General Funds. Mr. Bishop replied that any time there is a state-mandated cut, the Boards must scale back their budgets also. Senator Carroll explained that the Boards' budgets are state-appropriated funds, whether they come from agency funds or the General Fund, and any state appropriations would be affected by budget cuts.

Senator Westwood asked if the percentage of budget cuts was taken before or after the agency funds were swept. Senator Carroll replied the sweeping occurs before the budget is passed, and cuts are applied after the budget is passed.

Mr. Bishop stated that the Board of Dentistry's budget has been flat lined, while costs continue to increase, which results in a bigger cut than what appears on paper. He then asked to recognize analyst Carla Wright, Office of State Budget Director, who had been very helpful to Boards and Commissions.

Chairman Adams suggested to the Boards that they encourage their membership to contact their Senators and Representatives to discuss this matter, especially those on the Conference Committee that makes the final budgetary decisions. He thanked them for the information they provided. He then welcomed Rob Jones, Executive Director, Office of Policy and Audit, Finance and Administration Cabinet (FAC).

Mr. Jones gave a brief overview of audit functions in the Finance and Administration Cabinet as they relate to the American Recovery and Reinvestment Act of 2009 (ARRA).

Representative Denham asked if the federal government performs random audits on ARRA funds and if the FAC has an external auditor for ARRA funds as well. Mr. Jones replied that his office coordinates compliance, and works to ensure agency reporting matches what is in the FAC accounting systems, as well as occasional spot-checks on individual expenditures. He added that each federal grant is subject to multiple types of federal audits, depending on the grant and its individual audit provisions and responsibilities.

Representative Denham expressed his concern regarding the bonding issues of local governments. He inquired about the responsibility of oversight of debt, bonds, and debt capacity of local governments. He asked if there was oversight to the counties to make sure their bonding capacity was not overextended. Mr. Jones replied that the FAC looks at responsibilities in reporting and oversight of actual program funds, rather than bonding issues. Senator Carroll commented that local governments control the budgets of

individual counties and provide continuing oversight of each, with auditing being performed by the Auditor of Public Accounts (APA).

Senator Carroll inquired about amounts of grant funds going into the General Fund for the current year as well as the next budget biennium. He also asked about the amount of agency funds FAC oversees for the current year as well as agency funds anticipated for the next biennium. Mr. Jones replied that the figures he had are State Fiscal Stabilization Funds (SFSF) reported by the agencies as of September 2009. At the close of the quarter, SFSF awards in the amount of \$356,974,000 went to the Kentucky Department of Education (KDE) and the universities. Senator Carroll asked if other agencies had been awarded grants. Mr. Jones replied that SFSF awards in the amount of approximately \$118,500,000 went to the Justice and Public Safety Cabinet. Senator Carroll asked if there were other agencies. Mr. Jones explained there are many agencies receiving stimulus funds, but those figures mentioned were for SFSF funds specifically. Senator Carroll asked for totals of all the grants awarded to the various agencies, for the current year as well as what may be anticipated in the future. Mr. Jones will provide that information at a later date.

Senator Carroll asked about the awards being overseen by the FAC's Office of Policy and Audit. Mr. Jones replied total awards were \$1,137,000,000, and of that amount only a fraction has been spent. He added that Medicaid and Unemployment Insurance funds are awarded directly to those agencies. Senator Carroll asked for those amounts to be provided as well, even though they do not have the same reporting responsibilities.

Senator Carroll asked for more information regarding grants that go to the State Budget Office that are used in General Fund appropriations for the current budget year, as well as the amount anticipated for the upcoming budget year. He asked that the same information related to the Office of Unemployment Insurance and Medicaid be provided.

Representative Montell inquired about agencies applying for available grants and the oversight of those grants. Mr. Jones replied that the OSBD keeps track of all the stimulus funds and the agencies receiving them. Representative Montell asked where a person would go to see where the money was distributed. Mr. Jones replied that the first reporting period ended on October 21, 2009, and those reports should be available on both state and federal transparency websites by the end of

the month.

Chairman Adams expressed his appreciation for the information provided, and asked Mr. Jones to provide requested reports to Budget Review staff.

Chairman Adams welcomed analyst Randy Smith, who returned from serving the armed forces in Iraq for the past two years. He also welcomed new member Representative Adam Koenig to the committee.

There being no further business, the meeting was adjourned at approximately 11:16 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, and Public Protection Minutes of the 3rd Meeting of the 2009 Interim November 16, 2009

The third 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 Monday, November 16, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Royce W. Adams, Co-Chair; Senators Julian M. Carroll and Joey Pendleton; Representatives Charlie Hoffman, Adam Koenig, Tom McKee, Brad Montell, Tanya Pullin, Steve Riggs, Charles Siler, and Wilson Stone.

Guests: Trey Grayson, Secretary of State; Allen Eskridge, Assistant Secretary of State; Sarah Ball Johnson, Executive Director, State Board of Elections; Jack Conway, Attorney General; Dana Mayton, Deputy Attorney General; Bonnie Howell, Executive Director, Office of Administrative Services, Office of the Attorney General; Todd Leatherman, Executive Director, Office of Consumer Protection, Office of the Attorney General; Chris Cohron, Warren County Commonwealth's Attorney; John Estill, Mason County Attorney; Mack Bushart, Executive Director, Property Valuation Administrators; Jason Scriber, President, Property Valuation Administrators Association; and, Karen Bushart, Chairperson, Property Valuation Administrators (PVA) Budget Committee.

LRC Staff: L. Bart Hardin, Tom Willis, Randy Smith, Katherine Haloran, and Spring Emerson.

Representative Royce Adams indicated that he had received a message from Representative Denham expressing his regret that he would

be unable to attend due to a previously scheduled surgery appointment.

Chairman Westwood asked for a motion to approve the minutes of the October 22, 2009 meeting. A motion was made by Representative Hoffman, seconded by Representative Koenig, and the minutes were approved without discussion.

Chairman Westwood invited Secretary of State Trey Grayson and Sarah Ball Johnson of the State Board of Elections to come forward and discuss their budgetary needs. Secretary Grayson gave a brief overview of the Secretary of State's office budget, followed by Ms. Johnson, who gave an overview of the budget for the State Board of Elections.

Senator Carroll asked what percentage of their budget was supported by fees collected by the Secretary of State's office. Secretary Grayson replied that their fees were on the lower end as compared to other states. He added that they have projected approximately \$961,000 in Restricted Fund money from the collection of fees, with the rest being swept out to help cover other state operating expenses. Senator Carroll requested a comparison of existing fees versus what might be reasonably charged. Secretary Grayson stated they would update the information and provide it to the committee. Senator Carroll commented that the General Assembly should take a look throughout state government to see whether fees are being collected commensurate with services provided. Secretary Grayson commented that if fees were increased, one recommendation would be to increase the paper filing fee to encourage more online filing in order to reduce operating expenses.

Senator Carroll asked if any administrative overhead was allowed in the federal funds for the State Board of Elections, or would it all be used for technology. Ms. Johnson replied that overhead and administrative costs were not included in the Help America Vote Act (HAVA) funds. She said federal money appropriated through the Military Overseas Voter Empowerment (MOVE) Act does allow for the payment of some administrative costs; however, since the legislation was recently enacted, the details had not been distributed. Also, she indicated she was unsure what costs would be associated with the MOVE Act, but would keep the committee posted.

Representative Pullin expressed a complaint from many of her constituents regarding the new voting machines not allowing the voter to change their choices once the straight ticket was chosen. Secretary Grayson said the newer machines have been programmed to have a

summary screen, so that if the voter chooses the straight ticket but wants to vote for a candidate representing a different party, they would have the opportunity at that time to go back and make a change before finalizing their vote.

Representative Siler commented that the federal effort to make all votes count, particularly those of deployed military personnel, was very good. He asked if the amount of money expected for the effort would be adequate to do the job. Ms. Johnson replied probably not. She added they might receive \$1.4 million, and combined with existing HAVA funds would be approximately \$6 million, most of which was earmarked by the Board to upgrade the voter registration database from a mainframe system to a web-based system. Secretary Grayson added that it is expected for Congress to appropriate some amount for that purpose. He said they had participated in a pilot program developed by the federal Department of Defense to deliver ballots electronically via email to soldiers and overseas citizens; however, there are no plans to continue that program in 2010. Representative Siler agreed that it should be a recurring program for the funding aspect.

Representative Adams asked if online absentee ballots are limited to overseas citizens or would it apply to all absentee ballots. Ms. Johnson replied that it was for military personnel, their dependents, and overseas voters only.

Attorney General Jack Conway came forward and provided information regarding the budget of the Attorney General's office. With him were Deputy Attorney General Dana Mayton and Bonnie Howell, Executive Director, Office of Administrative Services.

Representative Siler stated that there are three electrical providers in his district; Cumberland Valley RECC, Kentucky Utilities, and the Tennessee Valley Authority (TVA). He said the TVA provides service to approximately one-third of his district, and their rates are significantly higher than the other two providers, which are fairly consistent. He commented that he receives more constituent complaints on that than almost any other subject. He said that recent news had indicated that the TVA would be held responsible for the slurry spill in Tennessee, which enraged his constituents in that area because Kentucky rate payers would have to pay for a disaster that occurred in Tennessee. He asked if the rate intervention process in the Attorney General's office would have the ability to influence those disparities. He expressed the seriousness of the issue, indicating that businesses

and industries would change locations to avoid the higher rates. General Conway stated that the TVA is a federal corporation and therefore they would have limited ability to influence TVA's rate structure. He said he was now aware of the problem and would look into the issue and get back with Representative Siler on the subject and the possibility of intervention in his district.

Representative Stone asked if the proceeds from forfeitures acquired from major drug arrests and cybercrimes were available for the use of the Attorney General's office. General Conway replied that drug-related forfeiture laws were more liberal than cybercrimes laws, and asset forfeitures allowed from cybercrimes cases are limited to cars and computers used in solicitation crimes. Ms. Howell added that the Attorney General's office had some federal asset forfeiture money, but no state asset forfeiture funds. She also stated that those federal monies include many restrictions on how they can be spent. Deputy General Mayton stated those revenues could not be counted on or budgeted, as it could not be determined when they may be received.

Representative McKee expressed his appreciation for the work performed by the Attorney General's office. He inquired about the tobacco Master Settlement Agreement (MSA) and asked who would be responsible for moving non-compliant cigarettes off of retailers' shelves. General Conway replied that the issue of diligent enforcement is very important within the states, and the extent to which the General Assembly is keeping up in keeping the bad products out of circulation is very helpful. Deputy General Mayton added that once the product is contraband, it would be the responsibility of the Revenue Department to seize that contraband. She added that some other states were charging fees for certifying non-participating manufacturers, which may be something Kentucky could consider as a source of funds.

Representative Riggs commented that in 2000 he had passed a comprehensive bill regarding updating the 15 or 20 year-old wording in the statutes dealing with computer-related crimes because the terminology was out-of-date and no longer applied. He asked if the wording was in need of another update. General Conway replied that the statutory language had been updated again in the most recent session of the General Assembly.

Representative Riggs asked if a permanent repeal of KRS 48.005 would be necessary. General Conway replied in the affirmative, indicating that it would be a very posi-

tive development.

Representative Riggs asked where victims' advocacy grants come from and if they were a statutory requirement. General Conway replied that traditionally they were contained in their budget request and were a part of the appropriation, not required statutorily.

Representative Koenig asked for an explanation of the term maximum personnel flexibility. General Conway replied that additional budget reductions would require personnel actions such as implementing a lay-off plan, furloughs, or a combination of those.

Representative Adams asked if small businesses were not currently included in the no-call list. General Conway replied that small businesses were not eligible because it was for residential customers only. Todd Leatherman, Executive Director, Office of Consumer Protection, answered that business-to-business calls were not regulated. He indicated that the no-call list was being maintained by the Federal Trade Commission and there could be federal issues involved. General Conway said he could not think of any legal impediments, but would look into the issue and respond back.

Chairman Westwood thanked the Attorney General's office for their presentation and invited representatives of the Unified Prosecutorial System to come forward.

Chris Cohron, Warren County Commonwealth's Attorney, representing the Commonwealth's Attorneys, and John Estill, Mason County Attorney, representing the County Attorneys, came forward and provided brief overviews of their agency budgets. Both are members of the Prosecutors Advisory Council (PAC).

Representative Montell expressed his appreciation for the work they perform on a shoestring budget and stated that there were many tough decisions to be made.

Representative Adams commented that Representative Denham could not be in attendance and expressed his appreciation for Mr. Estill's good work.

Representative Siler asked if the \$3,000 office allowance was taken before it was received, or if it was given up by choice to prevent the loss of jobs. Mr. Estill replied that as part of a plan to respond to the budget cuts, PAC voted to take the remaining budgets for that purpose. Mr. Cohron stated that they could not quantify how much money is being spent for operating expenses by prosecutors across the state from their own pockets.

Chairman Westwood then invited representatives from the Property Valuation Administrators (PVAs) to

come forward. Mack Bushart, Executive Director, PVAs, Jason Scriber, PVA Association President, and Karen Bushart, Chair, PVA Budget Committee, provided information regarding their agency budget.

Representative McKee asked how the issues of declining property and land values are handled. Ms. Bushart replied that they look at sales and market values, and if there is a major decline in the property values, the values would be decreased according to market values. Mr. Scriber agreed, adding that whether the market was stable or had reduced, the values would be raised or reduced accordingly. He commented that the values are still holding, but it may take longer for a property to sell.

Representative Siler commented that cutting the PVA staff is like a farmer eating his seed corn. He stated that one problem was the closing of auto dealerships throughout many of the rural communities which has a devastating impact on school funding as well as that of other county government agencies. He asked if a county keeps the tax revenues from sales of vehicles to residents even though they have to purchase them in another county. Ms. Bushart replied that would be better answered by the County Clerk, adding that usage taxes are paid in the county of residence where the vehicle is registered, as well as continuing annual property taxes.

Representative Pullin asked how Kentucky property taxes rate versus those of other states. Mr. Scriber replied that Kentucky's property taxes are significantly lower. Mr. Bushart stated that Tennessee has no property tax on vehicles.

Representative Pullin inquired about real property taxes in Kentucky compared to Tennessee and Ohio. Ms. Bushart replied that they will research that and reply back to the committee. Mr. Bushart commented that some residents of border counties register their vehicles in nearby states in order to avoid paying the property taxes on those vehicles. Mr. Scriber added that, for example, some trucking companies register in Indiana for a tax break.

Representative Stone commented that in comparing property tax rates from county to county or state to state, one should look at how local school districts raise money. He said many of the local districts in Kentucky have higher utility taxes to supplement or offset the relatively lower property taxes. Ms. Bushart said that in Kentucky over 50% of property tax bills go to the schools statewide.

Chairman Westwood asked if more funding were available would it be possible to stop the residents

of border counties registering their vehicles in other states. Mr. Bushart replied there was a program being developed in the Revenue Cabinet to address that issue on a statewide basis.

Representative Adams commented that the meeting was very informative, and thanked the presenters and LRC staff for their hard work.

Chairman Westwood announced that this would be the last meeting of the 2009 interim. He expressed his appreciation to the members for their attendance.

There being no further business or discussion, the meeting was adjourned at noon.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Justice and Judiciary Minutes of the 2nd Meeting of the 2009 Interim October 22, 2009

The 2nd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2009, at 10:00 AM, in Room 169 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Jesse Crenshaw, Co-Chair; Representatives Martha Jane King, Alecia Webb-Edgington, and Brent Yonts.

Guests: Laurie Dudgeon, Director, Administrative Office of the Courts; Carol Henderson, Budget Director, Administrative Office of the Courts; and LaDonna Thompson, Commissioner, Department of Corrections.

LRC Staff: Mike Mullins and Ashlee McDonald

A quorum was not present.

Senator Stivers introduced the first guest, Laurie Dudgeon, Director, Administrative Office of the Courts.

Laurie Dudgeon stated that the Court of Justice has 3,800 employees statewide, which is approximately 10% of the state workforce. Total funding for the courts is about 3% of the state budget.

She indicated that her presentation would specify the budget units for the Administrative Office of the Courts. It will also provide an overview of the fiscal situation for the current fiscal year, 2010, and it will discuss the anticipated budgetary needs for fiscal years 2011 and 2012. There are three major appropriation units in the Court of Justice. They are: Operations and Administration,

Local Facilities, and Judicial Retirement. Court Operations and Administration pays for all employees' and elected officials' salaries and benefits, and operating costs associated with those employees and the services they provide. The Local Facilities Unit includes all funds for the debt service for the court houses and the lease payments for the private sector leases. The Judicial Retirement Unit includes the funding for retired judges.

In fiscal year 2010, the Court Operations budget has an appropriation of \$170.7 million. The estimated expenditures are \$202.8 million, which includes a reduction in positions and operating expenses at AOC. The court operations appropriation for fiscal year 2010 has a deficit of approximately \$32 million. This deficit is present due to the budget reduction required in the bill passed during the last special session, the requirement for 1% annual increments for staff, and increases in the cost of health insurance and retirement. AOC has restricted funds of \$33.1 million available to offset the deficit in 2010. These restricted funds have accrued over the past few years.

The local facilities appropriation will have a balance of a little over \$15.2 million at the end of fiscal year 2010. This is due to the time frame for completing some of the projects and for savings due to lower than expected interest rates. That amount should cover all new costs for Local Facilities in fiscal year 2011.

The current expenditure level for Court Operations is \$202.8 million. The defined calculations according to the budget instructions total \$17.6 million. Consequently, Court Operations will need \$220.4 million. The baseline budget amount for court operations is \$170.7 million. AOC would still need \$49.7 million more than the base budget provides.

The baseline appropriation for facilities in fiscal year 2010 is \$96.8 million. If AOC carries the \$15.2 million into fiscal year 2011, no additional funds will be needed. The Judicial Retirement System baseline appropriation is \$5.8 million. The new actuarial study indicates that additional \$5.7 million will be needed in fiscal years 2011 and 2012 to be adequately funded.

The restricted funds revenue is estimated to be \$28.2 million. The expenditures are expected to be about \$36.9 million, putting the restricted funds in a deficit of \$8.7 million. Excluding the defined calculations, the Judicial Branch needs \$44 million to continue current services. Fiscal year 2012 needs \$106 million, excluding the defined calculations.

If furloughs were used to ad-

dress the \$44 million deficit, it would take require all employees to take off 85 days without pay. About 39% of the non-elected employees would have to be laid off to cover the deficit through a lay off plan. There are other ways the AOC would make budget reductions, but this illustration indicates the seriousness of the impact that such reductions would cause.

Ms. Dudgeon indicated that the judicial branch is doing all it can to reduce costs. They have 800 foster care review volunteers statewide who have done 20,000 reviews of 10,000 children in foster care. They have also implemented the monitored conditional release program statewide that has saved \$30 million to local county jails. Through the CDW program, judges are collaborating with school systems to conduct truancy diversion programs statewide. She stressed the importance of keeping these programs in place as well as keeping current staff levels.

Representative Yonts inquired about a program mentioned last year to collect bad debts to the judicial system. He wanted to know how much success they have had with that program. Ms. Dudgeon stated that they had a vendor come in and evaluate any outstanding debt in the court system. They did an intensive review of 10-12 counties state wide and determined that it was not cost effective to attempt to collect. The AOC now has an accounts receivable program that will go into effect November 1st that will track the debt electronically.

Representative Yonts wanted to know how many millions of dollars was not collected. Ms. Dudgeon said that unfortunately they do not know a number because they have not had the ability or technology to collect that data.

Representative Yonts stated that the Chief Justice said there would be no recommendations for additional judicial local facilities. Rep. Yonts wanted to know if there are facilities that have been authorized but not yet under construction. He inquired if it was at all possible to suspend these projects for a period of time to reduce the amount of additional money needed. Ms. Dudgeon stated that five projects were authorized in 2008. A project in Carlisle County, which had burnt to the ground, is currently under construction. The other projects are in Phase A, or first stage of design.

Representative Yonts wanted to know how much money would be saved if they froze these projects. Ms. Dudgeon said that the only ones that were in the design phase are Franklin Co., Morgan Co., Lawrence Co., and Bracken Co. They have already issued the interim financing for those

projects for the costs associated with them before the actual construction can be started. She also stated that it would save \$3-4 million total (not per facility) because they would have to pay off the debts associated with the projects first.

Senator Stivers referred back to the court facility projects. He wanted to clarify whether there would actually be any savings this biennial period if these projects were stopped in their tracks. Ms. Dudgeon explained that there would be very little, if any. She is anticipating that for those projects, at least a six month debt service in fiscal year 2012.

Representative Crenshaw referred to a presentation regarding a GPS tracking device that Fayette County was using for corrections. He explained that this program could save money by allowing the non-violent offenders to be released on the monitoring device system. This in turn would save the local facilities money by not having to house those inmates. He wanted to know if they had seen a presentation about it and what they thought about this program. He also stated that the judges have discretion as far as sentencing goes and wanted to know if the judges could be urged to utilize those monitoring systems. Ms. Dudgeon said that they have a significant number of judges who are placing defendants on ankle monitoring devices pre-trial. They are all defendant paid. Ms. Dudgeon stated that they are always encouraging the pre-trial officer to allow this if the defendant is low-risk or non-violent.

Representative Crenshaw wanted to know how the judges felt about this program. Ms. Dudgeon answered by saying that the judges who do use it are very positive with their experience. She said that the judges are very receptive and willing to use this program, granted that the defendants' charges allow it. She also explained that she can get the statistics to the committee on exactly how many people have the GPS monitoring devices.

Representative King asked about the bad debt collection. She wanted to know how and what type of technology they have to track this. Ms. Dudgeon explained that they have had a program in development for the past year that will begin November 1st. However, they do not have a method of tracking the older bad debts, but when this program is implemented; the debt information will be transmitted to the Department of Revenue.

Senator Stivers asked Ms. Dudgeon about the facilities budget. He wanted to know if they were placing the funding for salaries of staff working with local facilities in the Local

Facilities or Operations and Administration appropriation units. Ms. Dudgeon stated that all salary costs are included in the Operations unit.

Senator Stivers wanted to know how many people in court operations are assigned to work with the facilities. Ms. Dudgeon said that for Capital Construction there were 9 people. Once the buildings are finished, another group of about 10 assumes oversight of the buildings.

Senator Stivers wanted to know if Ms. Dudgeon had that broken down into budget units. Ms. Dudgeon stated that she did have that information internally and would get that back to Senator Stivers.

Senator Stivers inquired about how many trial commissioners there were state wide and the expenditures for them. Ms. Dudgeon explained that the expenditures were slightly less than \$300,000.00 for the non-constitutional trial commissioners. She also stated that there were 77 total trial commissioners. She would get the specific details for the expenditures to Senator Stivers.

Senator Stivers also explained that, as he understood it, the statutory requirement for a trial commissioner is to be in a county where there is not a sitting resident judge. Ms. Dudgeon did confirm that was correct.

Representative Yonts inquired about commissioners in general, not just the trial commissioners. He wanted to know how many courts were using mediation as a mandate in Family Courts. He also wanted to know how many courts used domestic relations commissioners and what was the cost associated with that. Ms. Dudgeon said that there are approximately 22 circuits that do not have family court judges. She said that she will forward the more specific details to the committee.

Representative Yonts noted that this process was adding to the cost of going through the court system. Representative Crenshaw asked Ms. Dudgeon if she could get the committee a paper copy of the power point presentation that she provided.

Senator Stivers thanked Ms. Dudgeon for coming and providing the presentation. At this time he also introduced the second guest on the agenda, Ms. LaDonna Thompson, Commissioner, Department of Corrections.

Ms. Thompson started her presentation by providing pictures of the damage that occurred at the Northpoint Training Center due to the prison riot. She also provided pictures indicating the progress in cleaning up the site, and making it as functional as possible. Senator Stivers asked for a paper copy of the PowerPoint presentation.

Ms. Thompson went over the time line of the disturbance at the facility. At 6:36 p.m., the first fire was reported. Around 7:00 p.m., the emergency teams were activated, and at 7:45 p.m. the State Police, Sheriff's Office, and the local police department arrived. At 8:35 p.m., the all security teams were at the facility. The inmates were compliant with the staff at 9:30 p.m. The first count was conducted at 10:30 p.m. and about 1:00 a.m. the last of the fires were extinguished. Shortly after the disturbance, 700 inmates were moved from Northpoint to the other prison facilities. The remaining inmates at Northpoint were in the gymnasium and Chapel. The dorms were damaged and could not be utilized. The riot resulted in the destruction of 6 of the Northpoint support buildings.

She also provided pictures of the locks on the doors. Although they were fire resistant, they were not security doors. The inmates were able to break the locks open and get out.

She gave an update on the current status of the physical plant. Demolition of damaged buildings has been completed. The fire exit doors have been replaced in the remaining dorms, but they were not upgraded. Most operations, including medical and visitation, are operating out of dorms that were not severely damaged. A temporary food service building is in place, so they are now able serve meals.

They have insurance coverage that allows for replacement costs for the buildings, but any upgrades will result in additional costs. They are working with the insurance adjusters and hope to have a projected cost by November 1st. The initial insurance estimate they have is for a total cost of \$25 million. The demolition costs to date are \$690,000. It was cost \$195,000.00 for the food service station.

For the construction planning, they asked for technical assistance from the National Institute of Corrections. The Kentucky State Police is conducting an on-site investigation for possible criminal charges. They also have a team of internal officers to handle the administrative investigations for the internal charges to be filed. They have identified numerous inmates who participated in the riot that are charged criminally and within the institution. They have a Critical Incident Review team on site and are awaiting their findings. The CIR has interviewed inmates and staff as well. Ms. Thompson stated that as soon as they received a copy of that, they would forward it to the committee.

Senator Stivers told Ms. Thompson that he appreciated the update on Northpoint. He does feel that it

is appropriate to ask about many details of the riot since the investigation is still in progress. Ms. Thompson agreed that was a good idea. She would provide the complete report as soon as she received it.

Representative Crenshaw reiterated that at some point he would like the opportunity to ask questions regarding the Northpoint riot report. Ms. Thompson answered by saying that as soon as something came in, she would let them know so they could schedule something to review that report.

She also spoke about Electronic Monitoring and Home Incarceration. She sent out a survey to the other states about their usage. She had a response from 30 states, and 22 of them use it for monitoring sex offenders; 15 of the states use it for Parole Officer Requirements; 15 states use it as a requirement of the courts; 22 states use it for work release; 12 states use it for home incarceration; and 16 states have other requirements.

She reported that, from October 1st, 2008 – October 1st, 2009, Corrections had over 1,000 participants in this program. Out of the 1,000, they had 170 inmates come off that program due to parole violations. Out of the 170, 92 came back due to substance-related charges. They had a growth of 24% in the program for fiscal year 2009. This program has saved the Department of Corrections \$1.9 million.

Representative Crenshaw inquired as to whether more non-violent offenders could be placed in home incarceration using GPS monitoring and whether they have estimates on the amount of money that could be saved if judges would place offenders on the monitors instead of sending them to a correctional institution. Ms. Thompson stated that she has not seen any analysis on the number of inmates that come to the corrections because of monitoring referral. The DOC does not pay for the inmates' jail bed costs prior to sentencing.

Representative Crenshaw explained that his concern was the influx of non-violent offenders coming into corrections and if there was a way to stall that by implementing the monitoring system.

Ms. Thompson said that DOC can place Class D or C felons who are within 180 days of completion of their time in the home incarceration program. They have to be non-violent and non-sex offenders. If DOC recognizes that an inmate cannot afford the \$5.00 a day cost for monitoring, the DOC will waive that fee, rather than pay for the daily jail bed usage.

Senator Stivers stated that he

was interested in the future costs of housing inmates versus monitoring and would like to see a report on that in the future. Ms. Thompson agreed that she would get as much information to the committee as possible.

The meeting was adjourned at 11:17 a.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education Minutes of the 3rd Meeting of the 2009 Interim October 22, 2009

The 3rd meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2009, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Tommy Thompson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Tommy Thompson, Co-Chair; Senator Vernie McGaha, Co-Chair; Representative Arnold Simpson, Co-Chair; Kelly Flood, Jim Glenn, Melvin B. Henley, Harry Moberly Jr., Jody Richards, Carl Rollins II, and Kevin Sinnette.

Guests: Dr. Terry Holliday, Commissioner, Kentucky Department of Education, and Dr. Larry Stinson, Acting Deputy Commissioner, Kentucky Department of Education.

LRC Staff: L. Bart Hardin, Tom Willis, Greg Rush, Jonathan Lowe, Tracy Goff Herman, Linda Jacobs Ellis, and Amie Elam.

Chairman Thompson began the meeting by welcoming Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE). Chairman Thompson noted that he looked forward to the discussion regarding Professional Development and enhancing the learning potential of students throughout the Commonwealth. Chairman Thompson relayed that he enjoyed the correlation last month that Commissioner Holliday made between the ability to learn and the quality of the instruction. During the special session there was significant discussion about the possibility of using the proceeds from gaming to fund new category four and five schools and the committee was somewhat alarmed about the number of schools ranked as category 4-5. Chairman Thompson requested a tutorial about how the process of identifying substandard schools started and where the process is now.

Commissioner Holliday gave a presentation on Professional Development focusing on a McKinsey Consulting Report on the world's

best school systems, specifically discussing a statewide constructional improvement system and what that would look like for Kentucky.

The minutes from the June 4, 2009 meeting were approved. The minutes from the September 24, 2009 meeting were approved.

Representative Glenn asked Commissioner Holliday if money would be made available at the school level for principals therefore giving principals more flexibility to make decisions for instruction rather than decisions being made at the central office. Commissioner Holliday answered that it would be a combination. He said the focus is on how KDE can ensure that professional development tools be made available for every teacher to access. Many districts are already spending money on formative assessments, data warehouses, and databases. KDE hopes to free up state money to go the local level. The Teacher Working Conditions survey would provide guidance to principals about what professional development teachers say they need. It could be determined how many districts for example need more support with autism, more support with reading interventions for students who are three or four grade levels behind, and then work can begin with the higher-education partners to populate the statewide database. Principals and teachers need more control over their professional development dollars.

Senator McGaha referenced Commissioner Holliday's comment on students who are placed with effective teachers progressing at a rate three times higher than students that are placed with low performing teachers. Students placed with low performing teachers for two or more years in a row are placed in almost irreversible position. Senator McGaha asked Commissioner Holliday to share his philosophy on how to improve the output of a low performing teacher. Senator McGaha noted that in the Commonwealth if you have low performing teachers it is often hard to remove them from a classroom. Commissioner Holliday stated that his philosophy is that the system created the poor teacher. Many times the least effective teachers are placed in the classrooms that need the most effective teachers. The focus needs to be put on better placement of teachers and a better coaching and support system for teachers. Dr. Holliday said it is his belief that 90-95% of teachers want to do a great job. He stated that there does not need to be an evaluative system up front but a formative system for the students just like the teachers to be able to say where each individual needs help. A formative coaching

and support system up front will prepare teachers and keep teachers. Every teacher that has to be replaced is very costly and timely for the Commonwealth. If a teacher has received all the coaching and support and it has been well documented, which this system will allow, and there have been no improvements made, then it will become clear that another profession may be better for that individual. This type of statewide system will impact 48,000 teachers and could help to address the goal of retaining more teachers and helping those teachers be more successful.

Senator McGaha asked how to handle a teacher who will not accept coaching. Commissioner Holliday answered that one of the components that he will be bringing to the table very soon will be that we must get a better teacher evaluation instrument across the Commonwealth. He stated that there are too many variations in the process now and that KDE has been working with the Educational Professional Standards Board to look at a growth instrument rather than what is being used now. A growth instrument needs to be put in place that would allow determination of effectiveness levels and also allow determination of the most effective teachers then they could help to populate the database with master lessons, lesson plans, and instructional resources. He stated that the database would not work without addressing teacher, principal, and superintendent evaluation.

Representative Flood stated that she was encouraged by Commissioner Holliday's approach in affirming that more than 90% of teachers are interested in being highly effective in the classroom. There is a need to look out for those teachers that may have lost the calling to the teaching field. She asked Commissioner Holliday to define formative assessment. Commissioner Holliday stated that a summative assessment is like an autopsy where it is too late to turn the situation around. A formative assessment is like a physical where the doctor acknowledges there are problems that need to be addressed.

Representative Flood stated that she met with Kentucky Educational Television (KET) and could not believe the extent to which they are true partners of the goals of advancing education in the state especially the issues of equity and access to the services they are providing. She stated that she wished for all of her colleagues to understand the extent to which KET is onboard for this partnership especially as it relates to Professional Development. Representative Flood asked about how KDE was addressing teachers who have a phobia about using technology given

that is the direction Professional Development is heading. Commissioner Holliday answered that the key is to make it as easy as Amazon.com. For example teachers could do a quick search to find what they need and also receive email notifications with recommendations as to what they need to do next based on things they have done in the past and what others like them have tried. This database will be a Web 2.0 instrument that will build and interact with the end user.

Representative Moberly expressed his appreciation of Commissioner Holliday's quick study of the Kentucky educational system. He asked Commissioner Holliday to explain what a master teacher is. Commissioner Holliday answered that a master teacher is a teacher that has been able to produce excellent outcomes of student learning and close achievement gaps. Representative Moberly asked if Commissioner Holliday based his definition of master teacher on student results. Commissioner Holliday said yes and that there will not be excellent student results without an understanding of diversity and methodology and the teacher effectiveness instrument will focus to a great degree on learning results and outcomes. Representative Moberly asked if Commissioner Holliday planned on looking at differential pay and incentive awards for master teachers. Commissioner Holliday answered that there will be a component relating to teacher incentives in the Race to the Top application. Teachers would be rewarded for taking on challenging assignments and producing outstanding results, usually that means that they are providing coaching and support for other teachers. It would not only be pay for performance it would also be for additional duties and leadership roles.

Representative Moberly asked if Commissioner Holliday believed that there should be a teacher advancement program that gives opportunities for teachers to be rewarded. Commissioner Holliday answered yes. Representative Moberly asked if one of those opportunities could be just producing good results. Commissioner Holliday stated that in his opinion he would like a model like that but he added there are other stakeholders that would need to be consulted before a decision like that could be made. Representative Moberly asked if Commissioner Holliday had looked at the Kentucky Teacher Internship Program (KTIP). Commissioner Holliday stated that he was only a little familiar with the program. Representative Moberly stated that teachers tell him that they understand they are where the

rubber meets the road but as there are more and more mandates placed on teachers, teachers are asking for support so that they can be successful. He believes that there also needs to be a model for principal effectiveness. Representative Moberly stated that every successful school that has come in front of committees on which he has served has had a strategy, good leadership, and effective teachers.

Representative Moberly stated that we need to look at teacher education and principal education. He explained there are teachers coming out of college programs unable to use formative assessment which is basic to education reform. He stated that it was important to look at getting more experienced and more effective teachers into low performing schools to try and turn them around and that he would like to know what can be done to make that happen.

Representative Richards stated that the biggest mistake in the Kentucky Education Reform Act (KERA) was not including enough Professional Development. He stated that the principal is very important to the success of a school. Commissioner Holliday commented that leadership and the longevity of a principal have a direct impact on student learning. He stated that there would also be a comprehensive database for principals. Successful principals who have led turnaround efforts would be made accessible to first and second year principals. He explained that the model and software exists already and there are national partners eager to work with KDE to develop a very comprehensive database that would lay out the standards and steps to take in times of challenge. KDE is wants to create regional centers to help coach principals.

Representative Richards stated that there was not enough work done with the teacher preparation institutions during the development of KERA. Articulating the changes to the teacher preparation institutions is really important. He stated that what he found was that although there were terrific changes in KERA that it was several years before the institutions got up to speed on teaching what the changes were. He stated that he believed that technology was the way that students learned now and that the teaching model was going to have to align with this change to be most effective. Commissioner Holliday stated that is what KDE was hoping to do. He stated that involving higher education was essential. Teachers must be provided with tools that are user friendly so they can use this technology effectively. He stated students have been engaged in classrooms he has been to that have used

smart boards, projectors, and encyclomedia. The teacher effectiveness instrument must address a teacher's utilization of technology and Kentucky's teacher preparation programs must be addressing technology.

Representative Stevens stated that his toughest job as a principal was determining and placing students with ineffective teachers. The most important job he had was filling teacher vacancies, he said it was important to hire someone that would come in and give it their all because what happened in that classroom would determine the student's future. You must have teachers that are able to teach difficult students. It takes a principal that is highly involved in a school. He stated the most effective teachers that he came in contact with were the ones that got to know students as individuals and figured out what made them tick. He explained how important it was that students understand that their teachers care about them.

Representative Henley stated that the technological information system evolvement must be taken into account. Teachers that have graduated 10 years ago or even less will need to maintain on a yearly basis a technological innovation learning experience to be able to keep up with their students.

Representative Graham stated that there was a bill in the past that addressed administrators using subjectivity in evaluations. The teachers were not being evaluated on performance in the classroom but rather on personal issues. He said there should be guidelines put in place regarding how teachers are evaluated. Commissioner Holliday stated that he was in agreement with Representative Graham. Commissioner Holliday explained that the model will link to a growth instrument and then to a teacher effectiveness instrument which eventually is the evaluation and would provide any opportunities for development of evidences that would be electronically fed into the evaluation thus removing some subjectivity. The key to this he said would be training on what good instruction looks like. Principals do not always know what effective instruction looks like. They must be trained and prove that they know what to look for so that they can effectively evaluate. Representative Graham stated that a teacher should be able to debate theory and philosophy without it becoming a personal issue.

Deputy Commissioner Stinson gave a presentation regarding school facilities.

Representative Graham asked what would cause a school not to progress. Deputy Commissioner Stinson

son answered that it has to do with the availability of resources and that the answer would vary depending on the district.

Representative Moberly stated that there is no doubt the School Facilities Construction Commission (SFCC) has done great work. With the construction of the SFCC we have built billions of dollars worth of schools in the Commonwealth. He stated that there are always equity questions that remain and in looking at the facility task force recommendations there are two particularly striking points to him. First of all, if the ten cent Facility Support Program of Kentucky (FSPK) requirement was in place a lot of the districts with category four and five schools could solve their problems. Secondly, there are no maintenance requirements so that schools can fall into four and five because some districts do not properly maintain their schools and others do. In the late 90s, the legislature started a program of funding outside the formula of the SFCC category fives. What that did was skew the regular SFCC funding and this was not fair to the districts that were following the priorities and set up a precedent for schools that have fours and fives would stop listing them in the regular formula as a priority thinking that the legislature would do those. There were also various nickel categories and there were arguments about what should be equalized and what should not. A reason a lot of the districts are indicated in green on the chart is because they levied all the nickels they could. In Madison County there is only one school that is in really bad shape and that is because the local school board levied every nickel they could including the recallable nickel.

Representative Moberly stated that he believes there should be a requirement to levy at least 10%. Maintenance program requirements need to be put in place so that the districts that maintain facilities as they should do not get penalized because of those who do not. He stated that Kentucky has one of the best building programs in the nation but it needs to be more equitable in the way that districts are treated.

Representative Simpson stated that a lot of districts have levied additional taxes. He asked for a map that would show how much each district had levied. Deputy Commissioner Stinson said that a map is not currently available but they will provide a spreadsheet with this information. Representative Simpson asked how many nickels Covington has levied. Commissioner Stinson answered that Covington had only levied the original nickel.

Representative Richards stated

that nickels have saved some of the districts and helped them move forward. He asked if there was an average age that a school building lasts if maintained properly. Deputy Commissioner Stinson answered that a building that is properly maintained should last around 50 years before it needs significant changes. Representative Richards stated that he agrees with Representative Moberly in that there is a need for maintenance requirements. He asked if it would be a requirement in the future for buildings to be more environmentally friendly. Deputy Commissioner Stinson answered that it is not yet a firm requirement but it is strongly encouraged. He added that the decisions on energy efficiency and such are made at the local level. Most items to promote energy efficiency are cost neutral to implement.

Representative Richards stated that he understood that most energy efficient building materials really are not that much more expensive.

Representative Stevens asked if there would be federal funds available for construction renovation. Deputy Commissioner Stinson answered that most money that became available via the American Recovery and Reinvestment Act focused on relief on interest rates. There is not very much money at all available for construction.

Representative Moberly asked what restrictions are in place to keep a school district from building a school that is bigger and more expensive than functionality required it to be. Deputy Commissioner Stinson answered that there is a model program that describes the kinds of spaces and amount of square footage. If a district wants to build a facility that exceeds this. Districts will be required to provide strong justification and this may or may not be approved. If the extra space and costs are not approved a district will have to fund it out of their own resources. Districts may not use restricted funds for matters that go beyond the prescribed formula.

Chairman Thompson announced that the next meeting will be held Monday, November 16th and it will be a joint meeting. There being no further discussion, the meeting was adjourned at approximately 12:00 P.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

**Budget Review Subcommittee on
Primary and Secondary Education
Minutes of the 3rd Meeting
of the 2009 Interim
October 22, 2009**

The 3rd meeting of the Budget Review Subcommittee on Primary and

Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2009, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Tommy Thompson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Tommy Thompson, Co-Chair; Representatives Rick G. Nelson, Carl Rollins II, and Kent Stevens.

Guests: Dr. Terry Holliday, Commissioner, Kentucky Department of Education, and Dr. Larry Stinson, Acting Deputy Commissioner, Kentucky Department of Education.

LRC Staff: L. Bart Hardin, Tom Willis, Greg Rush, Jonathan Lowe, Tracy Goff Herman, Linda Jacobs Ellis, and Amie Elam.

Chairman Thompson began the meeting by welcoming Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE). Chairman Thompson noted that he looked forward to the discussion regarding Professional Development and enhancing the learning potential of students throughout the Commonwealth. Chairman Thompson relayed that he enjoyed the correlation last month that Commissioner Holliday made between the ability to learn and the quality of the instruction. During the special session there was significant discussion about the possibility of using the proceeds from gaming to fund new category four and five schools and the committee was somewhat alarmed about the number of schools ranked as category 4-5. Chairman Thompson requested a tutorial about how the process of identifying substandard schools started and where the process is now.

Commissioner Holliday gave a presentation on Professional Development focusing on a McKinsey Consulting Report on the world's best school systems, specifically discussing a statewide constructional improvement system and what that would look like for Kentucky.

The minutes from the June 4, 2009 meeting were approved. The minutes from the September 24, 2009 meeting were approved.

Representative Glenn asked Commissioner Holliday if money would be made available at the school level for principals therefore giving principals more flexibility to make decisions for instruction rather than decisions being made at the central office. Commissioner Holliday answered that it would be a combination. He said the focus is on how KDE can ensure that professional development tools be made available

for every teacher to access. Many districts are already spending money on formative assessments, data warehouses, and databases. KDE hopes to free up state money to go the local level. The Teacher Working Conditions survey would provide guidance to principals about what professional development teachers say they need. It could be determined how many districts for example need more support with autism, more support with reading interventions for students who are three or four grade levels behind, and then work can begin with the higher-education partners to populate the statewide database. Principals and teachers need more control over their professional development dollars.

Senator McGaha referenced Commissioner Holliday's comment on students who are placed with effective teachers progressing at a rate three times higher than students that are placed with low performing teachers. Students placed with low performing teachers for two or more years in a row are placed in almost irreversible position. Senator McGaha asked Commissioner Holliday to share his philosophy on how to improve the output of a low performing teacher. Senator McGaha noted that in the Commonwealth if you have low performing teachers it is often hard to remove them from a classroom. Commissioner Holliday stated that his philosophy is that the system created the poor teacher. Many times the least effective teachers are placed in the classrooms that need the most effective teachers. The focus needs to be put on better placement of teachers and a better coaching and support system for teachers. Dr. Holliday said it is his belief that 90-95% of teachers want to do a great job. He stated that there does not need to be an evaluative system up front but a formative system for the students just like the teachers to be able to say where each individual needs help. A formative coaching and support system up front will prepare teachers and keep teachers. Every teacher that has to be replaced is very costly and timely for the Commonwealth. If a teacher has received all the coaching and support and it has been well documented, which this system will allow, and there have been no improvements made, then it will become clear that another profession may be better for that individual. This type of statewide system will impact 48,000 teachers and could help to address the goal of retaining more teachers and helping those teachers be more successful.

Senator McGaha asked how to handle a teacher who will not accept coaching. Commissioner Holliday answered that one of the components

that he will be bringing to the table very soon will be that we must get a better teacher evaluation instrument across the Commonwealth. He stated that there are too many variations in the process now and that KDE has been working with the Educational Professional Standards Board to look at a growth instrument rather than what is being used now. A growth instrument needs to be put in place that would allow determination of effectiveness levels and also allow determination of the most effective teachers then they could help to populate the database with master lessons, lesson plans, and instructional resources. He stated that the database would not work without addressing teacher, principal, and superintendent evaluation.

Representative Flood stated that she was encouraged by Commissioner Holliday's approach in affirming that more than 90% of teachers are interested in being highly effective in the classroom. There is a need to look out for those teachers that may have lost the calling to the teaching field. She asked Commissioner Holliday to define formative assessment. Commissioner Holliday stated that a summative assessment is like an autopsy where it is too late to turn the situation around. A formative assessment is like a physical where the doctor acknowledges there are problems that need to be addressed.

Representative Flood stated that she met with Kentucky Educational Television (KET) and could not believe the extent to which they are true partners of the goals of advancing education in the state especially the issues of equity and access to the services they are providing. She stated that she wished for all of her colleagues to understand the extent to which KET is onboard for this partnership especially as it relates to Professional Development. Representative Flood asked about how KDE was addressing teachers who have a phobia about using technology given that is the direction Professional Development is heading. Commissioner Holliday answered that the key is to make it as easy as Amazon.com. For example teachers could do a quick search to find what they need and also receive email notifications with recommendations as to what they need to do next based on things they have done in the past and what others like them have tried. This database will be a Web 2.0 instrument that will build and interact with the end user.

Representative Moberly expressed his appreciation of Commissioner Holliday's quick study of the Kentucky educational system. He asked Commissioner Holliday to explain what a master teacher is. Com-

missioner Holliday answered that a master teacher is a teacher that has been able to produce excellent outcomes of student learning and close achievement gaps. Representative Moberly asked if Commissioner Holliday based his definition of master teacher on student results. Commissioner Holliday said yes and that there will not be excellent student results without an understanding of diversity and methodology and the teacher effectiveness instrument will focus to a great degree on learning results and outcomes. Representative Moberly asked if Commissioner Holliday planned on looking at differential pay and incentive awards for master teachers. Commissioner Holliday answered that there will be a component relating to teacher incentives in the Race to the Top application. Teachers would be rewarded for taking on challenging assignments and producing outstanding results, usually that means that they are providing coaching and support for other teachers. It would not only be pay for performance it would also be for additional duties and leadership roles.

Representative Moberly asked if Commissioner Holliday believed that there should be a teacher advancement program that gives opportunities for teachers to be rewarded. Commissioner Holliday answered yes. Representative Moberly asked if one of those opportunities could be just producing good results. Commissioner Holliday stated that in his opinion he would like a model like that but he added there are other stakeholders that would need to be consulted before a decision like that could be made. Representative Moberly asked if Commissioner Holliday had looked at the Kentucky Teacher Internship Program (KTIP). Commissioner Holliday stated that he was only a little familiar with the program. Representative Moberly stated that teachers tell him that they understand they are where the rubber meets the road but as there are more and more mandates placed on teachers, teachers are asking for support so that they can be successful. He believes that there also needs to be a model for principal effectiveness. Representative Moberly stated that every successful school that has come in front of committees on which he has served has had a strategy, good leadership, and effective teachers.

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more experienced and more effective teachers into low performing schools to try and turn them around and that he would like to know what can be done to make that happen.

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solve their problems. Secondly, there are no maintenance requirements so that schools can fall into four and five because some districts do not properly maintain their schools and others do. In the late 90s, the legislature started a program of funding outside the formula of the SFCC category fives. What that did was skew the regular SFCC funding and this was not fair to the districts that were following the priorities and set up a precedent for schools that have fours and fives would stop listing them in the regular formula as a priority thinking that the legislature would do those. There were also various nickel categories and there were arguments about what should be equalized and what should not. A reason a lot of the districts are indicated in green on the chart is because they levied all the nickels they could. In Madison County there is only one school that is in really bad shape and that is because the local school board levied every nickel they could including the recallable nickel.

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Chairman Thompson announced that the next meeting will be held Monday, November 16th and it will be a joint meeting. There being no further discussion, the meeting was adjourned at approximately 12:00 P.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 3rd Meeting of the 2009 Interim October 22, 2009

The third meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 22, 2009, at 10:30 AM, in Room 131 of the Capitol Annex. Representative Sannie Overly, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Representative Leslie Combs; Vickie Bourne, Executive Di-

rector, Public Transportation; Steve Waddle, Executive Director of Project Development and Acting State Highway Engineer; Chuck Knowles, Deputy State Highway Engineer, Dept. of Highways; and Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet.

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

Ms. Bourne provided a brief update of federal funds received through the American Recovery and Reinvestment Act of 2009 (ARRA) for public transportation.

Chair Overly asked whether the ARRA funds for other capital transit agencies would be spent by the December 30, 2009 deadline. Ms. Bourne indicated she thought the deadlines would be met because of the requirements of the Federal Transit Administration (FTA).

Ms. Bourne continued her presentation with information regarding the General Fund budget reduction and its effects on public transportation.

Representative Hall asked what the projected FY 2011 imbalance would be. Tammy Branham replied that because the cabinet did not have a FY 2011 budget, it would be extremely difficult to estimate. She said the cabinet was currently in the process of organizing agency budget requests. A baseline budget had not been developed to submit to the Governor and any projection at this point would be premature.

Representative Ballard asked whether the transit capital projects listed in the information provided are the only projects eligible in the state. Ms. Bourne answered those were formula grant programs which were approved by the FTA.

Representative Collins asked if the loss of funds is because there is a shortage of grants or a failure to obtain matching funds in order to apply for the grant. Ms. Bourne indicated that the cabinet had access to the federal funds but lost purchasing power and a loss of vehicles because there was a reduction in the match. Representative Collins asked whose responsibility it was for not having the matching funds. Ms. Bourne indicated that the state match would be the responsibility of the state.

Chair Overly asked if there were restrictions on the federal stimulus funds that precluded the cabinet from using any of those funds to compensate for budget reductions. Ms. Bourne replied that the stimulus funds had filled in some areas such as older vehicle replacement, but the needs were much greater.

Steve Waddle and Chuck Knowles gave a brief overview of

the Bridge Replacement Program, explaining how bridges qualify for funding, the significance of funding codes and designations, along with a summary of the rating system and inspection program.

Chair Overly inquired about the purpose of the "BRX" code if the bridges come under the "BRO" or "BRZ" designation. Mr. Waddle stated that when the cabinet receives funds from the Federal Highway Administration (FHWA) they are apportioned by the codes, with a certain percentage of the funds available for the different code categories.

Representative Gooch inquired about the difference in functionally obsolete and structurally deficient bridges. Mr. Knowles introduced David Steele, the cabinet's Chief Bridge Management Engineer, who was in the audience. He then said that federal regulations require that inspections be conducted on all publicly-owned bridges in the state, which currently includes approximately 13,500 bridges. Inspectors have a mandated list of factors which they review and rate, and based on the information from the field inspection there are formulas and other means of arriving at sufficiency ratings. He agreed that a structurally deficient bridge is a more critical need than a functionally obsolete bridge. Bridges placed in the Six-Year Plan are mostly in the structurally deficient category.

Representative Collins asked if some correction could be made by lowering the weight limit on structurally deficient bridges. Mr. Waddle stated that the allowable weight limit could be lowered but the bridge would still be considered structurally deficient. If the weight limit was posted and adhered to, the bridge would then be considered safe.

Representative Nesler stated it was his understanding that Kentucky has ranked high in structurally deficient bridges in the past as compared to other states and asked if this was still the case. Mr. Knowles indicated that a recent publication stated that Kentucky has a low number compared to other states. He pointed out that Kentucky has more bridges on the state and local level, and they are continually aging. He also said the cabinet's buying power with the Bridge Replacement Program had eroded considerably over the last several years because of the significant increases in the construction price index of materials. The program has remained relatively consistent with the amount of money received each year.

Representative Nesler indicated that comments had been made that a county could build bridges for less money than the state and asked why that would be possible. Mr. Knowles

explained that receipt of federal funds requires that federal guidelines be met, which can drive up costs. He said the cabinet would advocate another pool of funds that would allow them to work with local governments to replace bridges without those added expenses due to the fact that they do not have to meet the federal requirements.

Representative Nesler asked for an explanation of how the bridge inspection process works. Mr. Knowles said the cabinet is required by federal regulations to inspect every publicly-owned bridge in the state once every two years. Regular inspections are set up on a two-year schedule unless there is a critical need which would require an annual inspection.

Senator Leeper asked how many counties fail to comply with the requirements of posted weight limits on bridges. Mr. Knowles indicated that there were approximately twenty counties out of which are of compliance due to not accurately posting their bridges or not meeting all the requirements, and a list of those will be provided to staff. Senator Leeper also asked how often the cabinet notified the counties that they are out of compliance. Mr. Knowles stated that counties are notified of non-compliance at least once per year, with regular follow-ups.

Representative Henderson asked if traffic patterns such as school bus travel and the size of trucks is factored in to bridge ratings. Mr. Steele replied that if a bridge is on a school bus route and has a posted weight limit it receives a higher priority for being replaced. Daily travel also factors into the rating. Representative Henderson asked if bridge rails are factored in to the rating. Mr. Steele replied that rails are not factored in to the load rating except for dead load. He added that safety is part of the deficiency rating.

Representative Ford asked if there were stimulus dollars directed toward bridge replacement. Mr. Waddle replied that he did not think any were used for that purpose; however, he would be glad to check and provide that information at a later date.

Representative Couch stated that in 2004 there were about 17 county bridges in his district which were designated by the cabinet as deficient. He said those are still listed, and asked if it was because of posted weight limitations or lack of funds. Mr. Waddle replied that he would get a list of those bridges and provide the information to him at a later date.

Representative Couch asked for a record of the amount of money spent on the bridges and their locations. The cabinet indicated that they would provide this information.

Representative Collins asked if the state inspects bridges in all counties, and who is responsible for signage once the counties are notified of inspection results. Mr. Knowles replied that the state has the responsibility for inspecting all state and local bridges. Mr. Steele stated that counties are typically responsible for purchasing signs.

Representative Collins asked how much federal money was lost for the Bridge Replacement Program as a result of not having the twenty percent match. Mr. Waddle stated that the state did not lose the federal dollars, but the funds did not go as far, due to the usage of toll credits. Representative Collins asked what the approximate cost of a weight limit sign would be. Mr. Steele indicated that it would be approximately \$40.

Senator Leeper inquired if there was a reason why a county would be reluctant to lower a weight limit posting. Mr. Steele replied in the affirmative. Senator Leeper asked if an overpass would qualify for federal funding as a bridge. Mr. Steele replied that it would, adding that a bridge is defined as a structure being greater than twenty feet in length.

Representative Nesler indicated that he was appalled that nearly twenty percent of the counties in the state do not comply with the posting of the weight limit requirements and recommended that the cabinet take more responsibility to be more stringent regarding noncompliance. He suggested that the cabinet may want to withhold funding for bridges and advise the fiscal courts and those responsible for placement of the signs that, not only will bridge monies be withheld, but there will be no advancement of road projects in that county until they are compliant with bridge requirements.

Chair Overly requested clarification on the grading system. Mr. Steele replied the efficiency rating goes from 0-100, with the higher the number being the better. The grading system for the deck, superstructure, and substructure is from 0-9, with 9 being excellent condition, and 0 as failure.

Chair Overly stated that currently there are 400 bridges out of the 13,500 in Kentucky that are rated at 50 or below for structural deficiency. She asked for an explanation of how to address the needs of those 400 bridges. Mr. Waddle stated that there are currently four major bridge replacement projects. If the cabinet approached those projects traditionally with replacement funds of \$70 to \$75 million received each year, 100% of the bridge replacement funds for five or six years could be used to replace just those four bridges. There

is some alternative funding available which may offset some of the money such as TIGER grant application funds and GARVEE bonds.

Representative Collins asked how many of the bridges would qualify under the agreement with the Louisville-Southern Indiana Ohio River Bridges project. Mr. Waddle indicated that the threshold would be a \$500 million project, and those projects are for lesser amounts. Chair Overly added none of those four projects would be eligible under that agreement.

Tammy Branham gave a brief overview of the Road Fund Cash Flow Model and some of the larger events that have come into play which have affected the current model.

Senator Leeper asked for an explanation of debt restructuring. Ms. Branham replied that debt restructuring delays the selling of revenue bonds and extending the debt service payments out beyond 2010.

Chair Overly asked if there were aviation projects that were not advancing because the cabinet was not issuing the additional \$51 million in bond funds that are available, or if there was a backlog of projects needing attention. Ms. Branham stated that there were projects not moving for failure to sell those bonds, but could not answer whether a project was not moving because of those bonds not being sold. She indicated she would be glad to take the request back to the Commissioner of the Department of Aviation and reply back to the committee. Chair Overly requested that the information be provided at a later date.

Representative Collins asked if there had been any discussion of the possibility of losing \$1 million from the Delta Airlines group at the Northern Kentucky Airport. Ms. Branham was unable to comment but would be glad to have the experts at the Department of Aviation look into the issue and report back to the committee. Representative Collins also indicated there were problems with the Environmental Protection Agency which would not allow for an extension of the runway at Big Sandy Airport.

At this time, Chair Overly asked for a motion to approve the minutes of the September 24, 2009 meeting. Senator Leeper made the motion, Representative Ford seconded, and the minutes were approved without objection.

Ms. Branham then provided information on the Appalachian Development Highway System (APD). She indicated that her presentation would be an abbreviated version of that which was presented to the Interim Joint Committee on Transportation in Pikeville on October 6,

2009.

Representative Henderson commented that if the federal funds for APD projects were not used for roads in Kentucky, the funds would go to the state of West Virginia to build better roads for eastern Kentucky residents to travel to that state, which would result in Kentuckians spending money in other states.

Chair Overly asked how long the APD projects in Pike and Letcher counties had been ongoing. Mr. Waddle indicated he had been with the cabinet twenty-one years and those projects had been going on for longer than that. Chair Overly expressed her concern that Kentucky has \$423 million in federal funds that could be accessed if the match could be made.

Representative Hall noted that before President Kennedy was assassinated he signed the US 119 Appalachian Corridor Highway Bill in October of 1963. He said there are many more Kentucky counties in Appalachia, and Pike and Letcher are the only counties that currently are building roads. He added that, at the Interim Joint Committee meeting in Pikeville, there was discussion about incorporating the Mountain Parkway into the system and have that mileage added. He asked how many of Kentucky's Appalachian counties are recognized under this APD highway system. Mr. Waddle indicated that the cabinet would be glad to provide that information at a later date. Representative Hall was of the opinion that with the assistance of the congressional delegation for eastern Kentucky that the Mountain Parkway could be incorporated into the APD from Powell County to the Magoffin County line. Ms. Branham stated that the average project takes about two and one-half years to spend out. The current Six-Year Plan expires in 2014. Even if a project was begun on June 1, 2014 that was included in the \$528 million, it could easily go into 2017 for the expenditures on that project. Representative Hall commented that Kentucky needed to be creative in finding the matching funds, also that inquiries should be made to the other thirteen states as to what they had done. Ms. Branham indicated that was a possibility, and stated that she did know how many states may have roads that are not open to traffic on the APD.

Representative Combs thanked the committee for inviting her to the meeting and stated that it has been emphasized several times today, as well as at the Interim Joint Committee meeting in Pikeville in October, that the state would not have to come up with the full match at one time and that there are creative ways to come up with the match. She also

indicated that it was difficult to be creative and cost effective in providing citizens proper roadways because of efforts of the EPA to stall the progress.

Representative Collins advised that District 10 will be meeting this month to finish up the alignment of the section of roadway from Route 205 to the bridge over Licking River, and they were hoping to have the environmental impact statement finished by next summer, allowing the eligibility for funding. If this could be done, citizens would not be opposed to a toll.

Chair Overly commented that the meeting had been very informative, and thanked everyone for coming. There being no further business for discussion, the meeting was adjourned at approximately 12:10 PM.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

**Minutes of the 3rd Meeting
of the 2009 Interim
October 27, 2009**

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 27, 2009, at 10:00 AM, at the Norton Center for the Arts, Centre College, Danville, Kentucky. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Julie Denton, Dorsey Ridley, Dan "Malano" Seum, and Brandon Smith; Representatives James R. Comer Jr., Will Coursey, Ron Crimm, Robert R. Damron, Mike Denham, Ted Edmonds, Joseph M. Fischer, Danny Ford, Jim Gooch Jr., Mike Harmon, Dennis Horlander, Brent Housman, Dennis Keene, Brad Montell, Jody Richards, Steve Riggs, Kevin Sinnette, Wilson Stone, and John Tilley.

Guests: John Roush, President, Centre College, Jamey Gay, Danville City Commissioner, Anne Sleet, Mayor of Perryville, Harold McKinney, Boyle County Judge Executive, Jodi Lassiter, President, Boyle County Economic Development Partnership Julie Wagner, Executive Director, Heart of Danville Main Street Program, Debra Stamper, General Counsel, Kentucky Banker's Association, John Cooper, Legislative Agent, Kentucky Banker's Association, and Charles Vice, Commissioner, Kentucky Department of Financial Institutions.

LRC Staff: Rhonda Franklin, Emily Bottoms, Jens Fugal and Jamie Griffin.

The minutes from the September 30, 2009, meeting were approved.

President John Roush, Centre

College, welcomed the committee to Danville and the Centre campus and thanked the committee for having a meeting at the Norton Center for the Arts.

Jamey Gay, Danville City Commissioner, Anne Sleet, Mayor of Perryville, Harold McKinney, Boyle County Judge Executive, Jodi Lassiter, President, Boyle County Economic Development Partnership and Julie Wagner, Executive Director, Heart of Danville Main Street Program, welcomed the committee to Danville and Boyle County.

Debra Stamper, General Counsel, Kentucky Banker's Association (KBA), addressed the committee regarding the current state of the Kentucky Banking Industry, its role in the economic crises of the past 18 months and the effect of efforts being made in Washington to correct the economic downturn. She stated that Kentucky banks are some of the strongest in the nation and hold firm to a long history of conservative, well-managed banking practices. She stated that the banking industry in Kentucky is an integral part of every community in Kentucky. The history of banking in Kentucky is impressive, with the average age of Kentucky based banks being 116 years. She stated that the oldest Kentucky bank still in operation today was established in 1835. Kentucky banks are well capitalized and well run. Banks developed and maintained in Kentucky are the solution, not the creators of this financial crisis. Banks in Kentucky are still lending, investing in their communities, and willing to help maintain the strength of Kentucky's economy. She stated the only things that will stop Kentucky banks from staying focused on this mission are pressures from the outside that they cannot ignore, such as pressures from examiners, regulators, and federal legislators. She stated that the proposed federal legislation H.R. 3126, the Consumer Financial Protection Agency Act (CFPA), which made its way out of the House Financial Services Committee last week and is moving to the full floor, creates a new federal regulator for financial institutions. This regulator would be given the authority to develop, implement and enforce consumer financial protection laws. This regulator and its regulations would be outside of the current regulatory structure. The regulations developed and enforced would be, in large part, without regard to the impact on the safe and sound operation of financial institutions. She stated that applying a separate, conflicting set of laws on highly regulated FDIC insured institutions is unacceptable and bad public policy not only for banks, but also for consumers and the economy.

She stated that creating a new regulator with new authority does not fix the problems in the current system and does not address the problems that placed us in the position we are in today. The CFPA would have free reign to pass new laws and regulations. Despite assurances that the CFPA would work in tandem with prudential regulators, it is simply not clear. She stated that there is also a provision in H.R. 3126 that eliminates preemption as it is recognized today. She stated that H.R. 3126 takes the banking industry backwards and does not ensure the highest standard of consumer compliance. Every state would have the authority to create different consumer compliance laws. Currently, in many instances, federal laws preempt state laws in instances where the federal law encompasses an entire subject. This is positive because it allows banks that do business across state lines to be certain they know with which laws to comply, and makes the law uniform for all customers. H.R. 3126 would stop this uniformity. She stated that the loss of preemption would have the effect of making banking, and financial services as a whole, inefficient. It would lessen true competition among financial service providers under uniform application of laws, costing the consumer more as a result. These types of costs would have the greatest impact on the smallest banks, which are the cornerstone of their communities. She stated that H.R. 3126 is just one of the pieces of federal legislation that the Kentucky Banker's Association feels could have a divesting effect on banking and potentially destroy the traditional banking states like Kentucky. She said that the potential effect is compounded by increased FDIC premium rates, additional special assessments by the FDIC, and prepayment of premium requirements.

Representative Mike Denham stated that he feels over the counter derivatives are part of the current financial crisis.

John Cooper, Legislative Agent, Kentucky Banker's Association, stated he agreed and feels it is because there are no regulations on derivatives.

Representative Bob Damron stated that the National Conference of Insurance Legislators (NCOIL) has model legislation that he anticipates will be adopted at the conference's November meeting which would address recent issues regarding credit defaults. He stated that he agrees that too much federal regulation can cause problems at the state level.

Representative Jeff Greer stated that he was pleased to hear that Kentucky banks are doing well. He asked if the Kentucky Banker's Association

monitors installment credit statistics and if repossessions have increased.

Debra Stamper stated that the KBA does not specifically monitor installment credit figures, but will try to get those for the committee. She stated that she believes that there has not been a significant change. She stated that based on phone calls the KBA has received it seems as though banks and customers are working together to arrange installment loan payment plans to avoid repossessions.

Charles Vice, Commissioner, Kentucky Department of Financial Institutions, gave the committee an update on economic conditions, the state of Kentucky's banking industry, the Irwin Union Bank failure, and DeNovo activity. He stated that Kentucky banks are strong and doing well, but the national economy has had an effect on loan practices in Kentucky. He stated that Irwin Union Bank began operation in 2000 and was headquartered in Louisville. It was not chartered or regulated by the Department of Financial Institutions. Irwin Union Bank was put into receivership on September 18, 2009, and sold to First Financial Bank, Hamilton, Ohio. There was no loss to depositors and no disruption in business. He stated that in regard to DeNovo banks, the FDIC changed its statement of policy. There is a limit on competition and formation of new banks, and the DeNovo period increased from 3 years to 7 years. He stated existing DeNovo banks within their third year of operation must provide financial statement and business plan requirements. All DeNovo banks will be on a 12 month exam schedule through 7 years. DeNovo banks must provide written notice of proposed changes to business plans during the first 3 years. Business plans for years 4-7 will be reviewed for reasonableness and evaluated for prospective risk profile and management capabilities.

Senator Tom Buford asked the committee to observe a moment of silence in honor of the passing of Representative Steve Riggs father, Raymond Riggs.

Meeting adjourned.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

**Minutes of the 3rd Meeting
of the 2009 Interim
October 15, 2009**

The 3rd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, October 15, 2009, at 9:30 AM, in the new indoor arena at the Kentucky Horse Park. Senator Alice Forgy Kerr, Chair, called the meeting

to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Eddie Ballard, Co-Chair; Senators Julian M. Carroll, Julie Denton, Denise Harper Angel, Katie Kratz Stine, Gary Tapp, Robin L Webb, Jack Westwood, and Ken Winters; Representatives Royce W. Adams, John "Bam" Carney, Leslie Combs, Will Coursey, Mike Denham, Ted Edmonds, Kelly Flood, Jim Gooch Jr., Mike Harmon, Melvin B. Henley, Dennis Horlander, Joni L. Jenkins, Dennis Keene, Thomas Kerr, Martha Jane King, Adam Koenig, Tom McKee, Tim Moore, Fred Nesler, David Osborne, Ruth Ann Palumbo, Don Pasley, Ancel Smith, Fitz Steele, Tommy Thompson, and Addia Wuchner.

Legislative Guests: Representatives John Will Stacy and Susan Westrom.

Guests: John Nicholson, Executive Director, Kentucky Horse Park; Jamie Link, Chief Executive Officer, World Games 2010 Foundation, Inc.; Martine Head, Longitude Farm, Deauville, France; and Marcheta Sparrow, Secretary, Kentucky Tourism, Arts and Heritage Cabinet.

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

Co-chair Kerr welcomed everyone to the joint meeting of the Interim Joint Committees on Economic Development and Tourism, and Labor and Industry. Co-Chair Ballard thanked the Kentucky Horse Park for their hospitality.

Senator Carroll noted the ongoing progress of the Horse Park since the 1970s and its first hosting of the Rolex three-day event to the upcoming 2010 World Equestrian Games.

A motion and second by Representative Edmonds and Senator Stine to approve the minutes of the September 17, 2009, Economic Development and Tourism meeting were approved by voice vote.

Representative Hoffman welcomed everyone to the Horse Park.

Representative Edmonds introduced thoroughbred owner and breeder Martine Head of Deauville, France. Ms. Head expressed concern that marketing efforts in Europe and elsewhere for the World Equestrian Games were lagging. She said Europeans involved in equestrian events may not be aware of the significant work in place at the Horse Park for the 2010 Games. She said the 2014 Games will not be able to offer the same caliber of facilities as those in the United States at the Horse Park. She suggested getting not only those involved in the world games but participants of others equestrian events as well.

Responding to Representative Pasley's question, Ms. Head said that as an observer, the 2010 Games are not featured enough in Europe. She suggested increasing public relations efforts in Europe as she feared that people would regret not coming once they see the games unfold.

Representative Wuchner asked if marketing the games as a holiday with side trips would be more interesting for the European traveler. Ms. Head noted that children will be in school in September so it is not a holiday period in Europe. She suggested partnering with European sister cities such as Deauville, France, Kildaire, Ireland, and Shizuoka, Japan.

Next, John Nicholson, Executive Director of the Kentucky Horse Park, gave an update on the preparations at the Horse Park for the 2010 World Equestrian Games. Mr. Nicholson said the new indoor arena has already hosted several successful events. He said beyond the 2010 Games, the facility was needed as the park had outgrown its existing facilities. The new arena allows the park to be competitive in attracting future events and noted that the arena is already booked for 27 events outside of the World Equestrian Games.

Mr. Nicholson said the genesis behind the Horse Park was John Gaines work to create a people's horse farm. It allowed visitors to experience Kentucky's equine heritage. The Horse Park evolved and has been successful in equine entertainment and education. Part of that success is the International Museum of the Horse which will host the international exhibit titled "A Gift from the Desert," in 2010--a \$3 million exhibit funded principally by the Saudi Arabian Equestrian Federation. It will feature priceless art and artifacts featuring the Arabian horse.

Mr. Nicholson said that the Kentucky Horse Park Foundation was formed to allow private money to fund facilities for horse shows. Currently, there are over 70 national and international events. The original intent was for private organizations to be headquartered at the park. In 1986, the American Saddlebred Association opened their national headquarters and museum at the park. To date, there are 35 organizations headquartered at the park including the United States Equestrian Federation. Mr. Nicholson noted the number of private sector employees who work at the park, stating the best type of public investment is one which fosters private investment within Kentucky's signature industry. Through the partnership with the Equestrian Federation the Horse Park heightened its profile nationally and internationally in an effort to secure

the 2010 World Equestrian Games. Mr. Nicholson noted the importance of the British exhibit and the Imperial China exhibit because they fostered international relations as will the World Equestrian Games. He pointed out that the 2010 Games are the first to have a name sponsor. The sponsor, Alltech, Inc., is an international cutting-edge biotechnology company headquartered in Nicholasville, Kentucky. He said the 2014 World Equestrian Games in France will carry an Alltech name sponsorship as well.

Mr. Nicholson said the 2010 Equestrian Games would not have been possible without the vision and support of the Kentucky General Assembly. Referring to a construction update handout, Mr. Nicholson said of the approximately \$109 million in capital projects at the park, \$80 million are state funds. He said the new indoor arena and outdoor stadium have received great reviews and the infrastructure updates were well needed. \$28 million in private investments funded construction and renovation of new offices, an addition to the museum, and other facilities on the park grounds.

Responding to Senator Kerr's question, Mr. Nicholson said they are continuing to promote the games and noted that during the Alltech European Equestrian Championships in England there was a significant promotional effort there as well as at international equestrian events in Toronto Canada.

Responding to Representative Ballard's question, Mr. Nicholson explained that the World Equestrian Games are similar to the Olympics and are awarded to different areas and countries every four years. The 2014 Games will be in Europe. He said it is a possibility that the games will come back but other international events such as the annual World Cup Championships and the qualifiers for these type events are more promising. He said the Horse Park is now on the "international road" of equestrian sports.

Jamie Link, Chief Executive Officer, World Games 2010 Foundation, Inc. explained that the equestrian games consist of eight world championships of equestrian sport. The 2010 games will be the first to feature eight disciplines and the first to include paraequestrian events. Also, it will be the first time all events will be held in one designated area. The only event not held completely on Horse Park grounds is the 100 mile endurance ride. The Horse Park has partnered with surrounding farms for this event. Mr. Link said the equestrian games will be the largest sporting event in the United States in 2010. It will be the second largest sporting event in North America, second only

to the Vancouver Winter Olympics.

Mr. Link explained that the World Games Foundation is a self-funded, nonprofit organization. The Foundation receives its revenues from sponsorships, ticket sales, trade show sales, and hospitality sales. It is anticipated that there will be over 500,000 spectators at the 16-day event and 500 million television viewers globally. The initial projected economic impact is \$150 million. Mr. Link said hotel rooms and travel arrangements have already been booked. Staffed by approximately 30 people, the Foundation will rely heavily on volunteers for the games, with several thousand volunteers currently registered. The Park will host 1,500 to 2,000 media from around the world.

Mr. Link said ticket sales launched September 25 with over 125,000 sold to date. Through ticket sales the Foundation has obtained one third of their revenue. Mr. Link said although the event has a \$76 million budget, the competitions must be flawless, therefore a great deal of resources have been devoted to operations. Other budgetary expenses include 35,000 temporary seats, 300-400 temporary structures as well as transportation and security costs. There will be several hundred motor coaches in to transport attendees to the games daily. The marketing budget is strategically set up to promote the games regionally, nationally, and internationally. The Foundation is working with the International Equestrian Federation, Alltech, Inc., several equine publications and journalists to market the games and will continue to increase marketing in print and electronic media around the world to promote ticket sales. Mr. Link said the Foundation is also working with the Kentucky congressional delegation and federal organizations primarily in areas of transportation and security.

Mr. Link said the "Kentucky Experience," coordinated by the Tourism Cabinet, will promote state tourism, Kentucky products, and will host Kentucky entertainment. It will be featured in a 25,000 square foot facility in the main trade show area. Mr. Link said the legacy of the first United States sponsored World Equestrian Games is important.

Senator Stine said she had received complaints about the unavailability of hotel rooms. Mr. Link suggested booking travel through the Foundation's website. He said some periods are being booked faster than others and some hotels are requiring minimum lengths of stay. The average booking is seven days. He said there are rooms available including areas outside of Lexington in central and northern Kentucky as well.

Responding to Senator Stine's

comment, Mr. Link said regional media have been very cooperative in covering the upcoming games. Representatives are also attending core competitions in Europe to promote the games as well as working with the FEI and other media outlets in Europe. He said there is a lot of interest in group tours so they are working with the Tourism Cabinet to coordinate efforts with tour operators in Europe to promote the games. They are also working with other world markets to market the games.

Secretary Sparrow added that six international travel writers who specialize in equine sport are currently in Kentucky touring the area in preparation for the Equestrian Games. She said the cabinet has a public relations firm in London to market in Europe and other efforts include marketing horse shows in Canada. Secretary Sparrow said the cabinet has been working with regional tourism partners in marketing the games.

Senator Westwood asked if there was a transportation plan to get visitors to and from local airports. Mr. Link said shuttle plans are being made for nearby airports including Louisville and northern Kentucky and daily park-and-ride options are being developed as well. Car rental agencies have been contacted regarding their inventories.

Responding to Representative Embry's question Mr. Link said tickets have been sold to people from all 50 states and over 40 countries. He said Europe will be the strongest market but they are marketing in areas outside of Europe as well.

Representative Carney expressed concern about current financial hardship schools are facing and having to pay a fee for children to tours the Horse Park. He noted the educational importance of children experiencing one of Kentucky's signature areas. Mr. Nicholson said there are a number of class tours throughout the year. He said that while the fee is a nominal \$2 per student he understands the potential hardship. The education department at the park has designed curricula for teachers to use horses to teach various disciplines. He said it is web-based as well. Representative Carney suggested waiving the fee at least for next year. Mr. Nicholson said it was a worthy idea to investigate.

Representative Wuchner noted the differences in European mass transportation and that of the United States and asked if transportation packets had been considered. Mr. Link said they are providing motor coaches and the Tourism Cabinet is working with local governments to incorporate public transit systems to help provide transportation for ancil-

lary travel. Mr. Link said their goal would be to provide free shuttle service from park and ride locations but was unsure if this could be budgeted. If not, they would consider a nominal charge for round trip transportation to and from the park. The volume of visitors in those areas has yet to be determined. Hotel bookings will be used during consideration of this.

Senator Harper Angel asked if information technology was being fully utilized in marketing the games. Mr. Link said IT links were being included wherever possible.

Responding to Senator Harper Angel's question, Mr. Link said there are significant security plans in the works. There will be many foreign heads of state, royalty, as well as local, state, and national dignitaries. He said there will be perimeter security as well as internal event security in place. He said it is important to be secure without undue intrusiveness. Prohibited items lists will be posted in the parking lot, at the park entrance and on the games website.

Responding to Senator Webb's question, Mr. Link said for safety reasons there will be a no-dog policy for the games. The Foundation is working with the Lexington Humane Society to provide temporary shelter if needed and many hotels are pet friendly. The no-dog policy will also be publicized. Mr. Nicholson added that dogs are not allowed by orders of the United States Department of Agriculture to help prevent the spread of communicable diseases between dogs and horses. He said dogs will be welcome at the park before and after the games.

There being no further business, the meeting adjourned at 11:30 AM.

Following the meeting the committees toured the new facilities at the Horse Park.

INTERIM JOINT COMMITTEE ON EDUCATION

**Minutes of the 5th Meeting
of the 2009 Interim
October 12, 2009**

The fifth meeting of the Interim Joint Committee on Education was held on Monday, October 12, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ken Winters, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ken Winters, Co-Chair; Representative Carl Rollins II, Co-Chair; Senators Walter Blevins Jr., David Givens, Dan Kelly, Alice Forgy Kerr, Vernie McGaha, R.J. Palmer II, Tim Shaughnessy, Elizabeth Tori, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Jim DeCesare, C. B. Embry Jr., Bill Farmer, Kelly Flood, Jim Glenn, Derrick Graham, Jeff Greer,

Jimmy Higdon, Reginald Meeks, Charles Miller, Harry Moberly Jr., Marie Rader, Jody Richards, Tom Riner, Charles Siler, Kent Stevens, Wilson Stone, Alecia Webb-Edgington, and Addia Wuchner.

Guests: Clyde Caudill and Wayne Young, Kentucky Association of School Administrators; Will Hodges, LaRue County Schools; and Cindy Heine, Prichard Committee.

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

Senator Winters asked for a motion to approve the minutes of the September 14, 2009, meeting. Upon motion by Representative Collins, seconded by Representative Greer, the minutes were approved by voice vote.

Senator Winters asked the chairs of the subcommittees to report on the morning meetings of the subcommittees. He said reports from the previous meetings of the subcommittees were provided in the members' folders.

Senator McGaha said the Subcommittee on Elementary and Secondary Education heard presentations on career and technical education. He said Secretary Helen Mountjoy from the Cabinet for Education and Workforce Development gave brief remarks about the Cabinet's vision for career and technical education; and John Marks, Executive Director of the Office of Career and Technical Education, gave an overview of the management and operation of the KY Tech System, which includes 54 area technology centers that offer hands-on training to students in business, construction, manufacturing, transportation, health, and information technology. Senator McGaha said the centers allow students opportunities to explore options that may lead to additional study at the postsecondary level or successful employment after high school graduation. He said Bettie Tipton, Supervisor of the Federal Programs Branch, gave an overview of the Carl D. Perkins Technical Education Act and explained how the funding is used to support career and technical education in high schools, community and technical colleges, and universities.

Representative Rollins gave the report for the Subcommittee on Postsecondary Education. He said representatives from the Council on Postsecondary Education, the two research universities, and the Kentucky Community and Technical College System provided information on student transfer issues. The presentations included barriers to successful transfer, such as student financial difficulties, lack of understanding about the process, and comparability of transferred courses for degree

credit. Information was also provided on best practices in other states, current Kentucky initiatives including the expansion of statewide technology, expansion of financial aid and advisory opportunities, the creation of transfer centers, dual enrollment opportunities, and online programs. Information was also provided on issues relating to developing common definitions and shared data across systems and emerging priorities such as transcript studies and student experience surveys. Representative Rollins said the presentations on the Kentucky Adult Education and Kentucky Adult Learning Initiatives were deferred until the November meeting of the committee.

Senator Winters said that at a recent meeting of the Education Commission of the States which he and other legislators attended, they were privileged to hear Dr. William E. "Brit" Kirwan present the findings of the College Board Advocacy's Commission on Access, Admissions and Success in Higher Education, entitled "Coming to Our Senses: Education and the American Future." He said Dr. Kirwan was raised and educated in Kentucky. He related that Dr. Kirwan's father was a Kentucky school teacher and coach and became the football coach, dean of students, professor, and subsequently the seventh president of the University of Kentucky. Senator Winters said that Dr. Kirwan is currently Chancellor of the University System of Maryland.

Members of the committee were provided a copy of the report, Dr. Kirwan's bio, and the PowerPoint presentation.

Dr. Kirwan said Kentucky is becoming known as a leader in education reform because of the progressive steps being taken in K-12 education and the Senate Bill 1 legislation. He said Dr. Robert King, the new president of the Council on Higher Education, brings the perspective that is needed to make changes in higher education.

Dr. Kirwan said it is devastating to know that the United States, when compared to industrialized countries throughout the world, is ranked 23rd in high school completion rates and 10th in postsecondary completion rates when it previously had been ranked number one in his lifetime. Data also shows that the US has the highest college dropout percentage of any industrialized nation. Data also shows that the US is the only industrialized nation where the 25-34 cohort group with a two or four-year college degree is actually declining, and only 39% of the same cohort group actually has a college degree as compared to 45-55% of the same group in other industrialized nations. He said if changes are not

made, underrepresented minorities in the same cohort group will result in a college completion rate of only 29% by the year 2025. Dr. Kirwan said it was because of those frightening statistics that the College Board Advocacy created the Commission on Access, Admissions, and Success in Higher Education.

Dr. Kirwan said the Commission, which he chairs, was appointed by College Board Advocacy President Gaston Caperton, former governor of West Virginia, and has 28 members broadly representative of higher education, K-12 education, the business sector, and private and public universities. He said the commission was charged with examining education in America to find the holes in the continuum of the K-16 pipeline and to make recommendations on how to fix it. The commission completed the study and developed a set of recommendations to achieve a goal of a 55% two or four-year postsecondary completion rate in the 25-34 cohort group by 2025. The 55% was selected as the goal to meet in order for the US to continue to be a leading economic power. Dr. Kirwan said the report was released about 11 months before the last presidential election and it is interesting to note that President Barack Obama has set a similar goal for the US to be the leader in higher education completion with a two or four-year degree by the year 2020.

Dr. Kirwan discussed the conclusions reached by the commission. He said they concluded that poverty plays a huge role in undereducation, giving as an example that a three-year-old growing up in a family at poverty level has an average vocabulary of approximately 1500 words as compared to a middle income family where the average vocabulary for a three-year-old is 2500 words. He said both three-year-olds would enter the same kindergarten with the one child having to overcome a huge hurdle from the onset. The commission concluded that there is a dearth of information to students at the middle school level, especially students from low income and underrepresented minority families, about how to get on a college track, such as understanding what courses to take or the financial aid that would be available to help the student attend college. Dr. Kirwan said the commission also found there is a lack of rigor in high school curricula; a lack of alignment between the exit requirements in high school and entrance requirements in college; that college application and financial aid processes are too burdensome and confusing; that need based financial aid is insufficient; that many universities fail to put adequate emphasis

on teacher preparation programs; and postsecondary institutions have not been addressing attrition rates.

Dr. Kirwan said the commission developed 10 recommendations to address the deficiencies they had identified. One recommendation was to make voluntary preschool available to all children from families at or below 200% of the poverty level. He said legislation has already been initiated in Congress to increase funding for Head Start programs. He said another recommendation is to better inform middle school students about what they will need to do in order to attend college. He mentioned a University System of Maryland (USM) program called "Way2Go Maryland" that provides a brochure to every middle school student in the state with information on the course sequences they need to take to be ready for college and the financial aid available to them.

Dr. Kirwan said the commission recommends that the college preparation curriculum become the default high school curriculum nationally for every student unless the student specifically opts out of the curriculum. Another recommendation is that high school exit requirements align with college entrance expectations. Dr. Kirwan related that Roy Romer, former governor of Colorado, is chairing a national commission to develop uniform standards for high school completion, beginning with mathematics and English, in which 48 states including Kentucky and Maryland are participating. Dr. Kirwan said that the commissioner found that the college admission and financial aid processes are too complex and must be simplified. He said the US Department of Education has begun the process of simplifying the Free Application for Federal Student Aid (FAFSA) forms.

Representative Glenn asked Dr. Kirwan if he could identify any of the reasons for the decrease in college attendance and college graduation rates. Dr. Kirwan said he believes too many students come through the K-12 system unprepared for college and that Congress is trying to address the situation through such legislation as the No Child Left Behind Act and Race to the Top funding proposal. He said the silver lining is that states legislatures, like those in Kentucky and Maryland, are also developing initiatives to improve the education of their citizens.

Representative Riner asked Dr. Kirwan if the statistics in the report about declining graduation rates factored in the illegal immigrant population. Dr. Kirwan said the data does not include unregistered immigrants and is based on enrollment data.

Dr. Kirwan said the college

transfer process has created problems across the nation and part of the solution to increasing the college completion rate is fostering a strong partnership between two-year and four-year schools. He said community colleges provide access at a much lower cost than four-year institutions for students seeking a two-year degree and it would be beneficial to keep those students in two-year colleges until they have completed an associate of arts (AA) degree rather than having them transfer after one year. He said there is a strong relationship between two and four-year colleges in Maryland and in many disciplines a student can complete an AA degree and come to a four-year institution as a junior. He said Maryland also allows a student to be dually enrolled in a two and four-year college simultaneously which allows the student to be advised by the four-year college from day one and helps them feel connected to the four-year college where they are likely to pursue their four-year degree.

Dr. Kirwan said keeping college affordable is very important and higher education institutions must play a role by finding lower cost ways of delivering high quality education. He said state governments must also take responsibility and ensure maintenance of effort. He said in Maryland, public higher education institutions receive half their funding from state appropriations and half from tuition. He said the federal government must also play a role through financial aid for students and was pleased about the increase in Pell grants.

Dr. Kirwan said that much more emphasis must be placed on teacher preparation programs at colleges and universities in order to produce a large number of high quality teachers. He said studies in Maryland revealed that as many as 360 teachers of mathematics and science are needed in the secondary level each year to replace the retiring workforce and meet student demand but the universities are only producing about 120 teachers. For that reason, the state has developed initiatives to triple the number of highly qualified science and math teachers. He said the University of Texas has started a program called "UTeach" which has quadrupled the number of teachers coming out of the University of Texas that could serve as a model for the rest of the country.

Dr. Kirwan said that colleges and universities are masters at marketing in recruiting students but must provide more leadership in developing best practices for retention of those students. He said there is also a need to invest in adult education programs to steer adults who have

completed some credit hours back to the institutions to finish their degrees. Dr. Kirwan said having placed adult education under the Council on Postsecondary Education in Kentucky brings focus to that issue.

Representative Graham said he has observed that many students, especially those from low income families, are often discouraged from taking rigorous courses by teachers or counselors. Dr. Kirwan said the issue is discussed in the report and recommendations include educating students and parents about college requirements, although it is even more important for local school personnel to address those issues. Representative Graham said that students who do not take Advanced Placement or honors classes are already at a disadvantage. Dr. Kirwan agreed and said that K-12 councils and state and local school personnel must make a systemic effort to change that paradigm and become a positive influence on all students regardless of their background. Representative Graham asked for further explanation of the procedure in Maryland that allows students who have completed a two-year degree program to be accepted in a four-year institution. Dr. Kirwan said there is a Maryland state regulation that allows any student who obtains an AA degree in a Maryland college to enter a four-year school, although some lower level courses may still have to be completed to obtain a higher degree. He said university and college curricula are also being more stringently aligned, especially in high demand workforce areas such as teacher education. He said when a student completes an AA degree in teaching, nursing, engineering, and other high need areas, the student may then enter a four-year institution as a junior because the curricula has been so tightly aligned. Dr. Kirwan said that even the University of Maryland College Park, which has very high admission standards, accepts the AA degree for admission. Representative Graham asked if the commission discussed how instruction delivery methods at the university level impacts retention. Dr. Kirwan said the issue was discussed and included in the recommendations for best practice strategies for college retention, putting the onus on colleges and universities to understand why students are dropping out. He said Maryland has a P-20 leadership council chaired by the governor that is studying ways to bridge the gulf and create seamless curricula.

Representative Glenn asked if other states tie funding to retention levels. Dr. Kirwan said there are growing efforts to provide incentive funding based on retention rates, al-

though each institution should not be expected to have the same retention rate because of various factors, such as admittance criteria, location, and tuition.

Senator Blevins said that impoverished students typically do not have access to the technology that other students may have in their homes and perhaps entitlement programs for low income people should include providing students with computers and other technology to help them learn. He said there have been projects in Eastern Kentucky to place refurbished computers in low income homes which is making a difference for those students. Dr. Kirwan said that finding ways to stimulate the learning environment for low income students, such as technology, was the number one recommendation related to that cohort group.

Dr. Kirwan said that he and other commission members are determined to keep the effort to improve education alive. He said that members of the commission met with President Obama's transition team to apprise them of the commission report and members of the commission have been meeting with higher education associations, Congressmen, state legislators, and other groups interested in joining the effort. He said the commission has formed a partnership with the National Conference of State Legislatures to develop a state policy guide which will be available in the spring of 2010 and will include best practices and strategies to improve education. The commission is also working with members of Congress to create a college access and completion fund, and a bill has already been introduced that contains a \$2.5 billion appropriation geared toward higher education. Dr. Kirwan said the College Advocacy Board also plans to develop a report card that will assess how each state is doing based on the commission's recommendations, such as aligning K-12 education with higher education.

Dr. Kirwan said America is facing many challenges including the health care crisis, financial instability, and homeland security, but no challenge is more significant than providing a better education system for all its citizens. He said education is key in building a strong, vibrant economy and a high quality of life and he is heartened by the focus Kentucky legislators have on improving the education of their constituency. Dr. Kirwan said the paradigm needs to be changed now so that America can once again be the leader in education.

Representative Moberly said that Senate Bill 1 addresses many of the recommendations that the com-

mission made. He asked what criteria will be included in the \$2.5 billion competitive grant that may pass Congress, such as will it be specific or general in nature and will each state or individual institutions apply for and administer it. Dr. Kirwan said he did not know all of the details in the legislation but is aware that a comment period will be allowed so that education associations, state councils, and other interested groups can provide input. He said that a significant portion of funding will be for statewide efforts although it may include funding for individual institutions focusing on systemic efforts to improve college completion. He said the initiatives must be cost effective and sustainable when the federal funds have been expended. Representative Moberly asked if it is anticipated that the legislation will pass in this session to which Dr. Kirwan responded that is his understanding. Representative Moberly asked Dr. Kirwan what he meant by a systemic effort. Dr. Kirwan said individual states would have to demonstrate a systemic effort to increase college graduation in partnership with two and four-year institutions.

Representative Moberly said he is aware of the movement to decrease the number of hours required to graduate and that most Kentucky schools have already decreased graduation credits from 128 to 120, which makes counseling of students even more important to ensure that those transferring from a two-year to a four-year institution are meeting the requirements for the major program of studies. Dr. Kirwan agreed and said that Maryland is already providing students with information required to complete a number of degrees, particularly in high need areas. Representative Moberly asked Dr. Kirwan what higher education institutions should be doing right now nationwide to make college more affordable, especially considering the slow economic recovery. Dr. Kirwan responded that a combined effort is essential in lowering the costs of high quality education. He said the University System of Maryland is working with the National Center for Academic Transformation, which has developed a remarkable set of strategies to lower the cost of delivering lower division courses and improving learning, and that online education also lowers the costs of education. Representative Moberly asked what recommendations have been provided regarding the costs of textbooks, specifically whether there is a recommendation about standardization of textbooks or if the academic freedom issue negates the effort. Dr. Kirwan said there must be a balance between academic freedom and affordability

and the Maryland legislature directed a study of the issue. He said 30 institutions are participating in an experiment in which a Kindle device is used to download textbooks to lower the cost to students and provide them the convenience of having the textbook in one single instrument.

Representative Moberly asked for more information on the initiatives in Maryland and Texas about teacher preparation programs. Dr. Kirwan said the University of Texas at Austin created the UTeach Program that allows freshman and sophomore students majoring in math and science to earn a modest stipend by voluntarily serving as teaching assistants in math and science classes in the local school district and allows the undergraduate student to take enough courses so they can become certified to teach. He said the program started with 70 students and now has over 400 students enrolled.

Dr. Kirwan said in an effort to lower college costs the University System of Maryland began an "Effectiveness and Efficiency Initiative" about five years ago which has resulted in \$90 million in savings and cost avoidance and that other successful initiatives have also been undertaken at other institutions.

Senator Westwood said that one of the problems for college students is that the expectation of obtaining a degree in four years has become unrealistic and that a six-year completion rate has become the default. He said many students may need to take as many as 12 to 15 hours of developmental education courses for which they receive no credits, even though they are paying tuition and fees associated with those classes. Senator Westwood said that creating a seamless K-12 transition and alignment of courses with postsecondary education will help alleviate the need for developmental courses and that the Southern Regional Educational Board is conducting a study to determine the types of courses a student could take in any two-year program of study that would count toward an undergraduate degree in any four-year institution. He said he would like to see a core curriculum developed that is transferrable to any university in the nation. Senator Westwood said another issue is that if a student withdraws for any number of reasons and decides to return at a later date, the credits already earned may no longer count toward the degree they are seeking. He said lack of accessibility also negatively impacts low income students because colleges are often too far away to commute even if the student has transportation and living on campus may not be affordable. Dr. Kirwan said the federal government established a six-

year reporting requirement so all institutions report graduation rates for six-year periods making it the default standard. He said it is important to return to a four-year expectation for graduation and related that the University System of Maryland has worked on decreasing the amount of time so that it now takes approximately 4.9 years to complete an undergraduate degree. He said it is not unrealistic to even strive for a three-year degree, which would significantly reduce costs, especially since many students come to college with advanced placement credits. Dr. Kirwan said that accessibility issues can be addressed through online curricula and community colleges. He said the University of Maryland University College is a fully accredited online degree program with an enrollment of 117,000 students, which makes it the largest postsecondary institution in the state. He said the university system also creates partnerships with two-year schools in certain underrepresented geographical areas to allow faculty to use classrooms in the community colleges so students may complete their undergraduate degrees.

Representative Meeks said that the obstacles identified by the commission appear to be national issues and asked how a poor state such as Kentucky can play a role, when it has even been impossible to require that students remain in school to the age of 18. Dr. Kirwan said each state will need to decide what steps can be taken based on needs, capabilities, and obstacles. He said the commission's partnership with the National Conference of State Legislatures will result in model pieces of legislation, best practices, and policies that each state can consider. Representative Meeks asked Dr. Kirwan if he has any opinion regarding the frequent criticism of the Obama administration about federal government spending and interference in state and local issues such as education. Dr. Kirwan said a balance is always needed between federal control and local autonomy and responsibility. He said that Roy Romer, former governor of Colorado, is spearheading an effort to create a uniform set of standards in the core disciplines for high school completion and that Kentucky and Maryland are involved in this national effort. He said the federal government is also making huge investments to help states improve the performance of high schools students, such as the Race to the Top funding. Representative Meeks asked Dr. Kirwan if he would advise a student to take more rigorous courses which may result in a grade that would perhaps affect receipt of a scholarship or take less rigorous courses and qualify for

a scholarship. Dr. Kirwan said he would advise any student to take the rigorous courses, which will better prepare them for success in college.

Representative Carney said all of the commission's 10 recommendations were good but he would encourage Kentucky leaders to focus on three areas and Senate Bill 1 has begun to address some of those areas. He said Kentucky students are required to have individual growth plans to help them begin selecting courses of study to meet career goals. He said the most important recommendations relate to early childhood education, raising the expectations for all students, and controlling cost by making every effort cost effective. Representative Carney said it appears that many universities are being run like a business instead of institutions with a passion for learning. He said in talking with students at a local university they related that the cost of a new textbook may be as much as \$200 but only have a resale value after being used for one year of \$40. Dr. Kirwan said Maryland institutions are required to post the International Standard Book Number (ISBN) of textbooks that will be used in the upcoming semester so students will have an opportunity to search the competitive market for the best possible price.

Representative Richards asked Dr. Kirwan if he was aware of the reasons why students do well in elementary school, but then academic attainment begins to decline in middle school and never really recovers in high school. Dr. Kirwan said teacher standards need to be increased and financial incentives provided to award teachers who demonstrate an ability to effectively educate students. He said there is no other profession of which he is aware where there is not some extra financial reward based on merit and demand. Dr. Kirwan said students seeking degrees in science and math fields can find higher pay jobs that are not in the teaching field, which makes it even more important to reward teachers of those disciplines for meritorious performance. Representative Richards asked how technology can be incorporated in teaching to better educate young people. Dr. Kirwan said the method of delivery of formal education has changed very little in previous years and it is becoming extremely important to incorporate technology into the classroom. He said that is sometimes difficult for faculty who have been teaching for years, but new educators will be more comfortable with using technology. He said initial investments will have to be made to take full advantage of the technologies available but in the long run will result in enormous cost savings.

He referred to the model of education that has existed for years as using "the sage on the stage" instructor and now students are becoming active learners with instructors being the "guide on the side" which will make the delivery of education more cost effective.

Senator Winters told Dr. Kirwan that his excitement and enthusiasm about the report and the general topic of improving education is contagious and that he and his colleagues will be looking forward to reviewing the state policy guide and participating in the college access and completion fund.

Senator Winters asked Melissa Justice, Senior Associate Counsel, and Becky Gilpatrick, Student Aid Branch Manager, for the Kentucky Higher Education Assistance Authority, to explain the changes to the administrative regulations.

Ms. Justice said that the proposed changes to 11 KAR 3:100, administrative wage garnishment, which enables the authority to collect on defaulted student loans, updates the poverty guidelines in the regulation to meet those published by the federal government and the consumer expenditure tables published by the Labor Cabinet. Representative Stone asked if the change lowers the threshold or increases the threshold before garnishment can occur. Ms. Justice said the tables are used in determining whether there is an extreme financial hardship and the amendment increases those values so the borrower will be allowed to have slightly more income and may have slightly higher expenditures before the garnishment would take effect.

Ms. Justice said the amendments to 11 KAR 5:145, CAP grant award determination procedure, increase the expected family contribution in order to be eligible for a grant award. Senator Winters asked what initiated the change. Ms. Gilpatrick said the change mirrors the increase in the federal Pell Grant requirements.

Senator Winters said the next meeting of the committee will be in Frankfort on Monday, November 9, 2009. There being no further business to discuss, the meeting adjourned at 3:00 PM.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education

Minutes of the 4th Meeting of the 2009 Interim October 12, 2009

The fourth meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, October 12, 2009, at 10:00 AM, in Room 129 of the Capitol An-

nex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators David Givens, Tim Shaughnessy, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Derrick Graham, Jimmy Higdon, Charles Miller, Rick G. Nelson, Marie Rader, Kent Stevens, Wilson Stone, and Alecia Webb-Edgington.

Legislative Guest: Representative Addia Wuchner

Guests: Commissioner Terry Holliday, Kentucky Department of Education; Tom Lund, Marion County Industrial Foundation; Ken Marrett, Maewood Cabinet Company, Lebanon; Laura Arnold, Marion County Area Technology Center; Will Hodges, Larue County Schools; Deborah Anderson, Diane Sharp, Karla Tipton, and Debra Tankersly, Division of Career and Technical Education, Kentucky Department of Education; Clyde Caudill and Wayne Young, Kentucky Association of School Administrators; and Karen Thomas Lentz, Commonwealth Alliances.

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

Senator McGaha asked for a motion to approve the minutes of the August 10 and September 14, 2009, meetings of the subcommittee. Upon motion by Representative Collins, seconded by Representative Stone, the minutes were approved by voice vote.

Senator McGaha said the focus of the meeting would be the Kentucky Tech System. He welcomed Secretary Helen Mountjoy of the Cabinet for Education and Workforce Development and asked her to give her presentation.

Secretary Mountjoy said that career and technical education plays an important role in providing Kentucky's youth a jumpstart on a career path through a rigorous curriculum and training in skills necessary to lead a productive life. She said the cabinet's goal for each student is that they be provided the education and skills necessary to prepare them for either postsecondary education and/or the workplace, especially since most new jobs in the 21st century will require education beyond the secondary level. Secretary Mountjoy explained that students can access career and technical education through courses offered at comprehensive high schools; through locally operated career and technical centers; or through the area technology centers operated by the Office for Career and Technical Education in the Education and Workforce Development Cabinet. She said that a highly educated

and trained workforce is one of the greatest incentives Kentucky can offer to companies looking to locate or expand their operations in the state. She introduced Mr. John Marks, Executive Director, Office of Career and Technical Education, and asked him to provide additional information to the committee.

Mr. Marks introduced the following staff who assisted him with the presentation: Michael Kindred, Deputy Executive Director, Office of Career and Technical Education; and Mark White, Deputy Executive Director and Acting Division Director for the Division of Human Resources. Members of the committee were provided with materials relating to the KY Tech School System.

Mr. Marks said the Office of Career and Technical Education oversees the KY Tech School System and works closely with the Chancellor's Office of the Kentucky Community and Technical College System (KCTCS) and the Office of Special Instructional Services in the Kentucky Department of Education's Division of Career and Technical Education. He said the three entities meet frequently to discuss curriculum, articulation, and dual credit and also share resources, such as Perkins grant funding. Mr. Marks said the KY Tech School System has 54 centers across the state and the handouts provided to committee members contains information about center locations, counties served, programs offered, and enrollment data.

Mr. White provided information on the personnel statutes and requirements to employ staff for KY Tech System. He explained that employees are governed by KRS Chapter 151B, whereas executive branch employees are governed by KRS Chapter 18A. He said that vacancies are posted on the Cabinet Website and at each area technology center and all applications are reviewed by designated Cabinet staff. Technical instructors are required to have at a minimum a Rank III Kentucky Teaching Certificate in the subject area to be taught and may also be required to have other certifications, such as being required to be a registered nurse in order to teach health science. Qualifications of applicants for teaching positions are verified through the Education Professional Standards Board (EPSB) and each applicant must also be approved through criminal background checks.

Mr. Marks said the Office of Career and Technical Education oversees the KY Tech School System but each individual center has an advisory committee and a steering com-

mittee. There is also a state steering committee comprised of representatives of the local advisory and steering committees who meet periodically to discuss curriculum and other issues. Mr. Marks stated that KY Tech has 636 full time positions of which 625 were filled as of October 9, 2009, leaving 11 vacancies to be filled, and that 30 positions have been eliminated due to budgetary cuts. The system currently has 401 technical programs in its 54 centers serving 33,493 students from 125 local school districts. Some districts are also served by the Kentucky Virtual Area Technology Center.

Mr. Marks said that KY Tech works in conjunction with KCTCS and KDE's Division of Career and Technical Education on the summer conference; embedded student organizations, such as FFA; business, health, and information technology programs; credentials for teachers; and Level III programming. KDE takes the lead in Levels I and II programming for middle and early high school; the Kentucky Occupational Skills Standards Assessment; High Schools That Work; Project Lead the Way; and agriculture, family and consumer science, distributive, and technology education. KY Tech takes the lead in program assessment for 17 standards; articulation and dual credit; the Ky Tech curriculum; technical upgrade training, the New Teacher Institute; manufacturing, transportation, and construction training; and the Kentucky Virtual Area Technology Center, which currently has about 90 students enrolled at no cost to the student.

Mr. Marks said KY Tech is the only Southern Association of Colleges and Schools-Commission on Accreditation and School Improvement (SACS-CASI) accredited technical school system in the nation. Every program offered in the KY Tech system is assessed and all programs and teachers are required to hold industry certifications when available. KY Tech is a state government agency and must comply with all statutory and regulatory requirements relating to purchasing, contracts, payroll, budget, etc., and has an established personnel employment cap and is directly affected by budget cuts.

Mr. Marks said KY Tech's role in secondary education revolves around contextual learning which is defined as learning that motivates students by showing them a connection between knowledge and its application in one's daily life in order to keep them mentally and physically engaged in the subject being taught. He said KY Tech uses 17 standards of assessment which were the foundation for its SACS accreditation. Three of the most important compo-

nents of assessment include tracking KY Tech student scores on the Commonwealth Accountability Testing System (CATS); the Kentucky Occupational Skills Standards Assessment (KOSSA), which is used to report technical attainment to the federal government; and the Technical Education Data System (TEDS), which tracks the placement of students upon completion of the KY Tech program; i.e., employment, military, postsecondary education, etc. Mr. Marks said the articulation agreement between KCTCS and KY Tech allows any student who has taken an eligible course at an area technology center to transfer the credit to a KCTCS institution within three years. The dual credit agreement allows students to receive college credit while still in high school and recent statistics from KCTCS show that over 10,000 secondary students are enrolled in technical courses. He said qualified KY Tech teachers also serve as KCTCS adjunct faculty.

Mr. Marks said that KCTCS, KDE, and KY Tech vocational efforts are not duplicative even though they coordinate activities. KY Tech is funded through a combination of General Fund appropriation, Support Educational Excellence in Kentucky (SEEK) funding, and \$1.2 million of the \$19.7 Carl D. Perkins grant funding. He said maintaining the SEEK funding has been crucial in continuing the KY Tech program, since stimulus funds cannot be directly used to support KY Tech. He said that KY Tech has taken over a \$4 million budget reduction which has tremendously hindered its operation with drastic cuts in its supply and equipment budget in order to retain enough funding to pay utility bills. Extended employment for staff in the summer months, previously used for professional development, equipment repair by staff, and staff exchange with industry, has been reduced to no more than three days. Mr. Marks said his office receives numerous requests from counties wanting new programs or to expand current programs and facilities, especially in the health and information technology areas, but there is little that can be done at the current time because of the cuts.

Mr. Marks said another problematic issue is that KY Tech centers serving several districts face scheduling difficulties because of the various school calendars and schedules. He said another issue is obtaining academic credit for technical classes because of the highly qualified educator requirement in No Child Left Behind (NCLB). He said some of the programs offered cover enough academic content that they could count as a fourth math or science credit and a few counties have allowed the

programs to be used as credit toward graduation. KY Tech has partnered with the National Center for Research in Career and Technical Education at the University of Louisville on a project at Morehead State University called Math in CTE to help KY Tech teachers incorporate academic content into technical classes. He said allowing resident math and science teachers to provide academic courses on-site would enable juniors and seniors to remain at the centers throughout the day. He said it would be helpful if each center had on-site career counselors. Mr. Marks said industry is looking toward technical education to prepare a well trained workforce for them and KY Tech tries to ensure that each of its students leaves the program with an industry certification and sufficient education to pursue a college degree without remediation.

Senator Westwood said he was encouraged that technical programs are being considered for academic credit and that academic content is being incorporated into the classes. He said he agrees with the concept of providing practical answers to students to show relevance to what they are being asked to learn. Senator Westwood asked how much support KY Tech is receiving from businesses and industries since it is those entities that need well trained workers. Mr. Marks said many of the centers do receive support in the form of supplies, such as donated steel for use in the welding programs. Senator Westwood said it is his hope that someday there will be an integrated educational system in Kentucky to help all students, whether they are on a career work path or furthering their education, through embedded academics in course work.

Representative Higdon said the legislature has allowed technical education to become the "red-headed stepchild" through insufficient funding and lack of support. He said technical education is extremely important in helping to prepare the more than 50% of students who do not plan to attend college for a successful work career. Representative Higdon said he is a firm believer that each child is gifted and technical education helps them to identify those special talents. He said Kentucky also has the responsibility to industry and local communities to develop a highly qualified workforce. Representative Higdon said he was surprised about the cuts in the technical education budget during the 2009 Special Session because education, human services, and public protection were supposed to be protected from the budget cuts. He said he wanted to publicly thank Secretary Mountjoy, Mike Hayden

in the Governor's office, and Representative Rollins for stepping up to prevent further cuts from happening. Representative Higdon asked if there is anything the legislature can do to help elevate the status of technical education in Kentucky, such as bringing all the technical programs under one organizational unit. Mr. Marks said that although technical education is in three different agencies, each works with different constituent groups. KDE's services are provided within high schools governed by local boards of education and taught by faculty in those schools; Ky Tech provides technical education to students in technical schools; and KCTCS supports the college mission for technical education. Mr. Marks said the most important support is adequate funding. He said that all education will need to resemble technical education by adding relevance and relationship to learning if Kentucky wants to reduce dropout rates and beginning career development as early as middle school. Representative Higdon stressed the importance of continuing the dialogue regarding technical education and developing a plan to ensure its continued operation.

Representative Miller asked how teachers are selected, if they are required to possess certain credentials, and if the dual credit is transferable to colleges. Mr. Marks said the Southern Association of Colleges and Schools (SACS) requires that teachers of technical programs have credentials as high as the level they are teaching, so KY Tech teachers must have as a minimum an associate degree. He said many teachers employed by KY Tech already have associate degrees, but those who do not are enrolled in a community college where tuition is waived to obtain a minimum of an associate degree. Also, many complete higher degrees with a pay raise provided for each degree attained. Mr. Marks said that teachers with associate degrees are accepted as adjunct faculty at the community colleges and that KY Tech works closely with the community colleges to ensure curriculum alignment between the two systems. Representative Miller asked how many hours a student can transfer to a community college. Mr. Marks responded that the average number of hours is 12 although some students leave with as many as 30 or as few as three to six. Representative Miller asked how many students are bused in from public, private, and parochial schools to get to the centers to which Mr. Marks responded that the majority of students are bused to the 54 systems. Representative Miller asked if the health programs offered by KY Tech conflict with those of-

ferred in high school. Mr. Marks said KY Tech's health programs include pre-nursing, certified nurse's aide, licensed practical nurse, medication aide, and pharmacy technicians, which are not offered in high school. Representative Miller said students and industry benefit from technical training and he encouraged Mr. Marks to continue working on industry partnerships.

Representative Belcher said she also supports technical education and believes it can significantly reduce dropout rates. She asked why Jefferson County is not involved with KY Tech. Mr. Marks said that Jefferson and Fayette Counties have their own programs, with KDE providing oversight. Representative Belcher asked why some counties have as many as eleven programs and other counties have only four or five. Mr. Marks said the programs offered in each center are determined by size of the facilities, enrollment, school district support, and industry involvement. Representative Belcher said her legislative district is interested in an industrial maintenance program. She noted that the buildings housing vocational programs are outdated compared to public school facilities. Mr. Marks said that KY Tech does have some new and renovated facilities. He said the buildings belong to the counties and some counties have used bonds to improve the facilities, but in return they expect KY Tech to replace equipment, such as welders, and KY Tech currently does not have the resources to replace equipment.

Representative Nelson asked if Jefferson County chose not to be in the KY Tech system to which Mr. Marks replied that they have always operated their own program. Representative Nelson said when Bell County began its technical program in the 1960s, it offered programs in electricity, plumbing, and other "dirty hands" occupations but has since changed to programs in technology and health services, although plumbing, electrical, and related professions still need skilled workers. He asked Mr. Marks if he could provide a recommendation on how to encourage students to select a vocational track or career path in their freshman year of high school. He said plumbers and electrician are good paying occupations but many students do not have any desire to pursue those occupations. He also asked if anything can be done to resolve the scheduling conflict between school districts and KY Tech schools. Mr. Marks said scheduling is difficult because districts have various schools calendars and KY Tech staff continuously work with school personnel to resolve scheduling issues. Representative Nelson said that it would be

very beneficial for students to decide on a career path as early as possible to provide them adequate education to ensure their success.

Representative Carney said many site-based councils may not be aware that some of the math and science courses taught at KY Tech can count toward graduation requirements and that information needs to be made available to them. He said in his school district students must be at least a junior before they can take vocational classes, which may not be the most efficient way to serve the needs of all students. Mr. Marks said that the Campbell County Area Technology Center may be able to provide recommendations on how to obtain credit for certain classes. Representative Carney said that KDE should inform all districts about the possibility of obtaining credits for the vocational classes.

Representative Stone said there are two locally owned and operated career and technical schools in his district that work with the school system on scheduling students for classes. He said Allen County, which is in his district, received a \$250,000 grant from local industry to establish a maintenance program in its school. Representative Stone asked what obstacles or challenges would prevent site-based councils or local school boards from accepting the courses as credit. Mr. Marks said he believes many of the site-based councils are concerned that they would be unable to meet the highly qualified educator requirements in NCLB, so therefore it is a lack of communication and understanding of the issue.

Representative Webb-Edgington asked if any staff from technical education is participating in the Senate Bill 1 curriculum workgroups. Mr. Marks said that no one from Ky Tech or his office has been assigned to the workgroups although KDE's technical education staff is participating. Representative Webb-Edgington said that since there are three entities involved, she could see the challenges in coordinating technical education and representatives from each should be participating in Senate Bill 1 workgroups. She said that streamlining the bureaucracy may help resolve some of the issues. She said there is a great need in the Northern Kentucky area for trained health service workers and interested students are being turned away in the Boone County technical system because of insufficient funding.

Senator Givens asked Mr. Marks if he would describe what makes a program stellar in difficult financial times. Mr. Marks said a good program results from good teachers, a good relationship between the administrator and industry representa-

tives, and active community involvement. Senator Givens said often times increased funding does not resolve problems if good staff and good working relationships do not exist. He said he is aware that one of the centers in his area was sharing physical resources with local industry to train students after regular work shifts end and asked if that is being pursued across the state. Mr. Marks said previously KY Tech served both high school students and adults but that KCTCS now provides training for adults, although in some communities training is provided by KY Tech in industry settings because there are no KCTCS facilities in close proximity. He said KY Tech still works with Bluegrass State Skills but does not become involved with other entities providing technical training.

Representative Rader asked what role KY Tech has in the Eastern Kentucky Concentrated Employment Program (EKCEP), a federally funded program that provides training in nursing or other occupations for displaced workers. Mr. Marks responded that KY Tech is not involved with the program, but he would be willing to contact them to see if a partnership could be developed and would keep Representative Rader informed of any discussions.

Representative Stevens said that he has always supported technical education but could recall the difficulties in transporting students to the facilities, that the classes were only offered to juniors and seniors, and that a stigma was always attached to any student wanting to pursue a career in technical fields, although many of those same students became highly paid skilled workers. Mr. Marks said some of those issues and stigma still remain. He said that a program will be aired on Kentucky Educational Television (KET) promoting the importance of career and technical education in Kentucky for students who do not plan to attend college.

Senator McGaha asked about trends related to demand for classes, to which Mr. Marks replied that there is a tremendous demand for more classes. He said even though some centers are not at capacity because they are required to accommodate a percentage of students for each school they serve, most centers cannot accommodate the number of students wanting to enroll. Senator McGaha asked how much funding is needed to meet the increasing demand. Mr. Marks said almost all of the centers need to be remodeled and 10 or 15 more facilities are needed in order to add another hundred programs. Senator McGaha recommended that legislators review the impressive assessment program used by KY Tech.

He said he agrees with the concept that each student should know the relevance of being asked to learn any subject. He said that increasing the mandatory school attendance age will not be effective until more programs such as those offered by KY Tech can be fully funded to help educate students.

Representative Graham described a conflict that exists in his district which results in the independent school district not being allowed to provide technical education to its students and he asked if similar situations are occurring in other parts of the state. He asked if assistance could be provided to help alleviate such a situation. Mr. Marks said Franklin County's technical school is not part of the KY Tech system but he would be glad to support KDE in any way possible to help resolve the issue. He said Franklin County's technical school is very good and would benefit all students who attend it.

Mr. Marks asked Ms. Bettie Tipton, Manager of Federal Programs in the Office of Career and Technical Education, to discuss the Carl D. Perkins Act Federal Grant. Information was provided to members regarding the Perkins Act.

Ms. Tipton said a career and technical education program is defined as an organized educational activity that includes a sequence of courses that build upon previous courses, includes challenging academics, and relates to technical knowledge and skills that are relevant to what is occurring in business and industry. When students are finished with the coursework, they should have obtained some type of industry credential in current and emerging occupations. The definition does not include remedial education. The courses must include competency based learning, such as teaching students how to reason and solve problems, and specific technical skills and entrepreneurship. Ms. Tipton said Perkins funding is to supplement non-federal funds to improve career and technical education programs and prepare students for employment or continuing education with a focus on high skill, high wage, or high demand occupations or professions. Training is to be for current and emerging occupations, uses technology as a teaching tool, and consists of integrated academics with technical content that is embedded so students know why they are learning the information. She said the funds are also to be used to evaluate the effectiveness of the programs and to initiate improvement where needed.

Ms. Tipton said eligible recipients are local school districts, KY

Tech schools, community and technical colleges, and universities that have associate degree career and technical education programs. She said the law mandates how Perkins funding is to be allocated. In local school districts, 30% of the funding is based on the number of students ages 5-17 and 70% of the allocation is based on students ages 5-17 whose families are at or below poverty level. A proportionate amount of the federal dollars follows students to the area technology centers. Postsecondary education funding is based on the number of Pell Grant students enrolled in career and technical education and is distributed accordingly throughout the colleges and universities. She explained that the funding split for secondary and postsecondary education is left to state discretion with 53% provided to secondary and 47% to postsecondary in Kentucky, simply because there are more secondary students enrolled in career and technical education than in postsecondary. The basic grant funding has been decreasing since FY 2003 when Kentucky received \$19,740,000 to FY 2009 basic grant funding of \$17,905,000. The funding is then allocated with 85% of the funds going directly to schools; 10% for statewide leadership activities to keep curriculum current and to provide professional development to increase teacher effectiveness; and then 5% for statewide administration of Perkins funds by the Office of Career and Technical Education, which is the designated agency to implement, administer and monitor the requirements of the Act. There is a minimum funding level of \$15,000 for secondary schools. If the allocation falls below that amount in a district that is rural and sparsely populated, a waiver can be requested, but if the school district is in an urban area, then the local school has to join a consortium to merge funding to provide activities. The minimum funding level for postsecondary institutions is \$50,000 but no waiver is available if the institution falls below that funding level.

Representative Collins asked if matching state funds are required. Ms. Tipton said there are two types of matching funds required. One is a dollar for dollar match on the state administration funding that is determined by the amount spent in the prior year and then a dollar for dollar match for maintenance of effort determined by previous year expenditures. Representative Collins asked if Kentucky is in danger of losing any of the federal funds if it does not provide the required state match. Ms. Tipton said Kentucky has had difficulty in providing the matching funds required for maintenance of effort

and it still has not completely satisfied the match requirement for the current fiscal year. She said the law does allow a one year waiver which must be requested through the US Department of Education. Representative Collins asked if Perkins funding is provided to the Carl D. Perkins Vocational Center in Johnson County. Ms. Tipton replied that the center receives funding from the Vocational Rehabilitation Act, which is separate from Perkins funding. Representative Collins said he is aware that the center may lose federal funds because of insufficient matching funds which will have a negative impact on the area. Representative Collins said if local school boards do not include technical facilities in their planning programs, the buildings will never be purchased or constructed for that purpose. He said KY Tech is providing an important component of education and that it is imperative to provide matching funds when required so as not to lose federal dollars for any program.

Representative Belcher said she is aware that many of the KY Tech programs want to expand and offer more programs and she asked how the determination is made on which center may offer more programs. Mr. Marks said it is based on several factors including facility space, equipment needed to expand or offer a new program, and surveys to gauge community, industry, and student support.

Representative Miller said that many freshmen in high school are not ready to select a career or academic path and career and technical programs are beneficial in helping students decide about the future.

Senator McGaha thanked Mr. Marks and his staff for the presentation and excellent materials provided to the committee. He said the next meeting of the subcommittee would be on Monday, November 9, in Frankfort. There being no further business to discuss, the meeting adjourned at 11:55 AM.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education

Minutes of the 5th Meeting of the 2009 Interim November 9, 2009

The fifth meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, November 9, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Ted Edmonds, Co-Chair; Senators David Givens, Jack Westwood, and Ken Winters; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Derrick Graham, Jeff Greer, Marie Rader, Kent Stevens, Wilson Stone, and Alecia Webb-Edgington.

Guests: Wayne Young, Kentucky Association of School Administrators

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

Senator McGaha asked for a motion to approve the minutes of the October 12, 2009, meeting of the committee. Upon motion by Representative Collins, seconded by Representative Belcher, the minutes were approved by voice vote.

Senator McGaha asked Representative Graham to introduce his special guests. Representative Graham said the students in the audience were from Frankfort High School, where he teaches, and that their teacher, Ms. Jocelyne Waddle, teaches advanced placement (AP) classes in French, English, and Spanish at Frankfort High School. He said that each student has participated in state and national competitions in French and Spanish and that Frankfort High School was the only Kentucky school to reach proficiency in reading, writing, understanding, and speaking a foreign language. With the permission of the chair, Representative Graham asked Ms. Waddle to make brief comments about the students and her classes.

Ms. Waddle said that during the last school year she obtained a grant from the Kentucky World Language Association so she could use the European model LinguaFolio for instruction. She said the results were impressive with Frankfort being the only school in the state to reach the level of proficiency or above in reading, writing, understanding, and speaking a foreign language. She said some of her students participated at the Foreign Language Festival at Transylvania University and won district and one student participated at the state level at the University of Kentucky and won state. Ms. Waddle said several students also scored in the top 20 nationwide on the national examination administered by the American Association of Teachers of French. She said Frankfort High is also experimenting with incorporating various technologies in the classroom, and she asked one of the students to explain the Ning technology. Ms. Stephanie Jones said she is a junior at Frankfort High and is currently in French III and explained that Ning is a Web-based social network, much like Facebook, except it is completely in the French language.

Representative Edmonds said he was recently informed by the president of Centre College that 85% of the total student body will study abroad at some point during the college career, which emphasizes the importance of learning a foreign language, and he congratulated the Frankfort students on their achievements.

Ms. Waddle said that Frankfort High is also trying to start an Italian program with the assistance of Kentucky State University. She said students need to experience several languages to help them become global citizens. She said students need to be introduced to foreign languages as early as possible and that the Frankfort school system offers an enrichment program for 7th and 8th grade students. Senator McGaha asked what languages are offered to 7th grade students. Ms. Waddle said French and a combination French and Spanish exploratory enrichment program. The possibility of offering Arabic and Chinese enrichment programs is also being explored. Senator McGaha thanked Ms. Waddle and her students for sharing their foreign language studies with the committee.

Senator McGaha said that AdvanceKY is a statewide math and science partnership with a goal of increasing student access to academically challenging courses. He said the 2009 national advanced placement (AP) test results confirm that students involved in AdvanceKY saw an increase in achievement on the demanding tests. He asked Ms. Joanne Lang, Executive Director of AdvanceKY, to make her presentation.

Ms. Lang introduced three AP teachers assisting with the presentation. They were: Melody Stacy, AP mathematics teacher, Scott County High School; Coury Osbourne, AP English teacher, Marion County High School; and Fred Cox, AP physics teacher, Anderson County High School.

Ms. Lang said AdvanceKY focuses on math, science, English, and foreign language AP classes, and that national examinations exist in all of the subject areas. She introduced the following AdvanceKY staff in the audience: Linda Griffin, Director of Educational Programs, and Tina Rose, English Content Director. She also recognized Christine Powell and Amy Patterson from the Kentucky Department of Education and explained that KDE is a partner and provides matching funds through federal grants for AP math and science incentive programming.

Ms. Lang said that the open enrollment segment of the National Math and Science Initiative (NMSI)

model is based on removing barriers for students who have completed a reasonable and rational series of courses prior to taking AP math, science and/or English classes. She said the model is also predicated on investment in teacher training and mentoring; vertical teaming with middle and high school teachers; more teacher time on tasks including 18 additional hours of instruction for each AP course offered; payment of half of the \$86 examination fee for each course for each student; equipment and supplies for the AP courses; and bonuses and incentives for teacher performance on AP math, science, and English examinations.

Ms. Lang said the national report, "Rising Above the Gathering Storm," brought attention to the lack of US competitiveness in the world economy and the pressing need to close the equity gap, especially in science, technology, engineering, and mathematics (STEM) fields. She said the report highlighted the National Math and Science Initiative (NMSI), funded by Exxon Mobile and the Gates and Dell Foundations, whose sole mission is to replicate and scale up proven and successful STEM programs. The other program highlighted in the report was the UTeach program which is now being offered at Western Kentucky University that provides support to students pursuing math and science majors to enable them to graduate with teaching credentials in those disciplines.

Ms. Lang said Kentucky became extremely interested in the NMSI model based on twelve years of successful data from ten schools in the Dallas Independent School District, especially the data related to minority students and students from low income families. She explained information contained on the PowerPoint slides regarding Dallas schools which showed sustained growth in the number of students taking AP classes and the number of students successfully passing AP examinations. Ms. Lang said the College Board conducted a study called The International Mathematics and Science Study (TIMSS) of students taking AP courses in mathematics and physics and found that students who took AP calculus and AP physics leap-frogged above students in other countries. She said that the study showed that students who did not pass the AP exams still greatly benefited from the rigorous course work.

Ms. Lang said one issue that always surfaces is the possibility that AP courses may lower a student's overall grade point average (GPA), but a survey conducted by the National Association of College Admission Counselors showed that 80% of admission boards reported that

course selection, grades on college AP courses, and students availing themselves of AP courses have a competitive edge in admissions and do well once in college. She said even though the Kentucky Educational Excellence Scholarship (KEES) funding is based on GPA, rigorous course selection should also play an important role.

Ms. Lang said that 12 schools, identified as Cohort 1, participated in AdvanceKY during its first year and 16 additional schools, identified as Cohort 2, began participating during the current school year. She said schools in the program are geographically located throughout the state although they are in clusters because of the limited number of staff AdvanceKY has to oversee the various programs. She said Kentucky was one of only six states out of twenty-eight selected by NMSI to participate in the program. She said having legislators, including Senator Winters, KDE staff and representatives from the Governor's Office onsite when NMSI representatives visited Kentucky was instrumental in showing Kentucky's commitment to improving the education of its citizenry.

Ms. Lang said that in 2007, which is used as the baseline year in Kentucky, students in the 12 schools initially selected to participate in AdvanceKY passed 320 combined math, science, and/or English (MSE) AP examinations. During the 2008-2009 school year, when all of the components of the NMSI model were in place, students in the same 12 schools successfully passed 778 AP exams in MSE, representing a 79% increase from the previous year, and 14 times the national rate of growth. The overall results showed that 32% of Kentucky's new MSE passing scores were from the 12 schools participating in AdvanceKY, although it represented only 7% of Kentucky's high school population. Data also showed that in the Cohort 1 group there was a 148% increase in scores for low income students representing 50% of all new MSE passing scores earned in the entire state of Kentucky for that population. Females had a 112% increase, accounting for 52% of the state's new math and science passing scores, and minorities had a 225% increase accounting for 15% of the state's new MSE passing scores. Ms. Lang said since minority numbers were not as significant as other groups, that population was targeted in the Cohort 2 school group resulting in a doubling of minority enrollment for the current school year.

Ms. Lang said it was her understanding that Kentucky is the only state that saw more than a 50% increase in passing scores for the three MSE subject areas. She said that 67

schools from the six states are participating, which accounted for more than 4% of the increase in the nation's MSE passing scores, although those schools represent less than 1% of the nation's enrollment.

Ms. Lang said one area of concern in Kentucky was the lack of increase in AP physics exams, which can be attributed in part to the low number of physics teachers in the state. She said very few schools offer pre-AP courses in physics and growth is needed in all science subjects throughout Kentucky.

Ms. Lang said that NMSI's award to Kentucky was \$13.2 million over a six-year period and a state match is required. She said AdvanceKY is held accountable for implementing the entire set of elements in the NMSI model and its partners include the 28 participating schools; the Kentucky Science and Technology Corporation, where AdvanceKY is headquartered; the Kentucky Department of Education; the Appalachian Regional Commission; the Kentucky Council on Postsecondary Education; the Kentucky Higher Education Assistance Authority; and the Partnership for Successful Schools.

Melody Stacy, who teaches AP statistics at Scott County High School, said the teacher support components of the NMSI model includes networking with AP teachers in other schools which is instrumental because of the rigorous content of the courses and the extensive preparation needed just to be able to teach the class. The model also focuses on content and technique training through the weeklong summer institute and a two-day focused content specific training. Ms. Stacy said the component regarding student recruitment and counseling involves teamwork with the school administrators and counselors participating in the process.

Fred Cox said he teaches AP physics at Anderson County High School and the support he is receiving is greater than expected and pleasantly surprising. He said a student entering AP classes undertakes a giant step up in difficulty and the transition is not easy so the support and preparation for the AP teachers is very important to student success. He said he recently participated in a train-the-trainer class in Texas called "Laying the Foundation" that will assist pre-AP teachers in providing classroom, laboratory, and curricula activities that can be incorporated into the classroom. Mr. Cox also said students planning to take AP courses need pre-AP exposure to help ensure their success.

Coury Osbourne said she has taught AP English literature in Marion County High School for eight

years. She discussed the support that AdvanceKY staff provides AP teachers, relating that one of the staff actually taught classes for a first year Marion County AP teacher who was frequently absent because of a family emergency and 12 of the students in the class passed the AP examination. She said teacher training for experienced AP teachers can be obtained through the summer training program or an equivalent activity, so she received her required training by serving as an AP reader and scorer for AP English examination essays. At the upcoming two day training, she will share what she learned as an AP reader with all the AP teachers in the cohort schools.

Ms. Lang asked the teachers to discuss the program's impact on their students, especially given the diverse backgrounds of the students. Mr. Cox said that paying half the cost of the examination fee is extremely helpful, especially for students taking more than one AP course. He said the weekend preparation sessions for students totaling 18 hours equates to about two weeks of extra school time and has proven to be extremely beneficial in preparing them for the national standardized examination. Ms. Stacy said that the weekend sessions help build student confidence and are conducted in a relaxed atmosphere with food and door prizes. Ms. Osbourne said that weekend preparation sessions could still be held without the grant funding but the grant funding allows other AP teachers to come in and provide instruction important to student success, giving as an example that mock exams are sometimes given and sent to AP readers for feedback. She said the \$100 reward for passing the AP exams is also an incentive for students in addition to receiving college credit, especially for minority and free and reduced lunch students and students whose parents did not attend college.

Ms. Lang asked the teachers to discuss the open enrollment process. Ms. Osbourne said that before implementing the NMSI model, AP teachers often became frustrated with students who would not do the required classwork and tried to impose more restrictions such as requiring students to have an A grade on the previous English class. She said the NMSI model allows any student to take the class, so teachers are being retrained to look for the potential in each student and to devoting additional time to assist those falling behind. She said when she first started teaching AP Literature she had 12 students but now has more than 60 students and about 80 students are taking AP Language. Ms. Stacy said that having a team, including

the teachers, counselors, and administrators, focused on the same goal of recruiting and encouraging many more students to become involved in AP classes creates a synergy and excitement which filters down to the students. Mr. Cox said that even though open enrollment requires more time and effort because all barriers have been removed, the teacher incentives and recognition and an increased number of students being successful makes all of the efforts a pleasant endeavor.

Representative Graham said he was very pleased that the open enrollment process provides an opportunity for all students, especially minority and free and reduced lunch students. He asked how the 28 districts were chosen and when more schools will be added to the program. Ms. Lang said specific schools had to be identified in the grant application and that KDE did a massive data analysis to identify 41 schools meeting certain criteria to participate in the project. She said both cohort groups were selected from the 41 schools and that the geographical location of the schools was also taken into consideration in order for the limited staff employed by AdvanceKY to physically manage the program. Ms. Lang said identifying the Cohort 3 group of schools is currently underway and factors considered include the number of free and reduced lunch students, school experience with AP classes, availability of teachers and their qualifications, AP courses already offered, information on feeder middle schools, and other data. She said there is so much interest in the program that expanding the program statewide is being envisioned.

Representative Graham asked if teacher training for AP courses, such as the weeklong conference, can be used to meet the required 24 hours of teacher professional development. Ms. Stacy responded that some PD training is mandated by the school and that some of the AdvanceKY training can count toward optional PD hours. Representative Graham asked if the teachers are compensated for the additional training that exceeds the 24 hour professional development requirement. Ms. Lang said AdvanceKY provides up to a \$500 stipend for teachers to attend the four day summer institute; that teachers are also required to attend the two day professional training seminar; and teachers receive a small stipend for vertical team meetings on curricula and specific skills.

Ms. Lang said that open enrollment is not a reckless dumping of students into AP classes. She said that even though a student is not required to make application to attend an AP class, students are encouraged

to pursue a program of studies that could lead to success in AP classes.

Representative Stone said he looks forward to the time when an AP curriculum can be considered the norm for high schools, especially to keep seniors actively engaged in studies and ensuring college readiness. He said it is also important that as AP enrollment is offered to more students that AP not be changed but that AP changes the student. He asked if the SEEK formula includes specific funding for AP courses which would help expand the programs. Christine Powell, KDE Director of the Division of Secondary and Virtual Learning, said there is no additional funding provided in the SEEK formula for AP classes or for AP professional development. She said KDE is seeking additional grant funding to significantly increase the number of AP programs offered throughout the state. Representative Stone asked if the KEES criteria included money related to AP course success. Ms. Lang said the students eligible for free and reduced lunches earned extra KEES money in 2009. If they scored a 3 on an AP examination, they received \$200; if they scored a 4, they received \$250; and if they scored 5, they received \$300.

Representative Webb-Edgington asked how AdvanceKY plans to increase minority participation in the urban areas, specifically Northern Kentucky, Louisville, and Lexington. She also asked if the open enrollment process has any negative impact on the more advanced students because of the additional time needed to work with students who may be struggling in the class. Ms. Stacy said, even with open enrollment, the AP class rigor remains the same and requires extra help for struggling students outside of regular classroom hours. Ms. Osbourne said it is also important that students be informed that their grade may not be as high in an AP class which may affect their grade point average and possibly affect their KEES funding, but taking AP classes will better prepare them for college. Mr. Cox said AP classes also require a commitment on the part of the students as the rigor of the content cannot be diminished. Ms. Lang said approximately 200 very committed teachers are currently participating in the AdvanceKY program. She said that two Northern Kentucky schools were included in the Cohort 2 group and expansion in that area is anticipated and Bryan Station High School in Lexington is also in the Cohort 2 group and was the training site for 250 pre-AP teachers in the "Laying the Foundation" seminar. She said Jefferson County schools are unable to participate until issues relating to incentives offered by the program can

be resolved. Representative Webb-Edgington asked for additional information on the incentive piece. Ms. Lang said a student receives \$100 for each passing score on an AP examination and the AP teacher also receives \$100 for each passing score received by any student in the class. She said there is also an incentive bonus for teachers who increase the number of students receiving a passing score from one year to the next. Ms. Lang said the incentives and bonuses are part of the business related component of the NMSI model to reward teachers and students for the extra time and preparation required for AP class success.

Senator Givens asked Ms. Lang if the AdvanceKY initiative will help Kentucky compete for the Race to the Top funding. Ms. Lang said that the criteria for the Race to the Top funding and the NMSI model is very similar in that STEM disciplines are targeted, courses are rigorous, and the results are data driven, so AdvanceKY as well as other STEM programs in Kentucky give the state a competitive edge. She said the US Department of Education's AP Incentive Program was a mirror image of the NMSI model and that Kentucky was one of two of the six NMSI states to receive the grant.

Senator Winters asked why the particular teachers at the meeting were selected to address the committee. Ms. Lang said all three teachers were from schools that had experienced below average success with AP classes, but after one year of applying the NMSI model, all three were able to achieve results above state and national averages. Senator Winters said the excitement and emotion displayed by the teachers is needed throughout the state so Kentucky will be recognized as a pacesetter throughout the nation and that the results prove that Kentucky's students are very capable of performing at a high level. He asked if all students who have completed an AP class have to take the examination. Ms. Stacy replied that taking the examination is mandatory in some school systems but not in Scott County. She said Scott County has a parent's night where parents are informed about class activity and provided information regarding the examinations and associated costs. Ms. Lang said 90%-95% of Kentucky students enrolled in AP classes take the examinations.

Senator Winters said that legislation will be proposed in the upcoming session to expand Kentucky's participation in the program and will include funding for all examination costs for students enrolled in AP classes. Ms. Lang said payment of the complete examination fee will

provide additional incentives for students to enroll and take the examinations upon completion. Senator Winters said the legislature cannot allow an examination fee to become a barrier for Kentucky's brightest students who can earn a stipend and college credit to ensure their future success. Ms. Lang said another important piece to ensure the success of the program is sufficient professional development funding. She said AdvanceKY pays the registration fees and the cohort schools have been paying travel for their teachers to attend training although it is becoming increasingly difficult for schools to make that commitment to their teachers.

Representative Belcher asked if the teachers recruited to participate in the program are already employed by the school systems. Ms. Lang said AdvanceKY does not make the selection but provides schools with the information necessary to implement the NMSI model and encourages administrators to select teachers who are willing to make a commitment to ensure the success of the program, with accountability being reflected in the number of passing scores on the MSE examinations. Ms. Osbourne said the model establishes goals for new teachers and the networking and training is essential in ensuring program success.

Senator McGaha asked the teachers how many classes they teach and how many students are in the classes. Mr. Cox said the two AP classes he currently teaches have a combined 36 students, which is an increase from 16 students two years ago. He said that previously 80% of his students would pass the examination but now it is about 50% of the students enrolled although overall more students are passing. Ms. Osbourne said that she teaches two AP literature classes with a total of 55 students. She said there are three other AP English teachers in the school with one having 18 students and the other two have between 80-100 students. Ms. Stacy said she teaches one AP statistics class with 26 students and there are two AP calculus teachers with 63 total students.

Senator McGaha said he was very impressed with the enthusiasm and excitement of all the presenters and that it is important that the legislature assist where possible to expand the AdvanceKY program.

Senator McGaha announced that this is the last meeting of the subcommittee for the 2009 Interim and thanked all of the committee members for their active participation at the meetings. There being no further business to discuss, the meeting adjourned at 11:50 AM.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education

Minutes of the 5th Meeting of the 2009 Interim November 9, 2009

The fifth meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, November 9, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Alice Forgy Kerr, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators R.J. Palmer II and Elizabeth Tori; Representatives Jim DeCesare, C. B. Embry Jr., Bill Farmer, Jim Glenn, Reginald Meeks, Jody Richards, Tom Riner, Carl Rollins II, and Addia Wuchner.

Guests: Robert King, Reecie Stagnolia, Melissa Bell, Council on Postsecondary Education; Dan Connell, Morehead State University.

LRC Staff: Ken Warlick, Audrey Carr, and Lisa Moore.

Senator Kerr introduced Mr. Robert King, President, Mr. Reecie Stagnolia, Vice President for Adult Education, Council on Postsecondary Education, to give the committee an update on the Kentucky Adult Education (KYAE) program. After introductory remarks by President King, Mr. Stagnolia explained the Power Point presentation to the members. Mr. Stagnolia said there are over \$22 million in state funds and \$8 million in federal funds, for a total of \$31 million in adult education funding.

Mr. Stagnolia discussed the Adult Education Act of 2000 which stated that "adult illiteracy is a fundamental barrier to every major challenge facing Kentucky, including early childhood education, education reform, economic development, and improving the health and well-being of Kentucky's families and communities". He said adult education services in Kentucky include offering basic literacy skills, GED® preparation, English as a Second Language (ESL), family literacy, workforce education, transition to postsecondary education, and corrections education. There are currently adult education services offered in 13 state penitentiaries, more than 70 full-time jails, and a number of halfway houses. He said that high school dropouts are eight times more likely to become incarcerated and more likely to be unemployed.

Mr. Stagnolia said most Kentucky adult education students are individuals who live and work in Kentucky. They are not enrolled or

required to be enrolled in secondary school; do not have a high school diploma or its recognized equivalent; have not achieved an equivalent level of education; have a lack of mastery of basic educational skills; and are unable to speak, read or write the English language. He noted the total population of 18 year old adults and older in Kentucky is 3,047,928 and the number of those people without a high school diploma or high school/GED credential is 785,641, or 25 percent of the working population. He said Kentucky ranks 12th in the nation in the percentage of adults earning a GED and producing 9,382 GED graduates in fiscal year 2009. He noted 1,919 of the fiscal year 2006 GED graduates had enrolled in a Kentucky college or university by academic year 2007-2008. Of those, 87 percent enrolled in a Kentucky Community and Technical College School (KCTCS), 10 percent in a public four-year institution, and 3 percent in an independent institution.

Mr. Stagnolia discussed the unemployment rate and education correlation. He said that 15.6 percent of the unemployed in Kentucky have no high school diploma or its equivalent, compared to 9.7 percent that only have a high school diploma. He also noted that 50 to 80 percent of adult learners have some type of learning disability. The KYAE is working with the Center for Mathematics and the Academy at Morehead on specific training programs. He also mentioned several workforce readiness initiatives including the Integrated Basic Education and Skills Training program (I-BEST). He said KYAE's core business is to raise the educational levels of eligible adults by providing academic instruction that leads to strong literacy skills and GED attainment, which are gateways to postsecondary education and highly skilled employment. Mr. Stagnolia told members that there was specific county data located in their meeting material handouts.

Representative Glenn stated that the high school diploma is still preferable to a student earning a GED. He asked if KYAE encourages students to stay in school. Mr. Stagnolia indicated that he firmly believes that all Kentucky students should stay in school. If they do drop out however, he wants to recruit them into an adult education program to help them overcome obstacles, so they can earn a high school diploma equivalency and move on with their life. Representative Glenn asked if Kentucky is increasing the number of GED's awarded to adults 18 and older. Mr. Stagnolia said we were.

Representative Richards asked how many prisoners in Kentucky were enrolled in adult education

courses. Mr. Stagnolia responded that there were about 5,200 prisoners enrolled in an adult education program. He said 40 percent of those students will leave prison without a GED. This can be attributed to the fact that many prisoners are transferred and their education can be disrupted numerous times throughout their incarceration. He said the Governor's Re-entry Task Force will develop recommendations to help former inmates re-enter their communities and reduce the likelihood that they will reoffend.

Representative Richards discussed the importance of technology in the future of adult education. Mr. Stagnolia said technology is an important component, but most adult education students need high tech/high touch opportunities. He said on-line learning is fine for these students, but most need the support of working on computers within an adult learning center with support provided. He noted that KYAE is partnering with the Kentucky Virtual Campus on such initiatives.

Representative DeCesare asked how many ESL students are enrolled in adult education programs. Mr. Stagnolia said there are about 4,000 students in ESL across the state, which is about ten percent of the total enrollment. The biggest populations of ESL enrollments are in the metro areas of Louisville, Lexington, and Bowling Green. Representative DeCesare asked how many different languages are spoken by students in the program. Mr. Stagnolia said the students represent diverse countries. Representative DeCesare asked how Kentucky finds the teachers to teach the students in their diverse languages. Mr. Stagnolia said KYAE teaches students in English. KYAE provides professional development to adult education teachers across the state to help them with this issue.

Representative Rollins asked how KET's GED on TV program works with the KYAE. Ms. Julie Schmidt, Director of Community Relations, KET, said the numbers of students getting GED's through KET are reported through the adult education centers. She also noted that many of KET's materials are located in adult education learning centers.

Representative Rollins asked Mr. Stagnolia if there is a concern that adult education programs have become too structured. Mr. Stagnolia said adult education programs are moving towards a managed program model. This model is in contrast to the perpetual study hall model where the doors are opened and it is hoped that people show up. He said the managed program model allows adult education programs to plan better for students and gets students on a

schedule and provides expectations. He said some states even have student contracts in place. Representative Rollins asked if students are still allowed flexibility in scheduling time in the adult education learning centers. Mr. Stagnolia said there is still flexibility when the student can start the program, but specific times will be set for their instructional hours.

Representative Meeks asked how many ESL programs are projected to be needed in Jefferson County. Mr. Stagnolia said he would provide Representative Meeks with the information. Representative Meeks asked how many students are enrolled in I-BEST and what the capacity of the program is. Mr. Stagnolia said the I-BEST is being piloted in Jefferson County with Julie Scosky, Program Director, Jefferson County Schools, and Dr. Tony Newberry, President, Jefferson Community and Technical College. He said the program focuses on the coupling of basic academic skills with occupational skills. He will get more detailed information to Representative Meeks for the time duration and particular content and program areas specifically being worked on.

Senator Tori asked what efforts are being made in the poverty stricken areas to recruit students into KYAE. Mr. Stagnolia said that many people in these pockets of poverty are primarily unemployed, which means they have the time and are available to receive adult education services. Senator Tori asked how KYAE can get the people in the system. Mr. Stagnolia said adult education has always had the challenge in such communities to develop an understanding of the value and importance of adult education services. He said nationally, the GED testing service has used a campaign of "Do You Know Someone" referring to people recommending folks that could benefit from adult education services. He said jobs of the future are not going to be available to people who do not have some type of postsecondary education. Senator Tori asked why the number of GED graduates is so erratic from year to year. Mr. Stagnolia said the non-compulsory attendance rates can factor into the numbers as well as the skill levels of students who enter the program from year to year. He said 77 percent of adult education students are below the ninth grade level and 44 percent of the students are assessed below the sixth grade level. He also said age can make a difference in how fast students earn a GED.

Representative Wuchner said research shows that many students have three to five false starts and that it takes time for students to build confidence that they will be

successful. She asked if the starting dates for students entering into adult education programs is consistent across the Commonwealth. She also asked how KYAE assists students with learning disabilities that enter into the program. Mr. Stagnolia said KYAE is in the first year of piloting the managed program model in 35 counties. He said KYAE will remain sensitive to the fact that adults face things in their life that cause them to stop out of the program for periods of time. He said he wants flexibility to remain in adult education programs that allows students to work on upgrading their skills at any time in a learning center. He also said KYAE needs to continue their work with KET and distance learning products to give students other options for receiving services. Mr. Stagnolia said many learning disabilities can be attributed to learning style differences in students. Some students are auditory learners and others are visual learners. He said KYAE needs to do a better job of finding out the way students learn best and teach that way. He said adult education teachers are not equipped to clinically diagnose learning disabilities, but they can give screenings to find learning differences. He said professional development for adult education teachers will be targeted to providing them with skills to help detect learning disabilities and finding strategies to teach to all learning differences.

Senator Kerr asked what learning disabilities are the most common in adult education students. Mr. Stagnolia said it has recently discovered that many students are sensitive to fluorescent lighting. He said wearing a visor and providing covered overlays over reading material can help with this issue. Senator Kerr asked if KYAE helps students with study skills. Mr. Stagnolia said study skills and employability skills are 21st century skill sets that adult education providers help students with. Senator Kerr mentioned Martha Wilkerson's GED army and how successful the campaign was getting new enrollments in adult education programs. She wondered if it may be time for another high profile recruiting effort.

Senator Kerr asked for a motion to approve the minutes from October 12, 2009 meeting with a quorum being present. Representative Richards made the motion to approve the minutes, seconded by Representatives Meeks. The motion was approved by voice vote.

President King noted how important the adult education population is to creating a strong workforce for the future. He said preparing a highly skilled workforce is the single best economic development tool

that Kentucky can create. He also said Kentucky is producing about 10,000 GED graduates per year and if there were no more dropouts, it would take 50 years to educate the population between 16 and 44 years old that currently do not have a high school diploma. He hopes the legislature can find more resources in the future to address this area of the population that is so crucial to Kentucky's future success.

Senator Kerr introduced Dr. Melissa Bell, Senior Associate, Council on Postsecondary Education, and Dr. Dan Connell, Assistant Vice President, Adult Education and College Access, Morehead State University, to give an update on the Kentucky Adult Learner Initiative. Dr. Bell said CPE did a survey in 2007 of over 1,600 people who had attended college in Kentucky but had not graduated. Of those surveyed, she said about 800 people indicated they are very or somewhat likely to consider returning to college in the next three years. She said some of the biggest concerns for returning to college included: managing time between family and classes; managing time between work and classes; and financing college courses. She said some of biggest incentives to get people to return to college included: people receiving credit for prior learning; programs being offered on a faster than normal schedule, or accelerated learning programs; and financial aid being available.

Dr. Bell said nontraditional students who are 25 and older make up about 30 percent of total college enrollments, which is below the national average of 40 percent. The percentage of bachelor's degrees earned by nontraditional students at Kentucky public universities has decreased slightly since 2001. Kentucky had about 32 percent of its nontraditional students graduate in 2008 compared to 34 percent in 2001.

Dr. Bell said the adult learner population is critical to the CPE meeting its educational goals. The CPE has three major efforts underway to focus on this target population. The first is KYAE, which includes academic skills instruction, GED preparation, and reading instruction. The second effort is called "Project Graduate" and will target 11,000 students who have 90 or more credit hours in a postsecondary institution. The CPE is coordinating direct mail efforts and media events to recruit these adult students. She said incentives, counseling, and marketing at campus levels is underway to recruit these students back into college to finish their degrees. The third effort is the Kentucky Adult Learner Initiative. She said the project is funded completely with funds from the Lumina

Foundation for Education and has two major purposes. It focuses on the incentives for getting students back into postsecondary education such as giving them credit for prior learning. This project will help to support Kentucky public institutions as they become more adult learner friendly.

Dr. Bell said CPE created workgroups consisting of legislators, public institutions, private institutions, and the private sector. This group of interested stakeholders has developed 14 recommendations. She said three general recommendations included: developing a statewide college outreach strategy; developing a comprehensive, user-friendly college access Web site; and to fund at least one adult learner advocate at each public institution. The other recommendations are in the areas of granting credit for prior experiential learning, providing flexible academic programming, increasing financial aid, and creating institutional efforts to become adult learner friendly. A complete listing of each recommendation is located in the meeting folder in the Legislative Research Commission library.

Dr. Connell gave the committee an update on Morehead State University's (MOSU) adult learner plan. He said MOSU is completing an organizational restructuring to make the institution more adult learner friendly. He said MOSU offered the first master's degree in adult education in Kentucky. He also said Jill McBride, non-traditional and commuter student coordinator, has been hired on campus as the adult education advocate in the new department of the Center for Adult Education and College Access. He said the new center on campus works in conjunction with the other two adult learning centers in Rowan County to provide support to adults for their educational efforts from literacy to baccalaureate degrees and from GED's and workplace transition to college.

Dr. Connell said MOSU is focusing on providing more financial aid for adults to attend school and has added \$10,000 in new scholarships for 2009-2010. He said the increase in scholarships is for full and part-time adult learners. He also said MOSU offers one free college class to any student who obtains a GED through the two adult learning centers. MOSU is setting up a virtual site to allow students to learn about the resources that the university offers in terms of financial aid, and also the support services that the institution provides. He also said MOSU has a Financial Aid Office and Educational Opportunity Center to assist students with the completion of the Federal Application for Student Fi-

nancial Aid (FASFA).

Dr. Connell said MOSU is expanding the number of evening, weekend, and accelerated classes and programs. He discussed redesigning the three-credit hour classes into one-credit hour modules. He mentioned one program where students can attend one full night per week and earn 12 credit hours in a semester. MOSU is also expanding the number of online classes and programs offered.

Dr. Connell said MOSU is developing a prior learning assessment system, which includes portfolios. He said adding portfolios will allow adults to receive college credit based on their prior learning experiences. A clearinghouse will be established to oversee the credits for prior learning.

Dr. Connell said MOSU wants to create a campus climate to increase staff and faculty understanding of adult learners through workshops. He said MOSU will increase the availability and awareness of adult student support services. The university staff is developing ways to make online and regional campus students more aware of services. He also said the Department of Career Services on campus is developing activities that will increase life and career planning activities.

Representative Wuchner asked how many college credit hours are given for prior life experience in the portfolio. She also asked if the college pays for credit hours awarded for the life credit experience, or do the students pay a reduced rate for that college credit. Dr. Connell said it varies by the institution on how much credit a student can earn. He said there is a flat fee for taking the College Level Examination Program (CLEP) and the student does not have to pay tuition if the test is passed.

Senator Kerr asked about the challenge exams in which professors write exams based on course outcomes. Dr. Connell said the professors will write an exam on the learning outcomes for the class and if students make a C or better, they are awarded credit for the course. Senator Kerr asked if the exam was designed for a specific student. Dr. Connell said the exam is designed specifically for the course and could be the final exam.

Representative Embry asked how the statistics were accumulated for the percentages of college graduates and adult learners. He also asked if private colleges and public institutions are working together on the adult learner initiative. Dr. Bell said the data she used for the report was the non-traditional students as a percentage of total enrollment from the public universities. She will have to do some additional research

to find the information of total adult learners enrolled in all types of universities in Kentucky. She said the national data came from the National Center on Data Statistics and does include total enrollment. She said the CPE is encouraging the private institutions to work with the public institutions on the adult learner issues. Private institutions have a wealth of knowledge about adult learners and have focused on this group for some time. She said there may be specific partnerships formed, but she does not know of any.

President King said legislators and educators across the country are realizing that there are enormous opportunities to encourage more people to seek higher education. Through this effort, President Obama and others are hoping the United States can regain its position as number one in the world in terms of the proportion of its population being the most highly educated. He said the CPE wants to expand adult learning friendly programs across the institutions throughout Kentucky in an effort to reach the goal of doubling the number of college graduates.

With no further business before the committee, the meeting adjourned at 11:35 a.m.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

**Minutes of the 4th Meeting
of the 2009 Interim
October 21, 2009**

The 4th meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 21, 2009, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order 1:06 PM, and the secretary called the roll.

Present were:

Members: Representative Tom Burch, Co-Chair; Senators Tom Buford, Julian M. Carroll, Perry B. Clark, Denise Harper Angel, Alice Forgy Kerr, Joey Pendleton, Katie Kratz Stine, and Jack Westwood; Representatives John A. Arnold Jr., Scott W. Brinkman, John "Bam" Carney, Bob M. DeWeese, Brent Housman, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, Susan Westrom, and Addia Wuchner.

Guest Legislator: Representative Derrick Graham.

Guests: L. Allen Dobson, Jr., MD, FAAFP, Vice President, Carolinas Healthcare System, North Carolina Department of Health and Human Services; Wendy Carlin M.S., R.D.,

L.D., Program Coordinator, Obesity Prevention Program, Cabinet for Health and Family Services; Baretta R. Casey, M.D., MPH, FAAFP, Director, University of Kentucky Center for Excellence in Rural Health, Professor, University of Kentucky College of Medicine, Vice Chair, Department of Family and Community Medicine, East Kentucky Campus, University of Kentucky North Fork Valley Community Health Center; Tonya Chang, Kentucky Director of Advocacy, American Heart Association, Great Rivers Affiliate; Jim Kimbrough, Issue Specialist, Long Term Care, American Association of Retired Persons (AARP) Kentucky; Molly Dobson, Contracts and Budget Planner, Kentuckiana Regional Planning and Development Agency (KIPDA), Louisville; Mary Crowley-Schmidt, Assistant Director, Department for Human Services Area Agency on Aging, Bluegrass Area Development District, Lexington; Whitney Jones, MD, Clinical Professor of Medicine, University of Louisville, Founder, Colon Cancer Prevention Project; Thomas C. Tucker, MPH, PhD, Director, Kentucky Cancer Registry, Associate Director, Cancer Prevention & Control, Markey Cancer Center, University of Kentucky College of Public Health; Linda Craig, Family Support Specialist, Daviess County, Patricia Pregliasco, Social Service Clinician, Jefferson County, Barbara Cowan, Social Service Worker, Kenton County, Sheila Patrick, Social Service Clinician, Menifee County, American Federation of State, County and Municipal Employees; Donna Brown; Heidi Schissler Lanham and Marsha Hockensmith, Protection and Advocacy; Debra Anderson and Kristi Campbell, BRMC; Marlene Helfrich and Sandy Rutledge, Kentucky PTA; Eric T. Clark and Ruby Jo Lubarsky, Londa Knollman, Kentucky Association of Health Care Facilities; Rhonda Joyce, Hardin Memorial Hospital; Eugene Gross, American Federation of State, County, and Municipal Employees; Susan White, Save the Children; Margaret Levi, Ephraim McDowell; Gene Huff, CHI; Laura Belcher, T.J. Samson Community Hospital; Mike Haynes, Kentucky YMCA; Tom James, Partner for a Healthy Louisville; and J. Mullar.

LRC Staff: DeeAnn Mansfield, CSA; Amanda Dunn, Miriam Fordham, Ben Payne, Gina Rigsby, and Jonathan Scott.

A motion to approve the minutes of the September 16, 2009 meeting was made by Senator Buford, seconded by Senator Stine, and approved by voice vote.

Senator Stine, Co-Chair, Families and Children Subcommittee, reported the subcommittee met that morning and heard a presentation from Dr. Ruth Ann Shepherd and Paula Goff

on the First Steps Program. The program is a statewide early intervention system that provides services to children from birth to age three who have developmental disabilities and their families. First Steps focuses on providing family-centered services by utilizing a Consultative Model done by a therapist providing consultation and instruction to the child's caregivers, who in turn actually provide the interventions throughout daily routines. The specific services provided through the Consultative Model are based upon the Individual Family Service Plan, known as an IFSP, developed for each child and family participating in the First Steps Program. The subcommittee learned that there is a national four-tier ranking system. Kentucky is currently at level three and anticipates rising to level two by June 2010. The federal funding is not in danger as long as Kentucky does not drop to level four. Approximately 12,900 children are served each year by First Steps and there are currently 6,462 Kentucky children with an active ISFP. First Steps is funded through a combination of General Fund dollars, Tobacco Settlement Funds, Family Share, Insurance, Medicaid, Federal Part C, and Federal ARRA funds.

The subcommittee heard a presentation on Psychiatric Residential Treatment Facilities, known as PRTFs, given by Kerry Harvey, Acting Inspector General for the Cabinet for Health and Family Services, and Stephanie Brammer-Barnes, Policy Analyst, Inspector General's Office. The subcommittee heard testimony that described what PRTFs are and where they are located throughout the state. PRTFs have existed in Kentucky since 1991 and are for patients age six to 21 that have an emotional or severe emotional disability. Currently there are 21 PRTFs in the Commonwealth. As of October 2009, there are approximately 189 PRTF patients, but the state has a CON capacity for nearly 100 more patients. Staffing requirements were discussed showing that the professional requirements range from high school diploma minimum for the majority of staff, to college degrees for those that run the facilities. During 2008, 228 children were provided care in out-of-state facilities due to the fact that Kentucky PRTFs cannot offer them the needed treatment services. Additionally, the average per day payment for out-of-state care is \$340 and the average per day payment for in-state care is \$400.

Representative Marzian, Co-Chair, Health Issues and Aging Subcommittee, reported the subcommittee met that morning and heard a presentation by Lisa Allgood, Dr. Johann Herberth, and Andreas Price on

a proposed kidney disease task force to study and address chronic kidney disease. Kidney disease strikes one in nine Kentuckians. The loss of kidney function is associated with heart disease, stroke, circulatory problems, and bone disease. Diagnosing chronic kidney disease, or CKD, at an early stage can delay the onset of end stage renal disease. Mr. Price, a transplant recipient, stressed the importance of education about the disease.

The subcommittee next heard a presentation on diabetes in Kentucky from Theresa Renn, Greg Lawther, and Dr. Baretta Casey. Diabetes is the fifth leading cause of death by disease in the state with an estimated 14.3 percent of adults living with diabetes, both diagnosed and undiagnosed. In 2002, the estimated costs of treating the disease were \$2.9 billion per year. The mission of the Kentucky Diabetes Prevention and Control Program is to reduce the number of new cases of diabetes and its complications. The program is funded with state and federal funds and works through a number of public and private partners. The program's newest initiative is the Diabetes Centers of Excellence launched with funding provided by the General Assembly. The goal of the program is to improve outcomes and decrease costs among adult Medicaid recipients with diabetes. The centers are located in six sites and cover 30 counties. The centers have shown positive outcomes with significant improvements in meeting standards of care. The Kentucky Diabetes Network is a statewide nonprofit working on diabetes issues. Dr. Casey reported on the activities of the Kentucky Diabetes Research Board which was established by the legislature in 2004. The goal of the board is to establish Kentucky as an authority on the advancement of diabetes research by funding research on diabetes. The board will complete reviews of the funded projects at the end of the two-year grant cycle. But, the board's annual funding of \$200,000 was cut as of 2008. The funds have been depleted and no further grants can be made. Without restoration of funding, the research board will dissolve in 2010. The subcommittee also heard testimony from Lisbon Hardy and Kim DeCoste. The American Diabetes Association stressed the importance of appropriate care for those living with the disease, particularly in school settings. Diabetes educators specialize in training diabetes patients in self care behavior changes.

The following administrative regulations were referred to the committee for consideration: 201 KAR 2:320 — establishes the requirements for a manufacturer permit and

for functioning as a manufacturer of drugs; 201 KAR 20:240 – establishes fees for licensure, registration, examination, renewal, reinstatement, and continuing education for a registered nurse who applies to be credentialed as a sexual assault examiner; 201 KAR 20:370 - establishes requirements and procedures for nurse licensure and registration; 201 KAR 20:411 - establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner; 900 KAR 6:051 - repeals 900 KAR 6:050, which has been incorporated into other administrative regulations; 900 KAR 6:055 - establishes the forms necessary for the orderly administration of the Certificate of Need Program; 900 KAR 6:060 - establishes the timetable for submission of application requirements necessary for the orderly administration of the Certificate of Need Program; 900 KAR 6:065 - establishes the requirements necessary for the orderly administration of the certificate of need application, review, decision, and reconsideration process; 900 KAR 6:070 - establishes the requirements necessary for the consideration for formal review of applications for the orderly administration of the Certificate of Need Program; 900 KAR 6:075 – establishes the requirements necessary for consideration for nonsubstantive review of applications for the orderly administration of the Certificate of Need Program; 900 KAR 6:080 – establishes the guidelines for alleviating an emergency circumstance for the orderly administration of the Certificate of Need Program; 900 KAR 6:085 – establishes the guidelines for the transfer of a certificate of need for the orderly administration of the Certificate of Need Program; 900 KAR 6:090 – establishes the requirements for filing, hearing, and show cause hearings necessary for the orderly administration of the Certificate of Need Program; 900 KAR 6:095 – establishes the requirements for administrative escalation necessary for the orderly administration of the Certificate of Need Program; 900 KAR 6:100 – establishes the required timetables and standards for implementation as well as requirements for biennial reviews for the orderly administration of the Certificate of Need Program; 900 KAR 6:105 – establishes the policies for issuance of advisory opinions necessary for the orderly administration of the Certificate of Need Program; 900 KAR 6:110 – establishes the notification requirements by facilities of the addition or establishment of a health service, and the notification requirements by facilities of the reduction or termination of a health service or bed capacity, and the notification re-

quirements by facilities of the intent to acquire a health facility for health service; 900 KAR 6:115 – establishes the certificate of need requirements for critical access hospitals, swing beds, and continuing care retirement communities; and 900 KAR 6:120 – establishes the provisions for the pilot project for primary angioplasty in hospitals without on-site open heart surgery (“pilot program”) established in the 2004-2006 State Health Plan for the certificate of need program. A motion to take a separate vote on 900 KAR 6:075 and 900 KAR 6:120 was made by Representative Housman, seconded by Senator Buford, and approved by voice vote. A motion to accept all the administrative regulations except 900 KAR 6:075 and 900 KAR 6:120 was made by Representative Buford, seconded by Senator Pendleton and approved by voice vote.

Senator Buford made a motion to adopt the amendment to 900 KAR 6:120 that would separate the angioplasty pilot program hospitals from psychiatric bed hospitals. Secretary Miller said that the cabinet has some technical problems with the amendment. She said that the administrative regulation as promulgated allows the two facilities to go through but it takes them out of the pilot status. The cabinet does not agree that the way the amendment is done is technically correct and opposes the amendment. Representative Burch asked if the amendment was needed, and Secretary Miller said it goes above and beyond by taking the two facilities out of being in the pilot status because they have successfully demonstrated their ability to provide services safely with good outcomes. Senator Buford said that the amendment separates the angioplasty hospitals from the psychiatric hospitals. Representative Burch asked Secretary Miller if she wanted to defer 900 KAR 6:075 until the November Interim Joint Committee on Health and Welfare meeting, and she said she did not think it was necessary.

Representative Moore asked if the administrative regulation 900 KAR 6:120 the one being voted on or is the language currently being offered as an amendment dealing with another administrative regulation that has not yet come up for discussion. Secretary Miller stated that the administrative regulation before the committee is the one the cabinet promulgated and proposed to be adopted, and the amendment that has been offered is what the cabinet is opposed to. Ms. Galvagni, Kentucky Hospital Association, said that the pilot project regulation was actually written and pertains to the two pilot hospitals only. The KHA feels it is better to include the language that

is currently in the nonsubstantive review regulation into the regulation that affects the two hospitals. The amendment is the identical language in the nonsubstantive review regulation but is just being put into the pilot program regulation which the KHA feels is a better place for the language and will assure the two hospitals can move forward since there is already a letter of objection on the nonsubstantive review regulation. Representative Burch said that even if the committee adopts the amendment, the cabinet does not have to implement it.

Dave Nicholas, Committee Staff Administrator, Administrative Regulation Review Subcommittee, stated that KRS Chapter 13A.320 states everything in the regulation process requires agreement between the agency and the committee except the finding of deficiency. If an amendment is proposed by the committee, there has to be agreement from the agency. If the agency does not agree, the amendment is out of order. Senator Buford withdrew his motion for the amendment as presented because there was not a second. He made a motion that 900 KAR 6:120 be deferred to the November meeting of the committee. Mr. Nicholas stated that it would require agreement with the cabinet. Senator Carroll stated that it was his understanding that Senator Buford was only proposing to postpone the discussion on the regulation until the next meeting, but the regulation would be approved by the committee at today’s meeting. A motion to defer action on the amendment until the next committee meeting was made by Senator Buford, and seconded by Senator Carroll.

Senator Stine asked if no action was taken on a regulation at today’s meeting, would the regulation go into effect in 30 days. Mr. Nicholas said that by law the regulations had been referred to the committee and placed on its agenda and would go into effect upon adjournment. Senator Carroll explained that the committee would not be delaying action on the regulation but delaying action on taking a sense of the committee on a proposal that would have to go forward as a regulation again issued by the cabinet but had nothing to do with 900 KAR 6:120. Senator Buford said that was correct. Mr. Nicholas stated that if the regulation is deferred, it would be held over until the next meeting. A motion to call the amendment back up for review at the next meeting was made by Senator Buford, seconded by Representative Arnold, and approved by voice vote. A motion to approve 900 KAR 6:120 was made, seconded, and approved by voice vote.

Secretary Miller stated that 900

KAR 6:075 does not circumvent the process, but amending the regulation is following the very process the General Assembly has set forth for the cabinet to follow. It is a process that contemplates that changes will be made to the regulation after public comment and that is exactly what happened in this regulation. The subject matter of this regulation is and has been amended 17 times since 1999 to address specific needs of communities or specific needs in the Commonwealth. These changes benefitted communities and providers all across the Commonwealth from every district. This nonsubstantive review contemplates these types of actions and has authority in statute and has been used by the cabinet many times over the past years. The cabinet did not make the amendments in a regulation in a manner to attempt to hide the changes but followed the legislative mandated regulation process. The regulation will allow anyone to apply for the certificate of need (CON) as long as they meet the specific requirements for the specific number of children on a no reject/eject basis. The regulation has five basic changes: (1) establish nursing facility services at the new Eastern State Replacement Facility; (2) allow a psychiatric hospital with no more than 50 beds in an ADD which does not already have a free-standing psychiatric hospital in place; (3) allow two pilot hospitals to move forward and come out of pilot status; (4) allow the transfer or relocation of up to 30 existing CON-approved nursing facility beds to move from one facility another if the beds do not meet the sprinkler requirements that is upcoming in the CMS requirements and the county receiving the beds is at least a contiguous county sending the beds; and (5) allows for large nursing facilities of at least 250 beds to transfer no more than half of their beds to facilities and counties within the same ADD.

Secretary Miller stated that children have been placed in out-of-state psychiatric treatment facilities for years and this has been recognized as a long standing issue. Psychiatric treatment facility services are limited to psychiatric hospital services and psychiatric residential treatment facility (PRTF) services. Existing Kentucky psychiatric treatment facilities do not have the individualized, intensive, multi-disciplinary team approach, with heavy emphasis on behavioral health services and supports, to meet the specialized treatment needs of these children placed in out-of-state facilities. A solution was to amend the nonsubstantive certificate of need (CON) regulation to allow for the establishment of psychiatric hospitals to treat these chil-

dren. The goals are to develop capacity in-state to provide individualized, intensive services with heavy emphasis on behavioral health services and supports, provide active treatment, allow children to be treated closer to home so that the family can be involved in their treatment and plan of care, and provide better oversight for Kentucky children. Currently the Department for Community Based Services makes annual visits to out-of-state facilities, but effective October 2011, new federal requirements will mandate monthly visits. The regulation would allow for the establishment of a new 50-bed psychiatric hospital in an area development district without a free-standing psychiatric hospital contingent upon the following conditions: (1) required to meet the intensive treatment needs of children between the ages of 4 to 21; (2) severely emotionally disabled with severe and persistent aggressive behavior; (3) severely emotionally disabled with intellectual disability; (4) sexually acting out with severe and persistent aggressive behavior; (5) operate under a no reject/eject policy and not refuse to admit or discharge a patient due to the presence of the above characteristics; and (6) provide non-acute active treatment. Cabinet oversight will be in place through the CON, licensure and regulation, and Medicaid regulation to insure that programmatic and regulatory requirements are met. Policy and procedures will be developed for admissions, treatment plans, active treatment, and monitoring.

Commissioner Wilson stated that at the end of September 2009, there were 6,945 children in the custody of the Department for Community Based Services (DCBS) in out-of-home care. The frequency, duration, and intensity of the problematic behaviors, especially aggression, is more heightened than that of Level 5 youth in private child-caring treatment programs. Youth going out-of-state will often have been in a psychiatric hospital in-state for stabilization of acute symptoms, but are determined not ready to live safely in a community setting. An out-of-state placement referral is initiated when all in-state possibilities have been exhausted. Potential out-of-state placements are contacted, giving priority to proximity to youth's home county coupled with youth's treatment needs. Once potential placement has been located, the provider's participation in Kentucky Medicaid is verified and interstate placement proceedings are initiated. Upon Interstate Compact approval from the state in which the placement is located, admission arrangements are made. The minimum length of time from identification of potential out-of-state placements

through admission is approximately three weeks. Children are currently placed in Alabama, Florida, Georgia, Illinois, Ohio, South Carolina, Tennessee, Texas, Utah, and West Virginia.

Youth range in age from 11 to 20 years of age, with the bulk being 16 and 17 year olds. The males outnumber females almost two to one, and they are from all across the Commonwealth. These youth exhibit problematic behaviors that contribute to difficulty in finding placement and treatment. Managing the behavioral challenges of these youth is complicated by the presence of mental retardation or other cognitive impairments, such as pervasive developmental disorder. Approximately one-third of the youth currently in out-of-state placement have a diagnosed intellectual disability. Mental health diagnoses typically cluster around the following categories, with youth often having multiple diagnoses: (1) behavior disorders – 62 percent; (2) mood disorders – 40 percent; (3) cognitive disorders – 30 percent; and (4) post-traumatic stress disorder – 28 percent. Youth have had multiple placements which could include DCBS foster care, private child care foster care or residential, PRTF, or a psychiatric hospital. The average number of placements prior to placement out-of-state is 14. There are nine youth on their second or third out-of-state placement. Three moved from one out-of-state program to another. Six came back to Kentucky, but had to be sent back out-of-state again. The average age at which these youth came into DCBS care is ten years old. Youth who came into care prior to age ten had an average of 23 placements before going out-of-state. Youth who came into care after turning ten had an average of nine placements before going out-of-state. The DCBS began tracking difficult to place youth in April 2008. These youth are so classified due to aggression, sexual issues, and low functionality. In the 12 months between April 2008 and March 2009, 142 youth were identified with an average of 44 per month. Most were age 11 or older and nearly half had an IQ under 70. Aggression was the most prevalent behavior issue and 29.6 percent were identified as having sexual issues. Twelve of the children were identified as having all three issues.

Representative Burch asked why there are no psychiatric hospitals in certain areas of the state. Secretary Miller said that in the State Health Plan there is a cap of 315 beds available and there are 196 beds that have gone through the process and are in existence and operation. The occupancy of the beds is approximately 189. Representative Burch asked if

the reason there are no psychiatric hospitals is because there is there is a staff shortage. Secretary Miller said that these are psychiatric services for children with intellectual and developmental disabilities and take a specific type of treatment. Representative Burch asked how many child psychiatrists were available outside of Jefferson and Fayette Counties. Secretary Miller said there are hospitals providing psychiatric services, but it is the combination of the psychiatrist, or the psychologist and the expertise to perform a behavioral assessment and working with the treatment plan to make sure these children get the active treatment necessary. Representative Burch said the problem is not having more services for the children, but the lack of transparency between the cabinet and the legislature. Secretary Miller stated that the cabinet did not believe the PRTFs have the qualification and ability to meet the very specific treatment need and that is why the hospital licensure category was chosen. She said that there are two PRTFs in the state that can take these children, but there are times they will not accept them because of behavioral problems. There are two or three hospitals that will take children with these diagnoses. Secretary Miller said that there may be a disagreement about the solution, but there should not be a disagreement that these children should be provided services in-state. Those dollars should be taken and used in developing the capacity to provide this very specialized active treatment in-state instead of sending them out-of-state where they are not able to stay connected to their families and communities.

Representative Wuchner asked if before the regulation was filed was there was dialog with PRTFs and hospital organizations to extend their licensure coverage to address some of the unmet needs or the level of needs these children have because there are a lot of unused beds in hospitals that could possibly be converted under a special license. Secretary Miller said that PRTFs and hospitals can provide these services under the current licensure and do not need a new licensure category.

Representative Owens asked if there is an ADD that does not have a great need for 50-bed psychiatric hospital. Secretary Miller said that there are facilities in Louisville, Lexington, and Northern Kentucky that already can take these children. She said that if someone thought they could develop the critical mass in order to support the type of clinical and direct care staff needed, they could do it at 22 beds. She said that if you are going to allow the establishment of new psychiatric hospitals to meet

this specific need, try to get some in the rural areas of the state. Once the facility care is developed, the facility can be used to educate, and mentor clinicians to help treat child placed back in community settings. She said they wanted more geographic dispersions of the services.

Senator Carroll asked when it is necessary to place a child, does the cabinet try to find a bed in Kentucky first, and if one is not found then a child is placed out-of-state. He said that the cabinet is attempting to create beds in Kentucky that are not now available in areas where they will be available and hopefully the child would not have to leave the state and separated from their family.

Nina Eisner, CEO, The Ridge Behavioral Health System, Chair of the Kentucky Hospital Psychiatric and Chemical Dependency Forum, and member of the Kentucky Hospital Association Board of Trustee, voiced concerns with the provision contained in the regulation to allow eight new psychiatric hospitals, totaling 400 new beds, to be built outside the CON process in any ADD that does not have a free-standing psychiatric hospital. The KHA recommends that the committee vote to find the regulation deficient. She stated that Kentucky's hospitals support treating Kentucky children in Kentucky. No in-state psychiatric hospital is refusing admission of children with special needs who meet their inpatient criteria for acute hospital care. KHA shares the cabinet's desire to bring Kentucky children back to Kentucky where they can be cared for and be closer to their families. However, the provision in this regulation to build new psychiatric hospitals outside of the CON process has nothing to do with bringing children back to Kentucky, and will not achieve that result. This is because the children who are in out-of-state placement are in long-term residential treatment facilities, not acute psychiatric hospital level of care. Long-term residential care is a unique level of care that serves a special population of children who no longer meet the clinical criteria to remain in acute care, but who cannot safely be discharged to their home or to a PRTF. This level of care does not exist in Kentucky because our state does not have a licensure category, with specific standards, for long-term residential treatment facilities like other states. KHA and Kentucky hospitals have repeatedly asked the cabinet to develop this level of care, modeled after programs in other states. Without these standards, Kentucky hospitals cannot simply provide long-term residential care in their acute care beds. Constructing eight new psychiatric hospitals is

the wrong policy to meet the needs of children sent out-of-state because it is inappropriate to place them in acute care beds when they need a lower level of care.

Additionally, the cabinet's plan to build new hospitals under the non-substantive review process circumvents the CON and health planning process established by the legislature. By granting nonsubstantive review, applications to build these new hospitals will be presumed needed and will not have to comply with the psychiatric hospital bed need formula in the State Health Plan. These projects will not have to explain how the facility will be staffed. The projected patient costs and charges, or how the facility will work with other providers within the health care system. If existing hospitals want to add beds, they must go through the full CON review process, and would be stopped by the bed need formula if it does not show a need for additional beds. The State Health Plan was updated this summer and no mention of the problems of out-of-state placement or the need for additional beds was ever raised by the cabinet during revision process or public hearing. Kentucky has 33 private psychiatric providers, both freestanding psychiatric hospitals and acute care hospitals with psychiatric units, and they were never consulted or offered the opportunity to work with the cabinet on a solution to this issue. In July, the cabinet published the nonsubstantive regulation for public review, but the amendment to build eight new psychiatric hospitals was added to the regulation after the public hearing was held, essentially denying the opportunity for existing psychiatric hospitals or anyone else to comment on this major policy change. The comment to amend this regulation was submitted by the state, not the public. Typically agencies do not make substantive changes to a regulation by amending it after the public hearing to add things that were never addressed in the original regulation as filed. Also, the cabinet's proposed amendment is an inappropriate use of the nonsubstantive review process. This process has only been used to relocate existing licensed beds, not to increase the total number of beds or to build new hospitals.

The age range of patients to be treated includes both children as well as young adults and, once a CON is granted, there is nothing to require that the facility's actual license be restricted. Therefore, these new facilities will impact existing psychiatric hospitals. The regulation states that the new hospitals cannot refuse admission based on the presence of certain conditions, but it does not prohibit refusal if the hospital is full.

Since no hospital can operate all of their beds on a standby basis, they will likely fill them with other children and adult patients. Therefore, the amendment does not guarantee that new beds will always be available for the targeted children and not occupied by other patients. Many of the in-state psychiatric hospital providers are part of systems which operate many of the out-of-state programs in which Kentucky youth are placed. The cabinet, not hospitals, decide when a child no longer meets acute hospital criteria and where the child will be placed. Kentucky providers want to be part of the solution. We have a passion to care for Kentucky's children in the least restrictive, most appropriate, least costly setting. Working with existing hospital and PRTF providers is the best approach to return children quickly to Kentucky, not building new psychiatric hospitals outside of the CON process.

Robert Benvenuti, Attorney and former Inspector General of the Cabinet for Health and Family Services, said that health care providers that are willing to take on the very difficult task of providing care to those children who suffer from conditions which require long-term psychiatric residential treatment deserve to operate under a statutory framework that is thoughtfully designed and directly applicable to the nature and scope of the services provided. Kentucky currently recognizes three dozen levels of licensed care, from laboratories and home health care services to acute care hospitals and psychiatric hospitals. While the acute care setting represents the highest level of care, it is not intended to be used and must not be used as a catch all level of care. Rather, the acute care setting is intended to provide a very narrow level of service essentially limited to care and treatment of a nature that would be unsafe to provide in any other setting. Placing individuals in the correct level of care is a long established concept that seeks to ensure quality care, maximize independence, and support fiscal responsibility. It is only when you have the appropriate setting operating under the appropriate regulatory standards that these goals can be consistently achieved. Regulation aimed at ensuring the health, safety, and welfare of those in need of health care services should never be evaluated or accepted under the theory that standards are interchangeable or close enough. Failure to have a regulatory scheme that provides a tailored approach ultimately sets the mechanisms in place for providers to fail and the citizens of the Commonwealth to receive substandard care. The services offered in a facility must

match the regulatory framework within which that facility operates. Operating non-acute programs under an acute care regulation will lead to confusion both for the provider as well as for the regulatory authority. It will cause uncertainty relative to the appropriateness of the underlying reimbursement methodology. Medicare and Medicaid program rules use four criteria to determine the medical necessity of health care items and services. First, the treatment should be consistent with the symptoms or diagnosis of the illness or injury in question. Second, the treatment should be necessary and consistent with generally accepted professional medical standards, no experimental or investigational. Third, the treatment should not be furnished primarily for the convenience of the patient, the attending physician, or another physician or supplier. Fourth, the treatment should be furnished at the most appropriate level that can be provided safely and effectively to the patient. The operational gap between the acute care psychiatric hospital services and long-term psychiatric residential treatment is simply too wide a divide to ensure the delivery of services that meets the three critical components of quality, compliance, and cost effectiveness. Many other states have created additional licensure categories that allow them to appropriately care for children that require long-term residential treatment and it may be determined that Kentucky should need to do the same. The creation of a new category is neither difficult nor complex. The stakeholders all agree that the creation of a new level of care is in the best interest of the Commonwealth. The stakeholders have a sincere and good faith interest to design the category with reasonable deadlines placed on the process by leadership to avoid needless delay.

Senator Carroll said that his understanding from Secretary Miller's testimony is that presently a provider has the legal authority to provide treatment at a residential level after acute care has no longer been determined if that a provider chooses to do so. But because some providers do not want to provide these services, children have to be placed in out-of-state facilities. Senator Carroll asked whether a proposal to provide services for the children had been made with the cabinet, and if so, when. Ms. Eisner stated that they had conversations with Secretary Miller and prior to that with the Commissioner of the Department for Medicaid Services. Ms. Eisner stated there are many hospitals that have CON beds that could be used, but there is no licensure category exists for these specific children. Senator

Carroll stated that the cabinet who is the regulatory agency has said that hospitals do have the legal authority to treat these children. Mr. Benvenuti stated that the regulation is a CON regulation and is based on what licensure category reflects what goes on in the facility. If a licensure category does not reflect what goes on in the facility, there is no way a facility can obtain and maintain compliance. Senator Carroll asked if a proposal had ever been sent to the cabinet to create this licensing authority. Mr. Benvenuti said no, but he would like to be a part of it. Senator Carroll said that he should if they want to treat patients in-state. Senator Carroll said that providers have had plenty of opportunity to provide the services, but have not done so. Nor have they asked the cabinet to make the necessary changes to allow them to provide these services. Senator Carroll asked if providers were willing to propose a change in the regulations to authorize providers to provide residential care for these children that are being placed out-of-state at the same reimbursement rate. Ms. Eisner said that providers will operate residential beds if there is a licensure category providers can utilize to provide these services, and they have had this conversation with Secretary Miller. Senator Carroll asked if they had asked for this in writing, and she said that Mike Rust, President, Kentucky Hospital Association, has sent a letter to Secretary Miller. Senator Carroll asked that a copy of the letter be provided to the members.

Representative Meeks asked that Secretary Miller come back and update the committee on the progress being made with providers.

Representative Burch asked the providers to meet with Secretary Miller by November 25 and decide what is preventing providers from providing the services and come up with a plan on how these services can be provided. Senator Buford said that it is too late to file an application and have it go through the CON process in time. A motion to pass 900 KAR 6:075 was made by Representative Palumbo, seconded by Senator Buford. With a vote of 6 yes votes, 14 no votes, and 1 pass vote, the motion failed. A motion to find 900 KAR 6:075 deficient was made by Representative Owens, seconded by Senator Harper Angel, and approved by voice vote.

A presentation on the innovation for Kentucky's uninsured by given by L. Allen Dobson, Jr., MD, FAAFP, Vice President, Carolinas Healthcare System, North Carolina Department of Health and Human Services. Dr. Dobson stated that North Carolina is mainly a rural state that is not well suited for traditional

managed care. The Successful Carolina Access program linked recipients with primary care physicians in all 100 counties. Issues identified to help improve North Carolina's healthcare system were: (1) no real care coordination system at the local level; (2) providers felt limited in their ability to manage care in the current system and needed help; (3) local public health departments and area mental health services were not coordinated with the medical care system; (4) duplication of services at the local level; and (5) state silo funding. In 1999, pilot programs were started that joined community providers such as physicians, hospitals, health departments, and departments of social services, particularly in rural areas, into a healthcare system that North Carolina could improve care. A primary care medical home is designated and community networks were created that assumed responsibility for managing recipient care. In 2009, there are 15 networks with more than 4,500 primary care physicians and over 934,000 Medicaid enrollees and 105,000 SCHIP recipients. The North Carolina General Assembly has mandated the inclusion of the aged, blind, disabled, and SCHIP. The program focuses improving care, improving coordination, and saving the state money. He said it is a program about being managed, not regulated. It is a clinical program that provides good care and costs less money. He said that building and organizing the primary care system is the foundation of the program. The success of the Community Care of North Carolina is the investment in a local virtual health system. The public-private partnership changes the relationship between payor and provider into a shared responsibility for the program. Innovation comes from engaging those who actually provide the care. Physician leadership is a must.

Representative DeWeese asked how much of the system is managed care. Dr. Dobson stated that in North Carolina there is very little managed care. The Medicaid agency in North Carolina is the managed care agency versus them having a subcontractor, although the principles of this work very well in a managed care system.

An update on the Boni Bill implementation issues was given by Sheila Patrick, Social Service Clinician, Menifee County, Barbara Cowan, Social Service Worker, Kentucky County, Patricia Pregliasco, Social Service Clinician, Jefferson County. Ms. Patrick stated that she has worked the Commonwealth for 15 ½ years as a Social Services Clinician. She said that after the passage of the Boni bill, there were supposed to be immediate changes for work-

ers in the field and state offices, but not a lot has changed. A letter from Sandy Travis, daughter of Boni Frederick, stated that the Boni bill was a great step forward to protect our social workers, and she thanks everyone who supported it. The funding and the resources invested in worker safety are important, but these investments have fallen short of the promise. Social workers and family service workers across the Commonwealth know the risks and how to reduce them and want to be a part of the solution to their safety concerns. They have learned these lessons from experience and can identify the problems and solutions more clearly than upper or middle management. We do not need any more lessons in tragedy, that devastating lesson was learned in 2006 with the death of my mother.

Ms. Patrick stated that from 2006 to 2008, while child protection service cases went up there was a decline in social service workers I and II and Social Service Clinicians I and II. During the same timeframe, food stamp and K-TAP cases rose, but Family Support Specialists I, II, and III decreased. She said that a lot of the Protection and Permanency workers do have access to criminal background checks, but Family Support Specialists do not and having access to criminal history would be helpful to have when someone comes in for assistance. The incident reporting and tracking system still remains flawed. State-issued cell phones do not work in many areas and laptops cannot access needed databases due to confidentiality in the wireless internet. Workers around the state report that their buildings are no safer now than two years ago. In 2008, there were 638 reports of critical incidents such as attacks, threats, theft, intimidation, verbal abuse, and sexual harassment against workers. As of 2008, despite the bill's mandate to hire more frontline staff, there were nearly 400 vacancies among frontline titles. The Council on Accreditation recommends that caseloads not exceed 18 children per worker. The Child Welfare League of America recommends a maximum of 15 per worker. Kentucky's current limit for Protection and Permanency is 25 and there is no limit for Family Support Workers. Workers cannot spend enough time with families and are forced to make rushed judgments. Home visits cannot be performed in pairs which causes danger signs to be overlooked. Families' reunification may be delayed unnecessarily and foster care placements can get disrupted.

Ms. Cowan said that she has worked for the Cabinet for Health and Family Services for a little over

two years as an investigative worker. As front-line workers in child protection, our job duties consist of constant contact via home visits with families and providing services to these families. Unfortunately, the majority of the families is involved with drug use and trafficking, have histories of violent crimes and domestic violence, and have severe mental health issues. She asked how can workers ensure a child's safety if they cannot ensure their own safety.

Representative Burch stated that his sister was a social worker for a number of years and endured multiple injuries. He said that the job is very dangerous.

Ms. Pregliasco stated that she has been a social worker for 12 years. She said that she and others have been cautioned about coming to testify before the committee about their safety. Nearly every day workers face situation where their safety is put at risk. Routinely workers enter neighborhoods and homes that the police do not go to alone in order to do their jobs. Understaffing is a major problem plaguing the workforce. Workers are being crushed due to the increasing intake and chronic understaffing. The past summer, the Jefferson Region put in place an Overflow Plan that would assign CPS investigations throughout the region outside of the usual investigative teams. Of the open CPS investigations during that time, nearly 50 percent were past due. These CPS investigations went to workers who had no experience with investigations and had no clear supervision or follow-up. These cases put the novice worker at risk, and also the family whose case was handled by the novice worker. Workers are treated like the enemy for even advocating for their safety. The Boni Bill needs to be adequately funded to ensure that another tragedy such as Boni Frederick never happens again.

Representative Burch asked who told them not to testify before the committee. Ms. Pregliasco said that they were not told not to come but were cautioned about what was said. She said that the cabinet nor the administration want bad press, and anything that is said puts the workers at risk of losing their jobs. Ms. Pregliasco stated that workers have been asked to sign a policy on media communications that states they are not to speak to the media or go to the media for any reason. A confidential agreement is signed on all cases.

Representative Palumbo stated that the General Assembly should have fully funded the legislation and given the full \$6 million not just \$2 million.

Representative Moore said that every year the legislature passes a number of laws declaring some-

thing to be necessary and important enough to fund, but if you look at the average budget, there are hundreds of places that the legislature violates its own law and does not fund at the appropriate level. In this particular case, we have heard this testimony as long as there has been emphasis for a Boni bill, and the support for it is never going to wane. He questioned why the cabinet was not present to explain why individual workers are not being appropriately trained because that is not a budgetary limitation. There are people whose job and responsibility it is to ensure that workers are trained, and if that is not being done in violation of all these regulations that we pass at great expense and deliberation, he wanted to know why not. Representative Moore made a request that the cabinet be invited to come back and explain why they are not following existing regulations when we put so much time and effort into passing new ones.

Representative Meeks encouraged committee members to meet with social workers in their counties. He said that the legislators were there representing the workers and it is our responsibility to make sure they have tools they need to do the job.

Representative Carney asked if there are evaluation processes that could protect workers that speak out on behalf of their concerns. Ms. Pregliasco said yes. Ms. Cowan said that the evaluations are pretty general, and there is always a way to justify firing someone.

Ms. Craig said that she said that she is a case manager in the Family Support office in Daviess County. She said that she works with K-TAP and food stamp recipients. Applications can range from two to five per day and the highest can be ten. The applications have to be squeezed in between scheduled appointments, walk-ins, phone calls and daily, weekly, semi-monthly, and monthly deadlines. In addition, written reports are necessary to monitor statistics. Timeframes to complete a case is ten to thirty days, and with the high caseloads and the increased volume of applicants, more clients are waiting the full thirty days and sometimes beyond for their benefits. The main concern is understaffing and high caseloads. Due to the high numbers, workers are unable to serve the poorest and most vulnerable citizens of Kentucky as quickly as their needs arise. Caseloads are having a negative effect on employee retention. It takes at least a year to get a true grasp of a program, and it takes a compassionate and empathetic employee to continue this work with no support from lawmakers and the cabinet. She said that she has had to

prioritize her work, and some reports were half completed and filing of case information put aside. This caused the work to double up later when she tried to piece things together. She cares about meeting her clients' basic needs so they can focus on the goal of self-sufficiency. She is also concerned about the safety of the agency's employees and the clients served due to the lack of security to control the aggression of distraught clients.

Ms. Patrick stated that some of the solutions are to improve training programs, improve the intake process, establish regular labor management meetings, examine community partnerships and home visit practices, improve office environments, and reduce caseloads.

A presentation on the colon cancer screening program was given by Whitney Jones, MD, Clinical Professor of Medicine, University of Louisville, Founder, Colon Cancer Prevention Project; and Thomas C. Tucker, MPH, PhD, Director, Kentucky Cancer Registry, Associate Director, Cancer Prevention & Control, Markey Cancer Center, University of Kentucky College of Public Health. Dr. Tucker stated that data from the Centers for Disease Control and Prevention, U.S. Cancer Statistics 2005, report compared to all of the other states, Kentucky has the second highest colorectal cancer incidence rate and the highest colorectal cancer mortality rate. Data from the 2006 Kentucky Cancer Registry reports that approximately 2,500 new cases of colorectal cancer are diagnosed each year in Kentucky, that approximately 900 Kentuckians will die each year, that colorectal cancer accounts for 12 percent of all the cancer cases diagnosed in Kentucky each year, and that colorectal cancer accounts for ten percent of all the cancer deaths in Kentucky each year. If the age eligible population were effectively screened for colorectal cancer it would: (1) reduce the incidence of the disease by finding precancerous disease and removing it before it becomes cancer; (2) reduce mortality from the disease by finding it at an early stage when our treatments are most effective; and (3) reduce the cost of treating colorectal cancer by both preventing the disease from occurring and finding it early when the cost of treating the disease is less expensive.

Dr. Jones said that the Kentucky Colon Cancer Screening Program (KCCSP) has many committed stakeholders and partners. KRS 214.540-544 mandates the Kentucky Colon Cancer Screening Program Advisory Committee to develop and implement statewide public awareness campaign with the Kentucky Department for Public Health and the Ken-

tucky Cancer Program, create a state manual for a scalable screening program for the uninsured, and provide an annual report on the implementation and outcomes. Funding will make this program fully operational. All Kentuckians age 50 and older should get regular colon cancer checks, because early colon cancer may have no symptoms. Ninety percent of colon cancers may be prevented or cured through proper screening.

A presentation on childhood obesity and physical activity in schools was given by Representative Addia Wuchner, RN, Former Hospital Administrator, Corporate Relations and Strategic Planning, Cincinnati Health Alliance, Director; Wendy Carlin, M.S., R.D., L.D., Program Coordinator, Obesity Prevention Program, Cabinet for Health and Family Services; Baretta R. Casey, MD, MPH, FAAFP, Director, University of Kentucky Center for Excellence in Rural health, Professor, University of Kentucky College of Medicine, Vice Chair, Department of Family and Community Medicine, East Kentucky Campus, University of Kentucky North Fork Valley Community Health Center; and Tony Chang, Kentucky Director of Advocacy, American Health Association, Great Rivers Affiliate. Obesity in Kentucky cost lives, quality of life, and prosperity. Two-thirds of adult Kentuckians are overweight or obese. Kentucky has the seventh highest rate of adult obesity with 80 percent of Kentucky males overweight or obese. Approximately 32 percent of Kentucky children are overweight or obese. Children are now experiencing an epidemic of Type 2 diabetes and diabetes goes hand in hand with heart disease. Researchers report a 200 percent increase in the number of children hospitalized for Type 2 diabetes. Kentucky has the sixth highest heart disease mortality rate. Heart disease is the number one killer in every single Kentucky county. Kentucky ranks seventh in the nation for the number of adults diagnosed with diabetes, and seventh for hypertension. A study published in the Archives of Internal Medicine found that overweight and obesity may independently increase the risk of heart disease. In 2007, the estimated direct and indirect costs of cardiovascular disease in the United States were \$431.8 billion. In 2004, Kentucky hospital charges for cardiovascular disease diagnoses were \$2 billion. In 2003, Kentucky estimated medical expenditures for obesity was \$1 billion. In 2002, Kentucky estimated direct and indirect costs for diabetes were nearly \$3 billion.

Kentucky's economic performance is closely tied to its ability to maintain a healthy workforce. Today's insurance actuaries are fore-

casting healthcare costs based on the current trends in adult, adolescent, and children who are overweight and obese. Kentucky has the fourth highest rate of children overweight in the nation. Approximately 32 percent of children in Kentucky are at risk of becoming overweight or obese. Eighteen percent of young children who participate in the Women, Infants, and Children (WIC) program are overweight and an additional 18 percent of participants are at risk of becoming overweight. An overweight child has an increased risk for hypertension, high cholesterol, Type 2 diabetes, asthma, and psychosocial issues. Children and adolescents should engage in 60 minutes of physical activity on most, but preferably all days of the week. Nationally, 54 percent of high school students are enrolled in physical education. Currently there are no requirements for physical activity or physical education in Kentucky public elementary schools. Though most elementary schools offer both, some do not and there is a great deal of variation in the amount and quality from school to school, elementary schools are allowed to use up to 30 minutes of curriculum time per day for physical activity. Some Kentucky teachers take recess away from students as a form of punishment. Only half a credit is required for high school graduation.

A child spends six to eight hours a day, five days a week, and nine and a half months a year at school. School is the ideal setting for helping to systematically address the issue and provides opportunities to engage in and reinforce healthy behaviors. Schools have a vested interest. Kids who are more physically active tend to perform better academically. Kids who are physically fit are likely to have stronger academic performance. Activity breaks can improve cognitive performance and classroom behavior. Increasing physical activity in schools is the number one priority from the 2004 Kentucky Obesity forums attended by 1,300 people from across the state. The 2008 Partnership for a Fit Kentucky survey showed that 84 percent of the respondents ranked this issue as being among the top four policies for combating obesity. In 2008, 23 states considered physical education or physical activity legislation or regulations.

Ms. Carlin stated that the Department for Public Health works with the Partnership for a Fit Kentucky who is a public-private partnership whose mission is to support policy and environmental changes that promote healthy eating and active lifestyles. In December 2008, a survey was conducted and completed with 885 people in 89 percent of Kentucky counties. Those who

participated were from the public health, universities, medical profession, schools, non-profit business, private business, government, and other. Eighty-four percent ranked physical activity in schools in the top four most important policies to combat obesity in their community. Of the 84 percent, 53 percent ranked physical activity in schools number one. Research shows conclusively that physical activity does improve on-task behavior, concentration, memory, comprehension, reading, and math skills, and does not have a negative impact on academics. Kentucky is the second most sedentary state in the nation. Eight out of the ten states with the highest rates of overweight and obese children are in the South.

A presentation on services for seniors was given by Jim Kimbrough, Issue Specialist, Long Term Care, American Association of Retired Persons (AARP) Kentucky; Molly Dobson, Contracts and Budget Planner, Kentuckiana Regional Planning and Development Agency (KIPDA), Louisville; and Mary Crowley-Schmidt, Assistant Director, Department for Human Services Area Agency on Aging, Bluegrass Area Development District, Lexington. In 2000, 16.65 percent of Kentucky's population was over the age of 60. By 2020 that percentage is expected to grow to 24 percent. Of that population, the fastest growing segment is those 85 years of age or older. Kentucky ranks fourth in the nation for individuals over 60 with limitations. In January 2006, a baby boomer turned 60 every seven and a half seconds. There are three categories of services provided by the Area Agencies on Aging (AAAs): (1) disease prevention and health promotion programs administered through the senior centers and other providers; (2) access to information and resources; and (3) programs that foster independence or are nursing home diversionary in nature. If funding for programs remains flat, not even considering cuts, percentages of individuals served will have to be reduced as the numbers continue to grow rapidly. The AAAs are adept at forming partnerships and collaboration to leverage every dollar. Local governments provide support, but the numbers of people not served and underserved are growing so rapidly that they outnumber those being adequately served. The services provided are not a luxury, but rather a basic need. Providing seniors with services they need to age in place is truly more cost effective and desirable than the institutional alternative.

Ms. Dobson stated that total expenditure for senior services for last fiscal year from the Department

Aging and Independent Living in the Cabinet for Health and Family Services show a total of \$18 million in federal funds; \$27.3 million in state funds; and \$9.9 million in local contributions. A total of 784,000 seniors were served statewide. The department sustained a \$3.1 million budget cut in state funds, and at the end of last fiscal year, there was a wait list of 20,000 individuals waiting for services.

Mr. Kimbrough stated a 2007 AARP survey conducted shows 91 percent of respondents in Kentucky age 55 and older want to receive services and remain in their home as an alternative to institutionalization. Kentucky ranks 37th in the nation on how money is spent in Medicaid on institutions and in-home services, with the highest amount spent on institutions. According data from the Centers for Medicare and Medicaid Services, in 2007, out of \$1 billion, Kentucky spent 81 percent on institutional care for elders and people with non-intellectual disabilities. Other states have put more Medicaid dollars into home and community based services. The hope is that as the General Assembly starts to adopt the budget for the next biennial, language will be looked at that will strongly encourage the cabinet to do more in a formal and deliberative manner to move to doing home and community based services for our elders and our individuals with disabilities.

There being no further business, a motion to adjourn at 4:25 p.m. was made by Senator Buford, seconded by Representative Brinkman, and approved by voice vote.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Minutes of the 5th Meeting of the 2009 Interim November 18, 2009

The 5th meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 18, 2009, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Julie Denton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, Joey Pendleton, Katie Kratz Stine, and Jack Westwood; Representatives Jim Glenn, Brent Housman, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, and Addia Wuchner.

Guests: Marty White and Bill Doll for the Kentucky Medical Association; Don Putnam for the Parent Group of Oakwood; and Jan Gould for the Kentucky Retail Federation.

LRC Staff: DeeAnn Mansfield, CSA; Miriam Fordham, Ben Payne, Jonathan Scott, Amanda Dunn, and Cindy Smith.

The minutes of the October 21, 2009 meeting were approved without objection.

The first item on the agenda was a Legislative Review of the FFY 2010 Community Mental Health Services Block Grant. There was a motion by Representative Owens, seconded by Senator Carroll and adopted by voice vote to approve the FFY 2010 Community Mental Health Services Block Grant.

The next item on the agenda was a Legislative Review of the SFY 2010 Substance Abuse Prevention and Treatment Block Grant. There was a motion by Representative Owens, seconded by Senator Carroll, and adopted by voice vote to approve the SFY 2010 Substance Abuse Prevention and Treatment Block Grant.

The next item on the agenda was a presentation regarding a model of health care delivery by Kenneth L. Brigham, MD, Associate Vice President, Health Affairs, Director, Predictive Health Institute, Vice Chair for Research, Department of Medicine, Director, CTRLung, Associate Director for Research, McKelvey Lung Transplant Center. Dr. Brigham said the Center for Health Discovery and Well Being has a new approach to sustaining health. They have a unique environment (non-clinical atmosphere, customer oriented, high tech – high touch), a translational interaction (research findings & participant biomarkers) and have a “predictive health partner” concept. In regard to the health partner concept, Dr. Brigham said that time constraints in usual medical care settings do not permit adequate education, motivation, and other interactions for optimal outcomes. Health coaches have improved management of diabetes and hypertension. Wellness coaches help healthy people improve weight, fitness and general health. “Health partners” partner with participants to optimize healthy lifestyle choices and behaviors. Health partners do not deliver medical care. They conduct surveys and complete more than 50 different laboratory tests for known biomarkers, as well as research biomarkers. They also complete health assessment reports, which are a compilation of results from assessments, which include instructions about how to interpret them. In regard to Health Action Planning, Dr. Brigham said they collaborate with their predictive health partner, maintain participant empowerment & engagement in goal setting and discuss what this means for the participant. Dr. Brigham also shared data with the committee relative to age, body

mass index, blood pressure, vitamin D concentrations, and heart attack risks of the participants.

Senator Denton asked about the deficiency of vitamin D in some participants. Dr. Brigham said it could be due to dietary data, the use of sunscreen, and staying out of the sun completely.

Senator Denton asked if the cost of the participant’s health care is looked at intervals of 6 months or one year down the road. Dr. Brigham said they are looking at relationships between risk status and data. They are also viewing a lot of epidemiologic data.

Senator Denton asked about the cost per year per participant. Dr. Brigham said the cost is \$2,500 per year, but that cost is subsidized by the university.

Representative Glenn asked what other sources of vitamin D are. Dr. Brigham said good sources are found in green, leafy vegetables. He also noted that obesity risks are associated with a decrease in vitamin D.

Representative Glenn asked if other states are using this program. Dr. Brigham said there are no other programs exactly like their program.

Senator Stine asked if this program is changing how things are taught in medical school and if there is a holistic approach being used. Dr. Brigham said to some degree it is changing and includes more attention to the whole person and to health and wellness.

Senator Stine asked if insurance companies or employers are buying into paying for this concept. Dr. Brigham said they are not yet, but there are a couple looking into it as a possible pilot project.

Representative Lee noted that we are a nation that treats diseases instead of preventing them. He wanted to know how to motivate people who are in entitlement programs, such as Medicaid, to be part of a pilot project, that will stay well, and if incentives will be offered. He noted that people’s lifestyles need to be changed and there needs to be a focus on wellness and prevention. Dr. Brigham said that there has to be an individual component, with focus on how individuals behave. If there is a culture change, behaviors will change.

Representative Wuchner noted that by 2018, 50 percent of Kentuckians will be overweight. She added that adding physical activity to every child’s day in school could make these statistics change.

Representative Owens asked when there will be data to indicate a cost savings. Dr. Brigham said data will not be available for about 3 years.

Senator Pendleton added that health and wellness of staff in doctor’s offices and hospitals would be a good starting point, as well as starting with kids in schools.

Representative Moore agreed that there is a need for change and noted that people are lacking the will to change. Dr. Brigham said that more information is needed in order to focus on the things that work.

Representative Meeks asked how they got the information for the study. Dr. Brigham said they are collecting data on socio-economic status, dietary history, environment, among other things.

Representative Housman entertained a thought about a study group of younger people, since usually by the time children reach the age of 18, bad habits are already in place. Dr. Brigham commented that there is currently a study being done of college freshman at Emory University and he noted that starting young is the key.

Representative Housman asked for a presentation from Kentucky’s higher education universities on what they are doing, as well as what is being done at the pediatric level in Kentucky. Senator Denton said that Kentucky schools have testified before and they will be back again. She noted that Dr. Brigham was asked to testify because the wellness program is so different and there is not another program of its kind anywhere.

The last item on the agenda was a presentation on the Underwood and Lee Clinic and Brigham ICF/MR Group Homes by Donovan Fornwalt, Director of Governmental Affairs, Council on Mental Retardation; Carol Mueller, President, Central State Bingham ICF/MR Family Group; Matt Holder, MD, MBA, CEO, Underwood and Lee Clinic; and Henry Hood, DMD, Director of Clinics and Research, Underwood and Lee Clinic. Mr. Fornwalt made introductory comments for the panel. Ms. Mueller updated the committee on the state of the Central State Bingham Center Family Group. She noted that next spring they will be breaking ground for six new four-bedroom homes and a comprehensive clinic. She discussed changes that have been happening at the Bingham Center over the past ten years, the change in employees, as well as the change in resident population. She said the Brigham Center is a violent, volatile place where staff and resident injuries are frequent. She noted that due to the circumstances at the Bingham Center, the Family Group has lost faith in state operation. She stressed that they would like support for a public-private partnership for the new Brigham relocation project.

Next, Dr. Hood and Dr. Holder presented information on the Un-

derwood and Lee Clinic. They said The Underwood and Lee Clinic is a teaching clinic delivering comprehensive dental services to approximately nine-hundred patients with neurodevelopment disorders and intellectual disabilities, from over forty-five Kentucky counties. Many of their patients travel great distances to come to their clinic. Some families travel as much as five hours each way to bring their loved ones to them and they are grateful for the services provided to them. Dental care has been identified all across the country as the single greatest unmet need for Americans with intellectual disabilities. The quantity of oral disease treatment at the Underwood and Lee Clinic is significant and the severity of that disease is significant, as well. The access problem for people with neurodevelopment disorders is a teaching problem.

Survey results concluded that 51 percent of dental graduates and 81 percent of medical graduates have not treated a patient with a neurodevelopment disorder; and 75 percent admit feeling inadequately trained to do so. The clinical care challenges are formidable and they are working hard to try to solve this teaching problem. They noted that they have a very well-developed predoctoral and postdoctoral teaching component at the Underwood and Lee Clinic. All senior dental students are required to complete a sixteen-hour rotation through our clinic during their fourth year of training. Additionally, all thirty-five dental hygiene students are required to complete a sixteen-hour rotation at the clinic, as well.

They are also providing clinicians and teachers from anywhere in the United States an opportunity to enroll in their new Developmental Dentistry Mini-Residency program. They have focused research efforts on solving the clinical problems that are the obstacles to the delivery of the standard of care to our patients.

In regard to their research, it has been published in book chapters and monographs in the United States, Germany, Great Britain and Japan. Their research program won seven research awards in its first five years in existence. They are currently developing three separate research manuscripts examining everything from early detection of gastroesophageal reflux disease in this population to the Medicaid costs associated with untreated oral disease.

The Underwood and Lee Clinic saves the Commonwealth money (greater than 100 percent annual return on investment) with decreased utilization of emergency services, decreased polypharmacy (over-medication), decreased end-stage dental care costs, decreased operating room

costs (\$1.5 million/year), and providing services to Bingham residents, resulting in 25 percent savings.

Representative Lee noted that the work Drs. Holder and Hood do is very critical. He said if the economy had not been so bad, there would be four clinics by now. He hopes to be able to continue to maintain the system everyone has worked so hard to achieve.

Dr. Hood thanked everyone who had worked so hard to help them get where they are today. He said that it takes a team effort and that people can get better when the health care team works together and with their families.

Representative Lee asked everyone to remember that these individuals deserved to live in residential settings and supports need to be in their counties so they do not have to drive so many hours to get the medical attention that they need.

The meeting was adjourned at 3:15 p.m.

**INTERIM JOINT COMMITTEE
ON HEALTH AND WELFARE
Subcommittee on Health Issues and
Aging
Minutes of the 2nd Meeting
of the 2009 Interim
October 21, 2009**

The 2nd meeting of the Subcommittee on Health Issues and Aging of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 21, 2009, at 11:00 AM, in Room 131 of the Capitol Annex. Representative Mary Lou Marzian, Co-Chair, called the meeting to order at 11:06 AM, and the secretary called the roll.

Present were:

Members: Representative Mary Lou Marzian, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, and Jack Westwood; Representatives John "Bam" Carney, Ruth Ann Palumbo, and Addia Wuchner.

Guests: Lisa Allgood, Executive Director, National Kidney Foundation of Kentucky; Johann Herberth, MD, PhD, MPH, Chief, Nephrology Service, Veterans' Administration Medical Center, Lexington; Andreas Price, Kidney Transplant Recipient; Theresa A. Renn, RN, CDE, Director, Kentucky Diabetes Prevention and Control Program, Cabinet for Health and Family Services; Greg Lawther, Advocacy Chair, Kentucky Diabetes Network; Baretta R. Casey, M.D., MPH, FAAFP, Chair, Kentucky Diabetes Research Board, Director, University of Kentucky Center for Excellence in Rural Health, Professor, University of Kentucky College of Medicine, Vice Chair, Department of Family and Community Medicine, East Kentucky Campus, University of Kentucky North Fork Valley Com-

munity Health Center; Lisbon Hardy, American Diabetes Association; Kim DeCoste, RN, MSN, CDE, American Association of Diabetes Educators (AADE), Director, Diabetes Center of Excellence, Madison County; Gary L. Kupchinsky, Department for Public Health, Cabinet for Health and Family Services; Clarissa Cook and Abby Johnston, National Kidney Foundation of Kentucky; and Gene Huff, CHI.

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

The subcommittee met and heard a presentation by Ms. Lisa Allgood, Dr. Johann Herberth, and Mr. Andreas Price on a proposed kidney disease task force to study and address chronic kidney disease. Kidney disease strikes one in nine Kentuckians. The loss of kidney function is associated with heart disease, stroke, circulatory problems, and bone disease. Diagnosing chronic kidney disease, or CKD, at an early stage can delay the onset of end stage renal disease. Mr. Price, a transplant recipient, stressed the importance of education about the disease.

Representative Marzian stated that kidney disease is a silent disease. Everyone needs periodic screening in order to catch the disease in its early stages. It is very important for someone to stay off dialysis as long as possible.

Senator Carroll asked if heritability is a concern about kidney disease. Dr. Herberth stated that approximately five percent of patients have a medical history that could lead to kidney disease such as heart disease, diabetes, and high blood pressure. Senator Carroll asked where Kentucky ranked with kidney disease. Dr. Herberth stated that it matches smoking rates.

A motion to approve the minutes of the August 12, 2009, meeting was made by Senator Carroll, seconded by Representative Wuchner, and approved by voice vote.

Senator Westwood asked about proteinuria. Dr. Herberth stated that if certain diseases are diagnosed early, it prevents some patients from having to have dialysis. Senator Westwood asked if the Cabinet for Health and Family Services required this screening. Senator Westwood asked Mr. Price if he was still on dialysis. Mr. Price said he was not. Transplantation is not a cure. He takes drugs to make his body not reject his new kidney. The best case scenario is to get a healthy kidney; take the anti-rejection drugs so your body will not reject the kidney; and be able to keep the kidney for as long as possible. Dr. Herberth stated there are approximately 70,000 patients on dialysis in the United States and only 24,000 renal transplants performed annually.

Living donations are becoming more normal because donations have not increased. Dr. Herberth stated that anti-rejection medications are toxic to the kidney and a good kidney will only last approximately 13 years.

Representative Marzian stated that because kidney disease is a chronic disease, it makes trying to remain employed very difficult. Dialysis requires a person to come to the clinic three times a week for three hours per session. Employers or potential employers do not see them as dependable employees. She said there is a four to six week recovery time for an organ transplant, and one way to allow someone to donate an organ would be to allow time off from work with pay.

Representative Carney asked about the recommended age to start screening. Dr. Herberth stated that the kidneys have developed by the time a baby is born. There are no recommended guidelines at the present. A doctor needs to listen to the patient and try to discover the at risk patients. Representative Carney asked if there were a way to better encourage more people to donate. Ms. Allgood said that there are 104,000 people on the waiting list for organ transplants and over 80,000 are waiting for a kidney transplant. Approximately 800 Kentuckians are waiting for an organ transplant.

The subcommittee next heard a presentation on diabetes in Kentucky from Ms. Theresa Renn, Mr. Greg Lawther, and Dr. Baretta Casey. Diabetes is the fifth leading cause of death by disease in the state with an estimated 14.3 percent of adults living with diabetes, both diagnosed and undiagnosed. In 2002, the estimated costs of treating the disease were \$2.9 billion per year.

The mission of the Kentucky Diabetes Prevention and Control Program is to reduce the number of new cases of diabetes and its complications. The program is funded with state and federal funds and works through a number of public and private partners. The program's newest initiative is the Diabetes Centers of Excellence launched with funding provided by the General Assembly. The goal of the program is to improve outcomes and decrease costs among adult Medicaid recipients with diabetes. The centers are located in six sites and cover 30 counties. The centers have shown positive outcomes with significant improvements in meeting standards of care. The Kentucky Diabetes Network is a statewide non-profit working on diabetes issues.

Dr. Casey reported on the activities of the Kentucky Diabetes Research Board which was established by the legislature in 2004. The goal of the board is to establish Kentucky as

an authority on the advancement of diabetes research by funding research on diabetes. The board will complete reviews of the funded projects at the end of the two-year grant cycle. The board's annual funding of \$200,000 was cut for 2008. The funds have been depleted and no further grants can be made. Without restoration of funding, the research board will dissolve in 2010.

The subcommittee also heard testimony from Ms. Lisbon Hardy and Ms. Kim DeCoste. Ms. Hardy stressed the importance of appropriate care for those living with the disease, particularly in school settings. Ms. DeCoste explained that diabetes educators specialize in training diabetes patients in self care behavior changes.

Representative Marzian asked if other states license diabetes educators, and Ms. DeCoste said no.

Senator Harper Angel stated that she would file legislation relating to menu labeling and Representative Wuchner stated that she, along with Representative Burch, would file legislation relating to physical activity. They hoped that both pieces of legislation would give Kentuckians more knowledge and control over their health decisions.

There being no further business, a motion to adjourn at 12:20 p.m. was made by Representative Carney, seconded by Representative Wuchner, and adopted by voice vote.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Subcommittee on Health Issues and Aging

Minutes of the 3rd Meeting of the 2009 Interim November 18, 2009

The 3rd meeting of the Subcommittee on Health Issues and Aging of the Interim Joint Committee on Health and Welfare was held on Wednesday, November 18, 2009, at 11:00 AM, in Room 129 of the Capitol Annex. Representative Mary Lou Marzian, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Mary Lou Marzian, Co-Chair; Senators Julian M. Carroll, and Jack Westwood; and Representatives Bob M. DeWeese.

LRC Staff: Miriam Fordham, Jonathan Scott, Amanda Dunn, and Cindy Smith.

The subcommittee heard testimony on Cardiovascular Disease in Kentucky by Dr. Kerri Rimmel, Co-Chair, Kentucky Heart Disease and Stroke Task Force, Associate Dean for Clinical Development and Regionalization, Assistant Professor of Neu-

rology, and Director, Stroke Program, University of Louisville and Dr. Patrick Withrow, Co-Chair, Kentucky Heart Disease and Stroke Task Force, Vice President and Chief Medical Officer, Heart Center, Western Baptist Hospital, and Tonya Chang, for the American Heart Association. They reported that cardiovascular disease, or CVD, is common, costly, deadly, and poses a major public health problem. Heart disease ranks as the leading killer in Kentucky while stroke ranks as the third leading killer of Kentuckians.

The statistics on heart disease and stroke in the state show that Kentucky has a high prevalence of CVD risk factors including smoking, high cholesterol, high blood pressure, overweight and obesity, diabetes, poor diet, and low levels of physical activity. Kentucky's death rate from cardiovascular disease, heart disease, and stroke is higher than the national average. Over \$2 billion was billed in hospital charges for CVD, \$2 billion for heart disease, and \$300 million for stroke.

There are not many certified primary stroke centers in Kentucky. A primary stroke center is a hospital that can see and provide care to stroke patients. The goal is have more primary centers certified in the state to improve the level of care for stroke victims.

Kentucky's Heart Disease and Stroke Prevention Program works to prevent and control heart disease with a funding grant provided by the Centers for Disease Control and Prevention (CDC). Among the program's most recent accomplishments is the formation of a Heart Disease and Stroke Prevention Task Force. The task force has launched a number of initiatives since it was established, including garnering an endorsement by the Kentucky Board of Emergency Medical Services (EMS) to develop statewide stroke protocols and standardized training for EMS professionals, establishing the Kentucky Stroke Registry and the Stroke Encounter Quality Improvement Project, and receiving Tele-Stroke Grant award from the CDC.

The program has identified two policy goals for the upcoming legislative session. The prevention program would like to apply for the next level of CDC funding grant which would provide \$1 million in funding for prevention efforts but requires a one to five state match. Kentucky needs \$200,000 in state funds to apply. Stakeholders would like to have Kentucky's match of \$200,000 included in the state's budget appropriation. The program would also like to have legislation to recognize primary stroke centers in the state.

Representative Marzian asked if cardiovascular disease is more preva-

lent in Eastern Kentucky. Dr. Withrow said it is more prevalent and there is more mortality occurring in Eastern Kentucky.

Representative Marzian asked if all hospitals have access to the TPA stroke drugs. Dr. Rimmel said most rural hospitals have TPA available and stressed that it must be used appropriately.

Senator Carroll asked if the first line of defense for stroke patients is EMS. Dr. Rimmel said first the patient must recognize the symptoms of stroke and then call 911 for help.

Senator Carroll asked if there has been a lot of training for EMS workers on stroke symptoms and treatment. Dr. Rimmel said the task force trains EMS workers on stroke, what they are, and how to treat them. She noted that Kentucky is in much better shape than ten years ago on treating stroke patients.

Senator Westwood asked what the primary obstacles are to getting more certification from the Joint Commissions. Dr. Rimmel said many times they cannot get the stroke teams together. Many counties have no neurologists and that can be a major obstacle. Tonya Chang noted that meeting staffing requirements is a primary obstacle.

Senator Westwood asked how many commissioned stroke centers there are in Kentucky. Dr. Rimmel said only the University of Kentucky and the University of Louisville.

Senator Westwood asked about self-proclaimed stroke centers. Dr. Rimmel said she does not support self-proclaimed stroke centers. She noted that surveys went out to these hospitals and many did not even meet basic compliance for stroke care.

Senator Westwood asked if EMS workers can administer TPA. Dr. Rimmel said that it is administered only in hospitals because a Cat scan must be done first to determine what type of stroke the patient has had, and then appropriate care can be rendered.

Representative DeWeese noted that the education of the general public on stroke signs, symptoms, and treatment is very important. He said emphasis needs to be on calling EMS, not taking a possible stroke victim to the hospital emergency room by car. He also asked if the panel had presented its need for \$200,000 to the Appropriations and Revenue Committee. Tonya Chang said that they had spoken to individual members, but not to the committee as a whole.

The meeting was adjourned at 11:50 a.m.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 3rd Meeting of the 2009 Interim September 4, 2009

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Friday, September 4, 2009, at 10:00 AM, Central time in Hopkinsville, KY. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John Tilley, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Ray S. Jones II, Gerald A. Neal, Mike Reynolds, Jerry P. Rhoads, Dan "Malano" Seum and Jack Westwood; Representatives Johnny Bell, Tom Riner and Steven Rudy.

Guest Speakers: Sen. Mike Reynolds and Warren County District Judge Sam Potter; J. Michael Brown, Secretary of the Justice and Public Safety Cabinet and Charles Geveden, Deputy Secretary of the Justice and Public Safety Cabinet; David Ogles and Kelly White, former Deputy Commissioner, Department of Corrections; David Jolly, Director, Tennessee Valley Authority Police and Nancy Mitchell, Manager, TVA Relations; Michael Meeks, Kentucky Alternative Programs; Angela Criswell, Bluegrass Prevention Center and Stephen Contos, Kentucky Alternative Programs.

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

Representative Tilley called the meeting to order, the roll was called, and a quorum was not present. Chief Circuit Judge John Atkins welcomed the committee to the Justice Center and commented that this was the first time that the Judiciary Committee had met in Hopkinsville. Judge Atkins then introduced various local officials including the County Judge Executive, Mayor, and other judges who were in attendance at the meeting. Senator Seum introduced Senator Ken Winters and Senator Joey Pendleton who were in attendance at the meeting. Representative Bell introduced David Ogles of the Jail Tracker organization and Chief District Judge Sam Potter from Warren County.

The first speakers were Senator Reynolds and Judge Sam Potter, Chief District Judge in Warren County Judge Potter spoke about 3 topics. The first was problems which have been caused by provisions in 2009 RS HB 369 which increased the felony theft limit from \$300 to \$500 but which included a provision that a person who was ordered to make restitution for a theft could not have a driver's license until the restitution was paid in full. The bill contained a provision for a hardship

license. Judge Potter, who indicated that he was speaking for the District Judges Association on this matter, commented that a person who had written bad checks, then had their driver's license suspended, could not get to work to pay the required restitution and that the provisions for the hardship license were difficult to implement and administer. Judge Potter commented that many of these persons would simply drive anyway without a license and without insurance. Then if the person ran a stop sign and were cited that extra police, prosecution, defense, court, and jail expenses would be involved and the restitution still would not be paid. Judge Potter suggested that the proper remedy for failing to pay restitution was contempt of court, not the procedure demanded by HB 369. Representative Tilley commented that loss to retail merchants through theft and bad checks was \$22 million per year. Judge Potter commented that the present law makes extra work for circuit clerks and indicated that there were two solutions to the problem. One was to make the loss of license permissive and the other was to eliminate the loss of license provision entirely. Of these choices, Judge Potter indicated, that the District Judges Association preferred elimination of the provision entirely.

The second problem cited by Judge Potter was the problem of jurisdiction between the Family Court and the District Court in the issuance of domestic violence restraining orders. Judge Potter cited a situation where family court issues against a juvenile, the juvenile then slaps his mother and the case then goes back to juvenile court. Judge Potter suggested that the family court be permitted to handle these cases as well. The third problem cited by Judge Potter involves the newly designed E-citations. When a police officer issues an E-citation, even for a prepayable offense, the citation automatically generates a court date. The problem is that people show up for court and do not prepay the citations thus taking court time and their own time when this is unnecessary. Judge Potter suggested that the citation be redesigned to properly reflect how a prepayable citation should be handled and that if the citation is prepaid that a court appearance is unnecessary. Judge Potter urged legislators to talk to judges about bills that affect them during the legislative process so that some of these problems might be avoided.

The next speaker was Justice and Public Safety Cabinet Secretary J. Michael Brown. Secretary Brown presented a detailed explanation of how the disturbance began in dorm 6, spread to dorm 2 and then to dorm

3. Inmates set fire to these buildings and to the food service building, the canteen, the medical building, the visiting building, and various other facilities. Secretary Brown indicated that the inmates in dorm 5, the honor dorm exited their dorm and stood in front of cameras to prove that they were not involved in the disturbance. Secretary Brown indicated that a core group of 50-60 inmates were involved in the arson and disturbances. The outer perimeter of the facility, outside the fence, was secured by the Kentucky State Police and local police while the inner perimeter was secured by Department of Corrections emergency response teams. The old hospital buildings were outside the fence and were not damaged in the fire. The buildings that were damaged by the fire were largely destroyed and will have to be demolished and rebuilt.

Secretary Brown observed that the disturbance began about 6:30 PM, that fire departments responded promptly but were prevented from making close entry to extinguish fires until after the inmates were controlled, firefighting was done from outside the perimeter fence. Secretary Brown indicated that approximately 700 inmates were moved early in the morning of the next day to other state and private prison facilities and 482 inmates remained at Northpoint in existing dorms. Secretary Brown indicated that the priority for replacement of buildings will be to replace the food service and medical buildings which may be larger than the previous buildings and will be built to the current building and fire codes. Secretary Brown indicated that insurance will cover part of the cost of rebuilding but may not cover the cost of enlargement of the buildings and that at present there is no estimate of costs involved or a time line for completion of the new buildings. Secretary Brown indicated that the Friday incident may have been the result of an incident on Tuesday when a gang of Hispanic inmates attacked other inmates which resulted in the prison being "locked down". The lock down was being eased on Friday and controlled movement of inmates was being permitted when the incident occurred.

Representative Bell observed that he has heard for years about conditions at Northpoint and indicated that he wanted a full after action report on the incident. Secretary Brown responded that Northpoint is a medium security prison where the criteria for being sent there is inmate behavior, that Northpoint like most older prisons has open bay dorms which are double bunked, lacked sprinklers, and the only actual cells are in the segregation unit, and that

it is more difficult to control inmates in such a setting. Senator Gibson observed that there were 34 employees on duty at the time the incident started and asked how long the warden had been there. Secretary Brown answered that the number of employees was slightly above normal and that the warden had been there for a couple of years. Senator Gibson asked if extra personnel were normal during a lock down to which Secretary Brown answered, yes. When asked about current conditions, Secretary Brown indicated that the inmates were being fed sack lunches and fast food as part of a temporary food service with the intention of providing better meals as soon as possible. When asked if the 700 prisoners moved to other state and private facilities have overcrowded those facilities, Secretary Brown responded, yes. Senator Westwood asked if insurance would pay 100% of the cost of replacing the buildings and facilities to which Secretary Brown responded that this is currently the subject of negotiation but that insurance should pay the basic costs plus transportation costs. Secretary Brown indicated that all new construction will meet current building and fire code standards but that current prison facilities, built under old codes, do not contain sprinklers.

Secretary Brown then presented a report on the situation at the Otter Creek private prison which is operated by the Corrections Corporation of America and which has been the subject of recent complaints about sexual assaults by guards on the female inmates at the facility. Citing the need to comply with the federal Prison Rape Elimination Act, Secretary Brown indicated that the facility had two buildings, one which housed Hawaii inmates and one which housed Kentucky inmates. Secretary Brown observed that assaults against Hawaii inmates were not reported to Kentucky even though the facility is located in Kentucky. Following inmate complaints, Secretary Brown explained, Hawaii has moved its female inmates to prisons in other states.

Secretary Brown observed that the incidence of incidents reportable and actionable under the Prison Rape Elimination Act were much higher at Otter Creek than they are at the Kentucky Correctional Institution for Women, the state operated facility for females, that the ratio of female correctional officers was much higher at the state facility, and there were allegations that staff at Otter Creek who had complaints filed against them in the Hawaii dorms were transferred to Kentucky dorms without telling Kentucky of the previous complaints. During this period, the

contract with the Corrections Corporation of America expired and the state extended the contract temporarily without full renewal according to Secretary Brown. Speaker Stumbo and various other legislators sent a letter to the Governor requesting that the contract with the Corrections Corporation of America not be renewed. Secretary Brown indicated that he has sent a letter to the Corrections Corporation of America and to Speaker Stumbo detailing the demands of the Department of Corrections which include: hiring a female director of security, female staff and officers providing direct supervision of inmates, female security staff ratio of 40% or greater, conduct and implement an action plan with increased use of cameras to cut down on incidents which is approved by the Department of Corrections, uniform reporting of any and all sexual contact, and follow the PREA standards. Secretary Brown observed that the state does not have the facilities to house these female inmates if the private facility closes and that housing the female inmates in jails is not practical since county jails were not built to house female inmates. Senator Westwood asked if the 7 story building at Northpoint could be renovated to house female inmates to which Secretary Brown indicated that renovation of the building will cost \$14 million and take several years. When asked if Corrections Corporation of America will accept the state's new demands for a new contract Secretary Brown indicated that he felt they would.

Secretary Brown then introduced Deputy Secretary Charles Geveden and urged the committee members to read the bills proposed as part of the cabinet's legislative agenda for the 2010 session which have been provided in the member's folders.

The next speaker was Mr. David C. Ogles of the JailTracker program of the Digitech Corporation in Glasgow, Ky. Mr. Ogles presented a powerpoint presentation in which he indicated that the JailTracker programs are designed to do more with less manpower in handling web enabled reporting and information handling, automation of repetitive tasks such as cell checks, integration with external systems, and integration of systems between jails using the JailTracker system. Part of the system is designed to provide financial management systems which provide double entry accounting, proper allocation of deposits and fees, automated collection of fees, and agency billing and allocation. The system also provides risk management such as alerts on inmates which would inform a jail taking an inmate of any prior problems and special needs the

inmate had previously, tracking and documentation of incidents, and similar matters. Mr. Ogles indicated that in one jail alone 9 man hours per day were eliminated in answering questions from attorneys, families, and others as to who was in jail and what they had been charged with since the JailTracker system provides this information on-line through the internet so that all a person has to do is go to the jail website to find the information rather than having a jail employee search the records to find the information. Mr. Ogles indicated that the company was founded in 1988 and has been serving the public safety market since 2002, that about 1/2 of the jails in Kentucky either have JailTracker programs in effect or in the process of installation and that the programs are in use in 5 other states.

The next speakers were Nancy Mitchell and David Jolly, upcoming Director of the Tennessee Valley Authority police who spoke in favor of a bill which will be sponsored by Senator Winters, previously presented to the General Assembly, to give full state-wide police authority to the TVA police. Mr. Jolly spoke of a court case in which a TVA police officer stopped a person for driving under the influence, called the Benton Police to take the person to jail, and then had the court dismiss the case because the TVA police officer had no authority to stop the driver in the situation. Mr. Jolly observed that the TVA police can be a valuable backup for rural police, and can respond more rapidly in some instances because they may be nearer to the incident. Mr. Jolly indicated that the TVA police all must complete the Federal Law Enforcement Training Center at Glynco, Georgia. Mr. Jolly asserted that the Federal Law Enforcement Training Center is "internationally accredited". Mr. Jolly called attention to a list of Kentucky law enforcement agencies and groups which supported the legislation. Representative Rudy asked if the Kentucky State Police supported the legislation to which Mr. Jolly indicated that the Kentucky State Police helped in preparing the language for the bill. Senator Winters indicated that Western Kentucky is short of law enforcement personnel and that the bill is needed. Senator Jones asked if the Federal Law Enforcement Training Center provided training on Kentucky law to which Mr. Jolly responded that it did not do so but that the agency provided this training. Senator Jones explained that he was concerned about providing federal law enforcement officers with Kentucky jurisdiction when they were not trained on Kentucky

law. Senator Jones commented that the TVA police already had Kentucky jurisdiction to operate in counties in which TVA owned property. Representative Bell commented that he was concerned about extending Kentucky jurisdiction to federal officers and asked if other states in which TVA operates do not provide state-wide jurisdiction to which Mr. Jolly replied that Kentucky and Georgia do not provide such jurisdiction. Representative Riner commented that when these issues have come up in the past that he has included a question to his constituents as to whether or not they favored giving federal officers Kentucky jurisdiction and that the response was an overwhelming, no. Other members commented that the state can exercise control over Kentucky officers but cannot do so if Kentucky grants jurisdiction to federal officers and that federal officers have in the past overstepped their jurisdiction.

The next speaker was Ms. Angela Criswell of the Bluegrass Prevention Center, accompanied by Stephen Contos of Kentucky Alternative Programs which rents ignition interlock devices to drivers and Michael Meeks, legislative agent for Kentucky Alternative Programs who spoke in favor of the House Committee Substitute for 2008 RS Senate Bill 34 which required the installation of ignition interlocks with driver recognition features on all vehicles owned by a person convicted of DUI. Ms. Criswell, citing statistics from the Mothers Against Drunk Drivers organization, indicated that eleven states require first time convicted drunk drivers use ignition interlocks, that ignition interlock requirements in New Mexico reduced drunk driving recidivism by 65% since 2002, that alcohol involved crashes are down by 31%, and that fatalities are down by 38%. Ms. Criswell further commented that the New Mexico program cost a driver \$2.25 per day but that for every dollar invested in an ignition interlock the public saves \$3. Ms. Criswell commented that in Kentucky the State Police estimate the economic cost of alcohol related crashes in 2007 was \$326 million and that including quality of life losses the cost to Kentucky and taxpayers was over \$1 billion. Ms. Criswell indicated that revoking a drunk driver's license was ineffective and that 50% to 75% of drunk drivers continue to drive without a license. Mr. Contos of Kentucky Alternative Programs distributed a sheet of information which he indicated dealt with comments made during the 2009 regular session with regard to objections to SB 34's House Committee Substitute. Mr. Contos indicated that the current lack of service points for ignition

interlock devices in Kentucky reflects a lack of demand for the devices and that providers will increase the number of service points, that rental of an ignition interlock device costs about \$3 per day with an installation fee ranging from \$50 to \$150, described how the devices work to prevent subverting the device, and indicated that eight device manufacturers are presently approved by Kentucky. Senator Clark indicated that Kentucky needs to reduce other causes of accidents as well as driving under the influence. Senator Jones indicated that in the past he has supported a drug driving bill and supports DUI legislation. Senator Neal asked if the proposed legislation would create a monopoly to which Mr. Meeks replied, no. Senator Seum asked if everyone using the vehicle would have to blow into the device whether they were the convicted drunk driver or not to which the reply was, yes. Other legislators asked if the legislation applied to all vehicles owned by the drunk driver to which the response was, yes. Representative Tilley indicated that there should be a provider of interlock devices and service for interlock devices within 50-75 miles of each driver.

The meeting was adjourned at 12:20 PM, Central time.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 4th Meeting of the 2009 Interim October 2, 2009

The 4th meeting of the Interim Joint Committee on Judiciary was held on Friday, October 2, 2009, at 10:00 AM, in Manchester, KY. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Senators Perry B. Clark, Ray S. Jones II, Mike Reynolds, John Schickel, Dan "Malano" Seum, and Katie Kratz Stine; Representatives Jesse Crenshaw, Kelly Flood, Stan Lee, Mary Lou Marzian, Harry Moberly Jr., Darryl T. Owens, Tom Riner, Steven Rudy, and Brent Yonts.

Guests: Dr. Doug Whitlock, President, Eastern Kentucky University; Hon. John D. Minton, Jr., Chief Justice of Kentucky; Hon. Sara W. Combs, Chief Judge, Kentucky Court of Appeals; Hon. Thomas J. Clark, Chief Regional Circuit Judge, 22nd Judicial Circuit, Fayette County, Past President, Circuit Judges' Association; Hon. Larry E. Thompson, Family Court Judge, 35th Judicial Circuit, Pike County, President, Circuit Judges' Association; Hon. Karen A. Thomas, Chief Regional District Judge, 17th Judicial District, Campbell County, President, District Judges' Association;

and Hon. Kirk Tolle, Mason County Circuit Clerk, President, Kentucky Association of Circuit Court Clerks.

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

Senator Stivers called the meeting to order, a quorum was present, and the minutes of the August and September meetings were approved. The first speaker was Dr. Doug Whitlock, President of Eastern Kentucky University who complimented Senator Stivers on his vision and support for the building in which the committee meeting was held. President Whitlock then proceeded to stress the mission of the university as student success, regional stewardship, and use of a quality enhancement plan. President Whitlock then described the recent academic successes of the university.

The next speaker was Chief Justice John D. Minton, Jr. of the Supreme Court of Kentucky, accompanied by Ms. Laurie Dudgeon, Director of the Administrative Office of the Courts. Justice Minton introduced judges and other persons who would be speaking to the committee and recognized other judges and circuit clerks in the audience.

Justice Minton proceeded with his "state of the judiciary" report in which he described recent successes in the court system as completing efforts made to satisfy bonding requirements for new judicial buildings under construction throughout the state, securing a bonding opinion, and settlement agreements with contractors which have resulted in all construction projects being properly bonded. Justice Minton announced that construction of new court facilities in the current six-year plan will be placed on hold until the economy improves. Justice Minton described as painful the recent elimination of 47 positions at the headquarters of the Administrative Office of the Courts which will result in a savings of \$4.5 million and warned that, in order to meet the judicial branch budget deficit, further cuts in personnel may be necessary because 87% of the Court of Justice budget consists of personnel costs. Justice Minton reported that the courts are in the process of filling 28 judicial vacancies resulting from recent retirements and the sunseting of the Senior Status Judge program. Justice Minton observed that 17 vacancies have already been filled but that since some of the Circuit Court vacancies were filled by District Judges appointed to the Circuit Court bench, that 3 additional vacancies were created and that there are now 13 vacancies remaining to be filled. Justice Minton reported that

not filling the vacancies and utilizing 67 retired judges who are participating in the Senior Status Judge program had saved the state \$3 million. Justice Minton observed that more of the Senior Status Judges are reaching their service limit and that by 2011 very few judges will still be participating in the program.

Representative Moberly asked the Chief Justice if he had heard concerns from prosecutors that the use of Senior Status judges that prosecutors needed more funding to handle the cases assigned to Senior Status judges. Justice Minton responded that he had heard these concerns and the concerns of public defenders and Circuit Clerks of a similar nature and that the use of Senior Status judges to dispose of cases required sensitivity and the cooperation of all involved. Justice Minton commented that the assignment of Senior Status judges to these cases was not just to create work for the judges but to make certain that cases were handled in a prompt manner. Justice Minton reported that 1.2 million cases were filed in the courts.

Justice Minton then described the Supreme Court as the state court of last resort and the final interpreter of Kentucky law. He said the Supreme Court hears all appeals from the Circuit Court resulting in criminal cases where the death penalty is imposed, a life sentence is imposed, or a sentence of 20 years or more is imposed, and that all other appeals normally go to the Court of Appeals prior to reaching the Supreme Court. The Supreme Court consists of seven Justices elected for eight-year terms from seven Supreme Court districts. Justice Minton then described the various other courts within the system and their jurisdiction. Justice Minton described the Administrative Office of the Courts as the service arm of the court system and that only 16 states have a unified court system which Kentucky adopted in 1976. Justice Minton described the functions of the Administrative Office of the Courts as constructing and operating court facilities, drug court programs, the pretrial release program, a training division, court designated workers in juvenile court, and other programs.

Senator Stivers asked if the Senior Status Judge program would end in 2011 to which Justice Minton replied that the program would expire when the final judge participating in the program reached 600 days of service, which might last past 2011. Justice Minton then discussed proposals to change court facilities construction from the Administrative Office of the Courts to the Finance Cabinet and stated that the courts were considering the matter but that

no decision had been made.

Senator Jones asked the Chief Justice to look into several problems, the first of which was the failure of the ethics hotline personnel of the Kentucky Bar Association to deal promptly with and in some cases not answer ethics questions asked by lawyers and observed that the Bar Association is more punishment-oriented than helpful in ethics matters. Senator Jones observed that lawyers who want to be ethical and seek advice from the Bar Association are not receiving that advice. The second problem that Senator Jones addressed was that of lawyer advertising, particularly soliciting clients the day after an accident or other incident along with solicitation by chiropractors and others. Soliciting a day after the wreck is a pervasive problem, and lawyer advertising in the media "makes a joke of what we do," Senator Jones commented. Justice Minton responded that the ethics matter at the Bar Association would be looked into but that he was proud of the establishment of the ethics hotline and that ethics is a matter of complexity. Justice Minton promised to bring the matter to the Bar Association's attention. With regard to the matter of lawyer advertising, Justice Minton responded that much regulation of lawyer advertising has First Amendment free speech implications and that many restrictions on lawyer advertising had been overturned by the Supreme Court of the United States. He said he would discuss the specifics of the matter in private with Senator Jones. Representative Flood commented that the \$4.5 million in layoffs at the Administrative Office of the Courts would not go far to help with the overall budget deficit to which Justice Minton agreed and indicated that additional revenue would be needed to avert further layoffs.

The next speaker was Sara Walter Combs, Chief Judge of the Kentucky Court of Appeals. Judge Combs observed that the Kentucky Court of Appeals has appellate jurisdiction over most cases appealed from the Circuit Courts, some state agencies, and that the court also handles appeals Circuit Court decisions on judgments from District Court. All cases handled by the Court of Appeals are on the judgment from the courts below and are not retried as new cases. Judge Combs observed that the Court of Appeals consists of 14 judges, elected for eight-year terms, and that two judges are elected from each Supreme Court district. Judge Combs reported that the Court of Appeals hears and disposes of 2,000 cases a year and that the goal that the court has set for itself is to render a decision on an appeal within

six months of its filing. Judge Combs observed that the first concern of the court is for quality of its work product with the second concern being speed, and that family matters are on a fast track with the court. Senator Reynolds commented that his father had the honor of serving on both the Court of Appeals and the Supreme Court.

The next speaker was Pike Family Court Judge Larry Thompson, President of the Circuit Judges Association. Judge Thompson indicated that there are 51 Family Court Judges serving in 35 circuits who are elected for a term of eight years and that the Family Court is a hybrid court in that it handles cases traditionally handled by the District Court and the Circuit Court in cases where family matters are involved. Judge Thompson explained that the objective of the Family Court is that it handles in one court all matters related to the family which used to be handled by the District Court and the Circuit Court, sometimes with differing results. Judge Thompson indicated that in 2004, Family Courts had 102,000 case filings while so far in 2009 there have been 112,000 case filings for a 9.5% increase in case filings. Pike Family Court disposed of 1,119 cases last year, and the goal of Pike Family Court has been to reduce the time to handle such cases from one year to 90 days.

Judge Thompson indicated that, although there has been an increase in the number of Family Court judges in recent years, Family Courts are not yet available in every judicial circuit. He commented that, while Family Courts take some cases from District Courts and some from Circuit Courts, realignment of judges in those courts reducing the number of District Judges or Circuit Judges has leveled the caseloads between the courts. Several legislators requested statewide Family Court caseload information which Judge Thompson indicated that the Administrative Office of the Courts would provide to the members. Representative Yonts commented that the General Assembly, when authorizing Family Courts, prohibited the use of domestic relations commissioners and similar persons and asked if any courts were still using domestic relations commissioners and similar persons. Judge Thompson indicated that he did not use commissioners and that he would provide information as to whether any remained in the system.

Judge Thompson indicated that he is a firm believer in mediation if both parties want it in domestic relations cases but that he does not use mandatory mediation in lieu of court hearings. When asked about manda-

tory custodial investigations, Judge Thompson indicated that he knew of one court that did so but that the costs were about \$1,500 per case. Senator Jones praised the work that Judge Thompson has done in Pike County. Senator Seum asked why acts of domestic violence are tried in normal District Court and Circuit Court when domestic violence orders are handled in Family Court, to which Judge Thompson responded that domestic violence orders are civil in nature and actual acts of domestic violence are criminal in nature, such as assaults which must be tried in District Court if misdemeanors and in Circuit Court if felony assaults, this means that persons end up in two different courts with two different lawyers. Judge Thompson explained that for violation of a Domestic Violence Order the person who was the petitioner in the case has an option to seek contempt of court in the Family Court where the judge can sentence a person to 180 days in jail or the matter can be handled in the District Court as a misdemeanor where the judge can sentence a person to up to 12 months in jail.

Representative Moberly indicated that many Family Courts have truancy court programs in conjunction with local schools and that these programs have cut truancy dramatically which has resulted in an increase in state funding for schools since state school funding is based on attendance. Senator Rhoads commended Judge Thompson on coping with workloads in the Family Court and asked if studies had been done in the shift in caseloads in District Court and Circuit Court in jurisdictions where a Family Court had been created and what would be looked on as an ideal caseload. Judge Thompson responded that Justice Noble of the Supreme Court is currently considering Family Court rules and juvenile problems but that no full studies had been conducted.

The next speaker was Chief Regional Circuit Judge Thomas Clark from Fayette County who is a "traditional" Circuit Judge and the Past President of the Circuit Judges Association. A "traditional" Circuit Judge operates in a circuit court but does not have duties assigned to a Family Court judge. Judge Clark indicated that the jurisdiction of the Circuit Court consists of civil matters where more than \$4,000 is in controversy, capital offenses, felony offenses, divorces, adoptions, termination of parental rights, real property title disputes, and contested probate matters. Circuit Judges serve eight-year terms. Judge Clark indicated that in recent years Daubert hearings in which the qualifications of "expert" witnesses can be challenged have

increased in Circuit Court criminal court hearings. Judge Clark indicated that in Fayette County that there are 184 indictments average per month and that some Circuit Judges have 1,400 cases filed per judge per year. Senator Stivers asked what the American Bar Association guidelines for judicial caseloads were to which the Judge responded that 700 to 900 cases per year is the recommended number.

When asked if the process in capital cases was fair, Judge Clark responded that he currently has four capital cases pending, that the Commonwealth's Attorney in Fayette County tries all death eligible cases as death penalty cases to avoid problems with unfair selection and prejudice, that the death penalty has been rarely imposed by juries in Fayette County and that qualified defense counsel are needed. In the past, Judge Clark indicated, there were problems with jury selection but that the Administrative Office of the Courts' new computerized jury selection program will give a more random cross section of the community. Representative Stan Lee commented that the Judge was hard-working, competent, and fair.

With regard to advertising by attorneys, Judge Clark indicated that after a "fender bender" accident his mother was solicited by an attorney within 24 hours. Judge Clark commented that when his mother told the attorney that her son was a judge and she would contact him about what to do, the lawyer hung up. Senator Jones indicated that in Pike County a lawyer showed up at the home of a person within 24 hours and that it appears that Kentucky State Police troopers are providing accident information to lawyers. Senator Jones then spoke of an incident in which a Bowling Green lawyer reported another lawyer to the Bar Association, the Bar Association did nothing, and the reporting attorney was sued by the attorney who had been reported. Senator Jones reported that in another case he was retained for a person who indicated that another lawyer had called the week before, even prior to the release of the accident report by the Kentucky State Police.

The next speaker was Chief Regional District Judge Karen A. Thomas from Campbell County who is the President of the District Judges Association. Judge Thomas reported that there are 116 District Judges in 60 Judicial Districts, that a District Judge is elected for a four-year term, and that the jurisdiction of the District Court includes, small claims, regular civil actions of \$4,000 or less, local ordinance violations, criminal cases defined as violations

and misdemeanors, uncontested probate cases, traffic offenses, and juvenile court. District Court also handles mental health matters and cases in which a person is incompetent to handle their own affairs and a guardian will be appointed following a mandatory jury trial.

Judge Thomas reported that of the 1.2 million cases filed annually in the court system, 500,000 are filed in the District Court. In one county in northern Kentucky, two judges disposed of 10,000 cases each in the past year and Judge Thomas reported that District Judges are on call 24 hours a day, seven days a week for emergency protective orders, setting bail and pretrial release, holding drug court, holding mental health court, conducting truancy programs in schools, and other civic matters. One judge held truancy court at school at 7:00AM prior to the normal daily caseload, held the daily caseload, held mental health court during lunch, and held drug court after the regular court hours.

Senator Schickel observed that Judge Thomas was "an inspiration" and that District Court was truly a "people's court" in that most persons who have contact with the court system have that contact in the District Court. Senator Schickel then commented that the judges' secretaries were very helpful, that they look on their job as "a labor of love," and that they need increased salaries, to which Judge Thomas responded that many secretaries serve several judges. Judge Thomas indicated that the District Courts in northern Kentucky do not use commissioners but use volunteers to help with mental health court, drug court, and other programs.

When asked if the jurisdiction of the small claims division of the District Court should be increased from \$1,500 to a higher amount, Judge Thomas responded that it should not because if a higher amount was chosen, the case would be more complicated and that persons could no longer present the cases themselves as they do now and would be required to hire attorneys to properly represent themselves. Keeping the limit as is promotes access to justice, Judge Thomas responded. With regard to raising the jurisdictional limit of District Court civil cases from the present \$4,000 to a higher amount, Judge Thomas indicated that she opposed that proposal as well indicating that the amount has worked successfully. Chief Justice Minton commented that he agreed with keeping both limits at their present amounts.

Senator Reynolds commented that in his practice he sees more foreign nationals who do not speak English and that in his local schools

students spoke 26 different foreign languages. In his district, Senator Reynolds observed that Russian and Spanish are two languages frequently requiring interpreters and asked what percentage of cases required interpreters. Chief Justice Minton responded that he would obtain an exact percentage but that the number of non-English speaking participants in the court system has increased and that Spanish and Bosnian languages frequently require interpreters. The Administrative Office of the Courts has its own court-related trained interpreters on staff and hires outside interpreters as well. He said that many courts now have non-English speaking dockets so that all defendants requiring interpreters can be represented at the same time, thus saving money and better utilizing the interpreters.

The next speaker was Circuit Clerk Kirk Tolle from Mason County who is President of the Circuit Clerks Association. Mr. Tolle indicated that there is one circuit clerk in each county and that circuit clerks are elected for a term of six years. As the number of courts has expanded and the activities undertaken by the courts have expanded circuit clerks' duties, Mr. Tolle indicated, the number of deputy clerks has expanded. Mr. Tolle explained that a circuit clerk is the first person that the public sees when they have contact with the court system, particularly since the circuit clerk serves the District Court, the Circuit Court, and the Family Court. Circuit clerk offices are where civil actions are filed, where people pay bail, fines, court costs, fees, and restitution, and where people obtain driver's licenses. Mr. Tolle indicated that recent statutory and regulatory changes require more and more of the clerk's time in verifying the information persons submit with their driver's license or identification card applications, and that many clerks would like to discontinue these licensing activities so that they can concentrate on their primary function of serving the courts.

Mr. Tolle indicated that there have been several recent successes for circuit clerks including the 2008 Deputy Clerk Pay Equity program placing court information on line and new electronic initiatives from the Administrative Office of the Courts such as E-failure to appear, E-pay, E-based jury management, and E-warrants; the Senior Clerk program which rehires retired clerks, and the number of deputy clerks which has been increased to handle increasing business but is still short by about 350 deputy clerks.

Mr. Tolle indicated that problems facing circuit clerks include assisting persons who want to represent

themselves in bringing or defending a lawsuit, more assistance needed by clients, collection of more and more fees for third parties when the clerk receives no additional assistance for their collection and disbursement, the underfunding by the state Transportation Cabinet of the Drivers License and Identification Card programs coupled with increasing verification workloads for the program, and the fact that the clerk's office is not fee-based and that the clerk has no financial control of the funds which go elsewhere.

Senator Stine asked about problems with KRS 24A.185 and 23A.200 where counties can impose fees on District Court and Circuit Court actions for the purpose of supporting the court system. Senator Stine commented there have been allegations that the counties spend the funds for non-court purposes. Chief Justice Minton indicated that the courts have no control of what counties and other third parties do with the money that the clerks collect for them beyond delivery of the money. Justice Minton further observed that the State Auditor has not audited these funds, to which Senator Stine commented that perhaps the matter should be referred to the Legislative Program Review and Investigations Committee.

Senator Jones asked if the court system is interested in adopting an E-filing system similar to the federal PACER system. Mr. Tolle indicated that the clerks support this, and Justice Minton indicated that he supports E-filing as well and feels that it would save the state money. Justice Minton commented that there is presently no money to implement the system but that "we need to invest in this" and that the six-year plan for the courts includes this type of system. Senator Jones responded that this is one thing we need to do.

The next speaker was Carol Henderson, Budget Director for the Administrative Office of the Courts who indicated that the projected deficit for the Court of Justice will be \$35 million, that a large portion of this deficit occurred when the General Assembly transferred \$22.7 million from the court budget to the General Fund, and that retirement costs plus salary increments authorized by the General Assembly have contributed to the deficit. Ms. Henderson observed that the court system had \$37 million in one-time money available from 2005 operating costs and \$30 million in agency funds, but by the end of 2010 these funds along with \$10 million from fee increases will be depleted.

Ms. Henderson observed that \$120 million will be needed for facilities and operations. Without in-

creases in funding the court system faces the possibility of 1,400 more layoffs out of a current 3,400 employees. Ms. Henderson observed that furloughs could also be used but that they represent a one time savings and that each employee would have to take 76 furlough days per year. Chief Justice Minton commented that the future of the court system is in trouble, 87% of the court system's cost represent people, and that we cannot choose not to hold court. "The business of justice is the business of government," Justice Minton commented. He said the court system comprises 10% of state employees and 3% of the state budget. Justice Minton observed that many of the court system's programs, such as truancy programs, increased attendance at schools thus providing more money, and that diversion programs, such as drug court, save jail and prison costs. Senator Stivers commented that the courts received \$271 million from an original budget of \$295 million.

Representative Flood asked what type of employees had been laid off at the Administrative Office of the Courts central office, to which Ms. Henderson replied records, training, mediators, court security, and similar personnel were laid off. Representative Crenshaw asked about a reported situation that while the court system was laying off some persons they were hiring in other areas to which the reply was that hiring is based on staffing need and has been limited to cases of necessity.

Chief Judge Combs of the Court of Appeals observed that cancer, divorce, and the court system touch every family in Kentucky and service area.

The meeting was adjourned at approximately 12:40 PM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 5th Meeting of the 2009 Interim November 6, 2009

The 5th meeting of the Interim Joint Committee on Judiciary was held on Friday, November 6, 2009, at 1:00 PM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Senators Perry B. Clark, Carroll Gibson, Mike Reynolds, Jerry P. Rhoads, and Jack Westwood; Representatives Johnny Bell, Jesse Crenshaw, Kelly Flood, Stan Lee, Harry Moberly Jr., Darryl T. Owens, Tom Riner, Steven Rudy, and Brent Yonts.

Guests: Larry Bland, Barkley FOP; Amanda Crenshaw, Lucas

Brummitte, Jamie Lawrence, Jennifer Matthews, Kris Knickelbien, and Eugene Gross, AFSCME; David Hudson, Sharon Currens, and Ann Perkins, Kentucky Domestic Violence Association; Ernie Lewis, Kentucky Association of Criminal Defense Lawyers; Douglas Morris, Kentucky Justice Association; and Mary Lee Underwood, Kentucky Association of Sexual Assault Programs.

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

Representative Tilley called the meeting to order, the roll was called, and a quorum was present. The minutes were approved with a technical change on page 4, 3rd paragraph, 2nd sentence, to read "A 'traditional' Circuit Judge operates in a circuit court but does not have duties assigned to a family court judge." Representative Yonts moved and Representative Floyd seconded a motion to accept the report of the Subcommittee on the Penal Code and Controlled Substances Act and transmit the report to the Legislative Research Commission. The motion was approved on a roll call vote of 15-0.

The first speaker was Representative Greg Stumbo, who discussed 10 RS BR 251, the Amanda Ross Domestic Violence Prevention Act. Representative Stumbo explained the impetus for the bill was to find a better solution for protecting domestic violence victims after the tragic events in Lexington which resulted in the death of Amanda Ross. Representative Stumbo indicated that his wife is involved with Carol Jordan from the University of Kentucky in fundraising efforts relating to domestic violence prevention and response. Representative Stumbo indicated his bill is needed to help provide security and peace of mind to domestic violence victims who feel threatened and that every day at least three women on average are killed nationally because of domestic violence.

Representative Stumbo explained his bill would use electronic monitoring devices to provide real-time warning to victims, apply in domestic violence orders, be issued at a judge's discretion using risk assessment provided by law enforcement, be paid for by offenders, have an estimated cost of \$7-14 per day, and that removing or tampering with the device would be a Class A misdemeanor for the first offense and a Class D for subsequent offenses. He stated under his proposal, the offender would be required to wear a GPS ankle bracket, and the victim would be offered the opportunity to carry a similar GPS device that would indicate when the offender had breached the victim's security

zone. Representative Stumbo indicated that a private assessment of the alleged assailant in the Amanda Ross case using a risk assessment instrument with 12 categories, met 8 categories, which would have placed the alleged assailant in the electronic monitoring category. He stated that tracking and monitoring could be done throughout Kentucky, but that notification of victims may be limited in 40 counties.

Representative Lee asked what would happen if the defendant violated the exclusion zone unintentionally. Representative Stumbo explained the monitoring device includes a "buffer zone" to warn the defendant and the victim, that the defendant has the opportunity to leave the area without entering the exclusion zone, and that if the defendant is at home and the victim drives by the location, the information from the device automatically records that the defendant was not at fault for the violation. Representative Lee asked for a copy of the risk assessment form which was provided to the members of the committee.

Representative Stumbo then reviewed the history of domestic violence legislation in Kentucky starting with the creation of Domestic Violence Orders in 1984 and indicated that about 11,000 domestic violence orders are issued in Kentucky each year. He said that 3,650 women, children, and a few men were admitted to Kentucky's fifteen domestic violence centers during fiscal year 2009, a recent University of Kentucky survey indicated that 80% of respondents said they felt the protective order was effective, that protective orders reduce violence and saved \$85 million in 2007, that other states use electronic monitoring in about 15% of domestic violence cases, that approximately 5,000 abusers were being electronically tracked nationwide, that Ohio was the most recent state to pass electronic monitoring legislation, and that a U.S. Justice Department study indicated that 3.4 million persons were stalked in the one-year period being studied.

Representative Stumbo indicated that costs if the bill is not passed include the hidden costs of domestic violence, \$60 per day to keep someone in jail, cost of a murder trial \$185,000, cost of women missing work due to domestic violence is \$2 million per day nationwide, and that medical services for domestic violence victims cost millions of dollars each day.

Questions were raised about who would be responsible for the cost of the program in the case of indigent persons. Representative Stumbo responded that under his proposal, neither state nor local gov-

ernment would be responsible for the costs. He said the vendor would absorb those costs by increasing fees on those who could pay. Representative Flood complimented Representative Stumbo on the bill. Representative Moberly asked if the domestic violence order hearing required the presence of the defendant who would have an opportunity to present evidence to which Representative Stumbo responded, yes.

The next speaker was Ron Bishop, Director of the Division of Community Corrections in the Lexington-Fayette Urban County Government, who was accompanied by Sgt. Hubbard Dabney who operates the GPS monitoring program in Fayette County. Mr. Bishop and Sgt. Dabney described the web based GPS monitoring program, where a GPS unit is placed on the offender with ability to track and pin-point the participant's exact location, is presently used for higher risk offenders such as domestic violence and sex offenders, gang members, and murderers, and is used to determine offender movements for the protection of the victim. The devices can be set to provide inclusion zones and exclusion zones, provide speed of offender movement, and when coupled with data programs, provide a wealth of information about offenders and victims at real time speed. Mr. Bishop said a passive system used in Lexington, which provides periodic reports at regular intervals, has a contract cost of \$5.50 per day with a cost to the offender of \$8 per day, and an active system, which provides continuing real time information, has a contract cost of \$10 per day with a cost to the offender of \$12 per day. Representative Crenshaw asked how much had been saved by using the system. Mr. Bishop responded that he did not know an exact figure but that an average savings would be \$7 per day for monitoring versus \$60 per day for incarceration. Senator Gibson asked if police will automatically respond if the defendant invades an exclusion zone or removes the device and Mr. Bishop responded this would have to be a matter of local policy.

Representative Owens asked if the victim is automatically notified if the offender enters the exclusion zone and if police would automatically respond, to which Mr. Bishop responded the victim is automatically notified and could take needed protective action, that monitoring staff is automatically notified, but that automatic police response would have to be reserved for local policy decisions. Representative Moberly asked who pays the costs for using the system when the defendant is indigent. Mr. Bishop responded that in Lexington, the Urban County

Government currently absorbs those costs, but that under the proposed legislation, the vendor would absorb those costs with increased fees on those who could pay.

The next speaker was Representative Brent Yonts who spoke in favor of 10 RS BR 114 relating to eliminating private food service at state prisons. Representative Yonts was accompanied by Mr. Daniel Ball, a corrections officer from Eastern Kentucky Correctional Complex, Mr. Ron Jackson, a corrections officer from Western Kentucky Correctional Complex, and Mr. Matthew Hughes, a correctional officer from Northpoint Training Center. Representative Yonts presented a list of complaints which he has received from prisoners and staff at all of the prisons in Kentucky with regard to the food service contracted by the state. Representative Yonts said the reported problems included shortages of food, water and flour added to food, food thinned to the point where it was nothing but thin soup, running out of food, continually using leftover food, chicken and turkey products used in lieu of other meat, small portions, dirty kitchens, dirty serving areas, and other complaints. Representative Yonts indicated that prisoners are fed for \$2.63 per day per person. Representative Yonts indicated that other complaints involved worms in soup at Green River Correctional Complex, recipes calling for 60 pounds of food reduced to 20 pounds at Eddyville, and human feces in burritos, complaints of feces in brownies at Blackburn Correctional Complex, and potato salad spilled on the floor, scooped up, and served to inmates.

Mr. Hughes, a correctional officer from Northpoint, indicated correctional officers are frequently used to assist in food preparation and service, creating a line shortage of guards. Other information presented showed that at Northpoint, 69.25% of inmates eat most of the time, 51% get enough food to eat, 42% did not get enough food to eat, that pieces of cardboard have been served in the food, that recipes are not followed, flies, gnats, mice, rodents and other vermin are found in food preparation and storage areas, and that despite repeated complaints from inmates, the Commissioner of Corrections may not know what is happening because staff conceal the complaints and the true situation.

Mr. Daniel Ball from EKCC indicated that the food preparation areas contain cockroaches, ants, etc., the vendor of the food has watered down the food and juices, and that inmates turn to gambling and borrowing to obtain foods from the canteen and that those foods are sold at inflated

prices. Mr. Ball observed that these conditions result in gangs, debts, loan operations, fights, and inmate injuries. Mr. Ball also indicated that radios do not work, that there are not enough handcuffs, there is not enough OC (pepper spray) and other supplies are in short supply. Mr. Ball commented that he no longer eats the food because he was tired of getting sick, that food illnesses have caused guard shortages, that even though the vendor has saved the Department of Corrections money, these savings are overshadowed by protective custody costs, medical bills, and other problems resulting from fights over debts owed by inmates who cannot repay the high costs of food at the canteen, causing repeated security problems. Other information presented included hospitalization of inmates from Northpoint for food borne illnesses and that surveys indicated 78% of inmates complained about food quality, 45% indicated they have become sick from the food, food has run out 75% of the time, conservation officers have been used in food service operations 51% of the time, and 71% of respondents indicated the poor food quality presents a safety risk. Representative Yonts indicated that complaints are not acted upon, that inmates may file a second grievance on the same subject only once every six months, and that the committee is unlikely to receive a straight answer about the cause of the riot at Northpoint.

The next speaker was Mr. Matthew Hughes, a correctional officer from Northpoint with 10 years of experience in corrections, including one year at Eddyville and one year at Northpoint. Mr. Hughes indicated that between his experience at Eddyville and Northpoint, he has encountered green hotdogs, greasy bologna wiped off with a towel, hard meatballs, and watered rice that looked like gruel. Mr. Hughes described conditions at Northpoint as having open dorms, a lot of freedom for the inmates, inmates who can smoke, and that the lockdown following a fight was not the real cause of the riot, but that the food was. He described the food as "atrocious", that roaches are on the floor, dirty conditions abound, food service personnel do not wear hair nets or gloves, and that inmates get mad about the poor food quality, get mad at the guards, and then riot. Mr. Hughes commented the canteen is owned by the food vendor, cigarettes cost \$6.10 per pack, a small can of ham is \$5, and there are similarly inflated prices for other items as well. Inmates who work do not make enough to pay the canteen prices, relatives cannot send enough money to meet inmate canteen needs, and

inmates must borrow from other inmates to make canteen purchases. Mr. Hughes described cigarettes as a means of payment for loans and that when an inmate cannot repay a loan, other inmates to whom the loans are owed punish the inmate by attacking the inmate. Inmates also are stealing food from the cafeteria and kitchen and must be patted down by guards upon leaving which also causes problems and Mr. Hughes pointed out that when the vending machines in the visitor area work, which they frequently do not, visitors cannot afford to pay the high prices charged.

Senator Westwood asked whether the prison food service facilities were inspected by local health departments to which the response was that health inspections are scheduled in advance and that with advance notice of the inspections, the facilities are cleaned up for the day of the inspection and properly prepared food is served. The comment was made that "you just can't walk into a prison" to make an inspection followed by the observation that the same procedure is followed when representatives of the American Correctional Association visit to rate the prison for accreditation purposes. This was followed by the comment that things return to "normal" the day after the inspection.

Representative Bell indicated that even in private industry, some facilities with community influence are rarely inspected and that there is advance notice of the inspections. Representative Moberly asked about the attitude of the chain of command at the institutions to which Mr. Hughes responded that in one instance, an inmate had a seizure in his cell and when the officer responded, the officer's radio did not work and aid had to be summoned by a person going to the control center. When the officer wanted to insert in his report that aid was delayed because of a dead battery, he was told that a dead battery could not be mentioned in the report. Mr. Hughes indicated that the guards and the chain of command knew that prisoners at Northpoint were planning a riot two weeks before its occurrence. Representative Moberly indicated that the same vendor operates the food service at Eastern Kentucky University and that the food is good because the university monitors the food service operations closely. Several members of the committee urged the co-chairs to hold a special meeting on the prison food service problems and secure testimony from the Department of Corrections, from the vendor, from guards, and from other interested parties and that reluctant parties be subpoenaed and that testimony be taken under oath at the hearing.

Representative Flood indicated that she has received information from corrections officers and others that food was the problem at Northpoint and that she understood the link between bad food, high canteen prices, debts, and violence at the institution. Representative Crenshaw observed that the Department had promised a report on the Northpoint riot early in November but at a recent meeting of the Appropriations and Revenue subcommittee on courts, the department failed to present the report or any meaningful information about the causes of the riot. Upon request, Mr. Hughes commented that the riot did not "just happen", it was carefully planned by the inmates who studied the guard and supervision patterns, inmates knew at the time of the riot there would be fewer staff, and that six of the guards had less than six months of experience. Based upon their observations, inmates chose the time when the riot would happen and knew that only 19 officers would be available to control 1,250 inmates. The riot was put down in 4.5 hours with help from other institutions and from state and local police, but during that time arson fires destroyed or damaged much of the institution. Senator Jensen asked if the food at Northpoint had improved since the riot to which the answer was, no.

The next speakers were Representative Jody Richards, Representative Joni Jenkins, Jefferson Family Court Judge Jerry Bowles, and Darlene Thomas and Sharon Currens from the Kentucky Domestic Violence Association, who spoke in favor of 10 RS BR 133 and 10 RS BR 145, which would make victims of dating violence eligible for emergency protective orders, domestic violence orders, and permit arrest of violators without a warrant by officers who did not view the commission of the offense. Representative Richards indicated the bills were similar and that he had agreed to co-sponsor Representative Jenkins' 10 RS BR 145. Representative Richards commented that 40 states have passed domestic violence protection for dating couples and that dating couples are now protected under the federal Violence Against Women Act. Ms. Darlene Thomas indicated the Kentucky Domestic Violence Association supports the legislation. She said 53% of victims are abused by current or old partners, that partner violence in the 16-24 year old age group is three times higher than other age groups, and that domestic violence orders allow for more rapid law enforcement intervention in domestic violence cases. Ms. Thomas said a recent University of Kentucky survey showed 34% of University of Kentucky female students indicated

they had been victimized by dating partners. Ms. Thomas shared a story in which the dating couple broke up, the partner harassed and stalked the victim continuously, and three years later attacked and strangled the victim, leaving her unconscious for over an hour and a half, and while the victim was unconscious, broke into the victim's home and destroyed the home prior to the victim's return home.

Judge Bowles indicated these bills have the support of the Jefferson County Domestic Violence Prevention Council. He said that Kentucky, which was the leader in adoption of the VINE victim notification program, has fallen behind in this area and is one of only ten states that do not offer domestic violence protection to dating couples. Litigants in his court seek domestic violence order protection and are surprised to find it is not available when it would be available if they had lived together, married, or had a child together. Judge Bowles spoke of a case in which the perpetrator attempted to suffocate and strangle the victim, placed a rag in the victim's mouth, and assaulted the victim. When a neighbor called the police, the police arrived at the scene and did nothing. The victim was advised to obtain a domestic violence order which the victim received from the court, only to have the Kentucky Court of Appeals reverse the decision citing that courts do not have the authority to issue such orders to dating couples. Judge Bowles commented the Court of Appeals in its opinion urged the General Assembly to remedy the situation.

Representative Flood asked how many attempts had been made to pass the bill in the past and was informed that this was the third attempt in six years. Representative Flood then asked what the arguments against the bill had been. Responses included problems with how dating couples were defined as being too broad, but Judge Bowles indicated that judges are required to make similar decisions every day in other cases such as "best interest of the child" and that the definition in the bill is workable.

Senator Jensen asked if in the cases cited, a criminal warrant could have been obtained and the perpetrator prosecuted, to which Judge Bowles replied that criminal action could have been used but that police did nothing, that victims are wary of using the criminal system because perpetrators will ultimately be released from confinement, and that the civil protection orders provide a better option. Senator Jensen then asked if, when a person was released on bail or probation the court could order the perpetrator to stay away

from the victim, to which Judge Bowles responded, yes. Senator Jensen then commented that we may be getting into a "gray area" with this legislation. Representative Crenshaw asked if the bill would apply to married persons to which Judge Bowles replied that the current domestic violence statutes already apply to married persons and divorced persons. Representative Moberly asked if criminal remedies are available where courts could require perpetrators not to harass or threaten the victim, to which Judge Bowles replied yes. But he said that such orders are not presently entered into the law enforcement computer networks, where domestic violence orders are, so officers do not have instant access to the contents of bail conditions and other criminal orders. Senator Jensen commented that the response that the victim has no other options was not true, and that even if the police did not view the commission of a misdemeanor offense, the victim could still go to the county attorney and begin the criminal process.

Representative Flood commented that awareness for the issue and for the remedies should be increased and that protection should be enhanced. She urged zero tolerance for assaults. Senator Rhoads commented that civil process protections should be enhanced because police and prosecutors will not institute criminal proceedings, and victims see little hope for anything but civil process using civil protection orders and many victims do not want perpetrators to end up in jail by using the criminal process. Representative Tilley commented that in his experience couples frequently get back together after the criminal process is used.

The next speaker was Ms. Sharon Currens, Executive Director of the Kentucky Domestic Violence Association, who spoke on behalf of the Kentucky Domestic Violence Association and Representative Denham in favor of 10 RS BR 341, which would elevate strangling of a victim in a domestic violence case to a Class C felony as assault in the second degree. Ms. Currens indicated that in the 2008-2009 reporting year, there were four domestic violence strangulation deaths in Kentucky and that thirteen states have passed this type of legislation and that it was needed in Kentucky.

The next speaker was Representative Carney, accompanied by Bryan Sunderland of the Kentucky Chamber of Commerce, Suzanne Northern of Unifirst Corporation, and Wendy Becker, an attorney with Greenebaum, Doll, and McDonald, who spoke in favor of 10 RS BR 498, which would reduce the statute of limitations in

wrongful discharge cases from five years to two years in Kentucky. Ms. Northern described a situation where her corporation moved to Kentucky and reduced three regional centers to one. An employee who worked for the company for six weeks and was dismissed filed a wrongful dismissal action five years later under the existing statute. Ms. Northern described the difficulty in defending the suit because the employee had worked such a short time, that most record retention statutes only require record retention for two or three years, that facts were difficult to obtain and that in such actions witnesses may die, move away, or forget what happened five years earlier. Ms. Northern indicated that no surrounding state has such a lengthy period during which a wrongfully discharged employee may bring suit, with Ohio having a four year limit and others only one or two years. Ms. Northern indicated that she favored the reduction and that this would make the state more business friendly.

The next speaker was attorney Wendy Becker, who indicated she had practiced employment law for twenty years and that while states prohibit termination for various reasons including civil rights protections, whistleblower protections, retaliation for filing workers compensation claims, and similar reasons including the tort of wrongful discharge which result in 85% of the claims of wrongful discharge. Ms. Becker indicated that Kentucky has one of the longest statutes of limitations, that this limit has never been addressed directly by the General Assembly, and is only in effect because it is a fallback position when no other statute applies. Ms. Becker indicated that other states surrounding Kentucky have one and two year limits and in some instances, claims must be brought in as few as 90 days and 180 days in workers compensation retaliation claims. Ms. Becker indicated the two year limit is good for both employers and employees because investigations can be completed in a shorter period, and that after two years it is more difficult to secure records, witnesses go missing or cannot remember what happened, and it is more difficult for either side to prove its case.

Senator Rhoads observed that the Kentucky statute of limitations for violation of a contract in writing is also five years and asked if this legislation would create a conflict in a wrongful discharge case where there was a contract in writing through adoption of a two year statute of limitations. Representative Carney responded this was an issue that needed further study and comment. Representative Moberly asked Ms. Becker how many cases would be

barred by this legislation, to which Ms. Becker replied that she did not know. Representative Moberly indicated that more information on the effect of the proposal is needed. Senator Reynolds indicated that he tries such cases and that Kentucky is considered "business unfriendly" because of the current law. Senator Rhoads indicated that Kentucky has been a hire and fire at will state and that he did not know if states surrounding Kentucky had similar provisions only limiting discharge when it is against public policy. Representative Carney responded that he wants legislation which gives due process.

The next speaker was attorney Doug Morris of Louisville representing the Kentucky Justice Association. Mr. Morris cited situations in which workers who complained to the Equal Employment Opportunity Commission might be prejudiced by a two year statute of limitations because the EEOC frequently takes two years or more to determine that in 85% of the cases no determination is made and a "right to sue" letter is issued to the complainant. If the two year statute of limitations is enacted, plaintiffs who utilize the EEOC complaint procedure will no longer be able to sue after they receive a "right to sue" letter. Mr. Morris observed that in a civil case, the plaintiff has the burden of proof, delay is not encouraged, that current statutory provisions should be observed, and that now that most companies keep records on computers, a five year record retention program is not unreasonable. Mr. Morris indicated that most at will employees do not have contracts with their employers, while most executives do have contracts with their employers and would be protected by the five year statute of limitations in the contract in writing limitations while employees would be at a disadvantage and would only be protected by a two year limit if the proposed legislation is passed. Mr. Morris asserted that the legislation was "unnecessary".

The meeting was adjourned at 4:10PM.

INTERIM JOINT COMMITTEE ON JUDICIARY Subcommittee on the Penal Code and Controlled Substance Act Minutes of the 3rd Meeting of the 2009 Interim September 4, 2009

The 3rd meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Friday, September 4, 2009, beginning at 1:15 PM, at the Justice Center, 100 Justice Way, Hopkinsville, KY.

Present were:

Members: Senator Gerald A. Neal, Co-Chair; Representative John Tilley, Co-Chair; Senators Ray S. Jones II, and Jerry P. Rhoads; and Representative Brent Yonts.

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

Representative Tilley called the meeting to order and the roll was called. A quorum was not present. Senator Rhoads reported that his group felt that Drug Court has been a success and that the felony drug diversion program authorized by 2009 RS SB 4 shows promise of rehabilitating persons while relieving prison overcrowding. Senator Rhoads described the features of the current Persistent Felony Offender Statute, which he described as having been blamed for prison overcrowding. He indicated that when considering the PFO law a balance must be struck between education, rehabilitation, drug court, alternatives to incarceration, and public safety, and that input from prosecutors, defense attorneys, and judges is necessary. Senator Rhoads observed that the PFO law is tougher than those in most states and that proposals for change have included returning to the original 1974 version of the statute, which required actual imprisonment for prior crimes prior to the use of the PFO statute; whether or not pretrial incarceration time should be counted as a trigger for the PFO statute; whether the qualifying offenses for PFO should be limited to violent offenses as defined in KRS 439.3401; eliminating the PFO second statute and having only one PFO degree; and requiring prosecutors to choose between the use of the PFO statute or enhancements already found in controlled substance and other offenses and not permitting the prosecutor to use both an enhancement and PFO. Senator Rhoads indicated that he and Representative Bell are open to oral or written comments and recommendations as to how to proceed toward a report. Representative Tilley indicated that we need to be smart on crime and not soft on crime.

Representative Tilley called the attention of the members to a report in the members' folders by Senator Stine and Representative Fischer on Alternatives to Incarceration. The report described progressive sanctions for technical parole violations in lieu of incarceration for such violations, use of community corrections programs, and described the success of the community corrections program in Northern Kentucky.

Representative Tilley also called the attention of the members to a report in the members' folders by Senator Schickel and Representative Hoover on bail, pretrial release, and

speedy trial. This report recommended amending KRS 500.110 to provide a trial for misdemeanors within 90 days of arrest or that the person be released from custody pending trial. The report also included a proposed amendment to KRS 431.015 relating to the use of citations to limit the use of physical arrest in Class B misdemeanors committed in the officer's presence unless the defendant is charged with violating named statutes or there is reasonable cause to believe that the person will not appear at the designated time.

The next speaker was Professor Robert G. Lawson of the University of Kentucky Law School. Professor Lawson was one of the original drafters of the Kentucky Penal Code who reported on a five year study that he has made of Kentucky controlled substances laws and their use. This is the focus of a forthcoming law review article. Professor Lawson indicated that the crime rate in Kentucky is about the same as it was in 1970 through 2000, but that the incarceration rate has increased by 700% and that the cost of incarceration has increased from \$10 million per year to \$50 million per year. Professor Lawson observed that approximately 500,000 persons have been released from prison during this time and that the state has done little while they were incarcerated to educate them, provide counseling, provide drug or other treatment programs, or provide for their reintegration into society. Professor Lawson observed that, when Doug Sapp was a probation and parole officer in the 1970's, the officer to parolee ratio was 1 to 20 and that real counseling could be accomplished, but that today the ratio is 1 to 135 and is inappropriate for adequate supervision or counseling. Professor Lawson commented that the use of county jails to house Class D and Class C felons has resulted in virtually no programs for persons who are confined there for 3-4 years and that jails were not designed to provide rehabilitative programs.

Professor Lawson then turned to the Controlled Substances Act and its implementation. Professor Lawson indicated that the study observed the use of the controlled substances laws in Scott County and Fayette County and that the goal of changes should be to reduce the number of drug offenders in prisons through the use of alternative treatment programs. Professor Lawson indicated that in 1994 there were 1,500 drug offenders in the system while now there are 5,100 and that sentences are too long. He observed that Kentucky does not need to decriminalize drugs but needs to shorten sentences.

Professor Lawson traced the

Kentucky law to the Uniform Controlled Substances Act proposed in the 1970's. He made several suggestions for improvement of the current law including: adjusting the severity of penalties to the quantities of drug possessed. Current Kentucky law treats one pill the same as 100 pills; removing the persistent felony offender (PFO) law from KRS Chapter 218A because of the overuse of the PFO statute and statutory enhancements by prosecutors to lengthen sentences and ensure guilty pleas; examining the use of enhancements in the drug laws to reduce their use particularly where misdemeanors are enhanced to felonies; requiring an actual sale of a drug to a minor for this enhancement to apply; requiring the actual use of a firearm in a drug offense for this enhancement to apply; eliminating double counting in drug cases where separate offenses and separate penalties apply to different drugs and which have been permitted by the Supreme Court of Kentucky; eliminating the overcharging where the person is tried and convicted for possession, growing or manufacturing drugs, trafficking in the drugs, and possession of drug paraphernalia; making possession of drug paraphernalia a misdemeanor for all offenses; and reducing the distance for sale of drugs near a school from 1,000 yards to 1,000 or 300 feet as used in other states and require an actual sale to a minor for the statute to apply.

Professor Lawson indicated that presently any drug offense in Lexington can result in the application of the sale near a school statute and that in 44 of such cases where this charge was used none of the crimes involved sale to a minor. He suggested making possession of marijuana a fine-only offense and not applying the sale within 1,000 yards of a school statute to acts within a person's residence, or when a vehicle is stopped unless the sale is to a minor. Senator Neal observed that prosecutors use the sale near a school and other statutes as a "club" to obtain convictions and that Kentucky should look more toward reality and proportionality. In response, Professor Lawson indicated that he understood that prosecutors dealt with the worst people on earth but that, since the crime rate has increased only 3% from the 1970's, Kentucky needs a sense of proportionality in the use of incarceration and that alternatives to incarceration, treatment programs, and other similar programs result in persons who are less likely to recidivate and who are more likely to become productive law abiding citizens.

Professor Lawson observed that the average reading level of inmates

in prisons is 6th grade and that GED and similar educational programs are not readily available in prisons, that few inmates take advantage of educational programs, and that jails offer no programs at all. He urged ending the incarceration of felons in jails. Professor Lawson urged the members of the committee to read the draft of his article, "take the study apart," and make suggestions to him.

Representative Yonts asked Professor Lawson about his thoughts on the Penal Code study and draft prepared by Professor Robinson for the Justice Cabinet several years ago. Professor Lawson observed that prosecutorial representation skewed the study and that prosecutors and defense attorneys parted company. Professor Lawson was then asked about "truth in sentencing," which he observed was a creation of the federal government and was totally incompatible with the sentencing philosophy of the Penal Code, which emphasized rehabilitation and encouraged the use of parole. Professor Lawson said that Kentucky had a better program in 1974, and that the current code and the operations of the parole board emphasize punishment as the philosophy. He commented that some other states have used sentencing guidelines with shorter penalties, which takes sentencing decisions from prosecutors and judges. Professor Lawson commented that in Kentucky the judge was given the authority to reduce the sentence but not increase the sentence and that, now, prosecutors set the sentence and there are not trials. Professor Lawson said that total revision of the Penal Code cannot be done at this time, but that Kentucky needs to look at philosophy and make selective reforms as needed.

Representative Tilley commented that the committee is interested in hearing from legislators from Texas and Kansas to see how those states have handled their increasing prison populations. Professor Lawson indicated that Texas had one of the worst incarceration and incarceration cost programs, and that two of the leaders in making needed changes to their laws were Minnesota and North Carolina, and Kentucky should look to those states for guidance. Senator Rhoads commented that the current Kentucky PFO statute is a major driver of incarceration and prosecution leverage. He commented that mediation in criminal cases is working in his area of the state and shows promise for the entire state.

The next speaker was Lynn Prior, Commonwealth's Attorney for Christian County, who indicated that she agreed that many crimes involve drugs, are drug related, involve theft to obtain money for drugs or drugs,

and that many offenders are users and not traffickers. Ms. Prior indicated that marijuana guidelines are needed, that quantities need to be established for methamphetamine and cocaine offenses, and that users would benefit from treatment. She said that, for traffickers, confiscation of property and money has not worked because the trafficker's addiction is to money and not to drugs. Ms. Prior praised the work of the Trilogy Center at Western State Hospital, observed that Kentucky may be driven by costs relating to incarceration, and wondered about the cost to the citizen without putting these people in jail. These criminals hurt themselves, their children, their families, crime victims, and the taxpayers. Very few of these persons are first time drug offenders and they have "worked hard" to get to prison. Most committed many crimes before they were caught and many had already been on probation or pretrial diversion and had failed. Ms. Prior observed that there is a public backlash from early release of prisoners, that she has trouble advising victims as to how much time defendants will serve, and commented that the federal government has done away with parole and that perhaps the state should examine this possibility.

Representative Tilley responded that the General Assembly passed 2009 RS HB 372 which limited the early release of and street time sentence credit for violent offenders and sex offenders. He said that reentry programs are needed to improve the chances of persons not reoffending after release. Ms. Prior commented that many of the crimes and a large number of violent crimes are being committed by gangs and that gangs are an increasing problem in the state. She said that more people are serving more time because there is more crime, that grand juries feel that people are getting off too easily, and that studies indicate that the taxpayers will pay more to keep criminals in prison for public safety, and that most of the defendants plead guilty after plea bargains.

The next speaker was Ginger Massamore, Regional Director for the Department of Public Advocacy. She indicated that her region includes not only the counties and their criminal courts, but Eddyville Penitentiary and Western State Hospital, and that they handle 6,600 cases with 12-13 attorneys. Ms. Massamore indicated that the DPA attorneys "look at the whole client," need full-time social workers in each office to evaluate and serve clients, and want effective alternatives to incarceration with productive return of the client to society. She said that every \$1 spent on a social worker saves \$3.25, and that

GED programs, after school programs for juveniles, and other programs should be available through the DPA, and that DPA should provide "one stop shopping" for their clients. Ms. Massamore indicated that juvenile clients in her area of the state are the third highest juvenile clientele in the state and that juveniles are a systematic problem, that we need to break the addiction cycle, that there is lack of education, lack of respect, and that poverty needs to be reduced. She recommended increased criminal mediation which has been used very successfully in Hopkins County. Ms. Massamore observed that Kentucky tends to become callous about numbers, but that cases and clients need to be treated on an individual basis and that one cannot incarcerate a way out of the crime problem.

Representative Tilley then announced future meetings of the Subcommittee will be in Manchester Kentucky at 1:00 PM on October 2, 10:00AM, in Louisville on October 19, which is an all-day meeting, and a final meeting to approve recommendations of the Subcommittee at 10:00 AM on November 6 in Frankfort with a meeting of the full Interim Joint Committee on Judiciary at 1:00 PM to approve the recommendations of the Subcommittee for transmission to the Legislative Research Commission.

The meeting was adjourned at approximately 3:00 PM.

INTERIM JOINT COMMITTEE ON JUDICIARY

Subcommittee on the Penal Code and Controlled Substance Act Minutes of the 5th Meeting of the 2009 Interim November 6, 2009

The 5th meeting of the Subcommittee on the Penal Code and Controlled Substance Act of the Interim Joint Committee on Judiciary was held on Friday, November 6, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John Tilley, Co-Chair; Senators Jerry P. Rhoads and John Schickel; and Representatives Johnny Bell and Brent Yonts.

Guests: Janssen Willhoit and Lindsey Burke, Lexington Rescue Mission; Sarah Willhoit; Sheryl Norton; James Norton; and Ernie Lewis, Kentucky Association of Criminal Defense Lawyers.

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

Representative Tilley called the meeting to order, the roll was called

and a quorum was not present.

The first speaker was Mr. Janssen Willhoit who is an ex-offender working with prisoner reentry programs of the Lexington Rescue Mission. Mr. Willhoit indicated that in 2004 he was convicted of multiple counts of theft by deception for not properly disclosing the financial risks of his client's investments and sentenced to ten years in prison. Mr. Willhoit indicated that he was a first offender, came from a civic minded family, and that the impact of his incarceration was felt by his entire family and that of his future wife and her family.

Mr. Willhoit indicated that it is difficult for persons not directly impacted by a person's incarceration to fully understand the struggles associated with incarceration. Mr. Willhoit indicated that his in-laws and wife became involved in prison ministry programs during his incarceration and helped him focus on opportunities available after release from prison. Mr. Willhoit contrasted that encouragement with the lack of support, ridicule, and disparagement of hope from correctional officers and their supervisors when he made efforts to rehabilitate himself and obtain education through the graduate school level. Correctional officers and captains alike told Mr. Willhoit "Now that I was a felon, I'd never be able to work again." Efforts Mr. Willhoit made to teach other inmates how to read and write were met with scorn and punishment. Mr. Willhoit observed "We were no longer people, simply inmates."

Mr. Willhoit observed that while he understood that for some crimes there is no adequate alternative to incarceration, that "sending many non-violent first offenders to prison only introduces them to a criminal lifestyle and mindset otherwise foreign to them". Mr. Willhoit then recounted the number of drug trafficking and other illegal job possibilities explained to him while in prison and observed that "Without support and faithful contact of my wife and her family, I would have fallen into the same pit as most other inmates". Mr. Willhoit observed that the typical inmate only receives a criminal education while in prison and that due to costs, the state sends many prisoners to local jails where inmates are forced to sleep on the floor as he was in Lincoln County for six months, or to private agencies such as the Paducah Community Service center where Mr. Willhoit alleged that he was abused and raped in 2006.

Mr. Willhoit urged that imprisonment be used only if there are no other available options for rehabilitation and reparation, that when prisoners are incarcerated they should be properly cared for, and when re-

sponsibilities are passed to private agencies, adequate housing and supervision by the state are needed to adequately house the inmates and prevent abuse which Mr. Willhoit observed leaves the inmates broken and angry and engenders recidivism.

Mr. Willhoit then described his work with the Lexington Rescue Mission and using his experience to help current and ex-offenders in transitional programs designed to rehabilitate them. Mr. Willhoit observed that the Lexington Rescue Mission had received an Americorps grant to employ him. Mr. Willhoit also observed that he is a member of the Bluegrass Re-entry Council which utilizes nonprofit organizations and government agencies to offer, among other programs, a 12-month treatment program offered by the Lexington Rescue Mission. Mr. Willhoit observed that short term treatment "is not the answer" because addictions are symptoms of larger problems and that a holistic approach to developing life skills, character, and job training, is a more effective solution to rehabilitation. Mr. Willhoit observed that such a program involves "devoted mentoring which is currently impossible within a prison setting". Mr. Willhoit observed that under the present system where discretion given to each jurisdiction has resulted in lengthy sentences which should be remedied by "more stringent sentencing guidelines" which emphasized probation and parole. Mr. Willhoit commented that when an offender is on home incarceration, the offender pays, as opposed to the state or communities and the local community can provide the rehabilitation needed. Mr. Willhoit urged that state government partner with local churches, community leaders, and organizations to help offenders become "productive, positive role models for their family and communities" rather than setting barriers for them. Mr. Willhoit observed that these are "the people who best reach offenders, not the Department of Corrections.

Representative Yonts asked Mr. Willhoit how long he actually served in prison to which Mr. Willhoit responded, five years due to work and education credits and that he obtained four associate degrees while at Blackburn Correctional Complex. Mr. Willhoit was asked if he was ever paroled to which Mr. Willhoit responded that the Parole Board, without seeing him directly because he was a Class D felon and not entitled to a direct appearance, first gave him a 12 month deferment and followed with a serve out because of the "severity of his crime" even though he had a "low risk" assessment from the Department of Corrections. When

asked where he had served, Mr. Willhoit indicated that he was first sent to the Western Kentucky Correctional Complex, then to the private facility in Paducah, then to Green River Correctional Complex, then to the Bell County Forestry Camp, and then after appeals from his father-in-law to the Department of Corrections, he was moved to the Blackburn Correctional Complex in Lexington because it was nearer to his home and family.

Representative Yonts then asked Mr. Willhoit what he thought about food service while in prison to which Mr. Willhoit responded that when he was first incarcerated at the Western Kentucky Correctional Complex the state ran the food service and the food was good and served in adequate portions. When a private provider took over, the food portions were drastically cut and the food was worse, that the foods were diluted, and that they ran out of food every day and were served leftovers every day. When asked by Representative Yonts if most meat was processed chicken or turkey, and other specific questions about food deficiencies, Mr. Willhoit responded in the affirmative and when asked about grievances from prisoners, Mr. Willhoit responded that grievances were ignored, inmates were given other punishments for making them, and that guards no longer eat the food at the institutions. When asked about the details of his offense, Mr. Willhoit indicated that he did not adequately disclose risks of the investments to his clients but that he was prosecuted under state law when the Federal government decided that he had committed no offense under federal law and declined to prosecute him.

Representative Yonts asked Mr. Willhoit to send a letter to the committee with regard to his observations of prison food during his incarceration. Mr. Willhoit responded that he would send a letter to the committee.

Senator Rhoads asked about educational programs at prisons and Mr. Willhoit responded that Blackburn Correctional Complex had good programs but that many inmates could not avail themselves of the programs because of literacy deficiencies. Mr. Willhoit observed that 60% of the inmates at Bell County Forestry Camp were illiterate and could read and write. Mr. Willhoit urged that inmates be trained with real life skills and for work that they can do when they are released.

Representative Tilley urged the members to read the proposed subcommittee report prior to the full committee meeting in the afternoon. The meeting was adjourned at

11:00AM.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY Minutes of the 4th Meeting of the 2009 Interim October 15, 2009

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, October 15, 2009, at 9:30 AM, in the new indoor arena at the Kentucky Horse Park. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the committee assistant called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Julian M. Carroll, Julie Denton, Denise Harper Angel, Jerry P. Rhoads, Katie Kratz Stine, Gary Tapp, Robin L Webb, and Jack Westwood; Representatives Will Coursey, C. B. Embry Jr., Tim Firkins, Richard Henderson, Charlie Hoffman, Dennis Horlander, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Mary Lou Marzian, Charles Miller, Tom Riner, Charles Siler, Jim Stewart III, and Brent Yonts.

Legislative Guests: Representatives John Will Stacy and Susan Westrom.

Guests: John Nicholson, Executive Director, Kentucky Horse Park; Jamie Link, Chief Executive Officer, World Games 2010 Foundation, Inc.; Martine Head, Longitude Farm, Deauville, France; and Marchetta Sparrow, Secretary, Kentucky Tourism, Arts and Heritage Cabinet.

LRC Staff: Adanna Hydes.

Co-chair Kerr welcomed everyone to the joint meeting of the Interim Joint Committees on Economic Development and Tourism, and Labor and Industry. Co-Chair Ballard thanked the Kentucky Horse Park for their hospitality.

Senator Carroll noted the ongoing progress of the Horse Park since the 1970s and its first hosting of the Rolex three-day event to the upcoming 2010 World Equestrian Games.

A motion and second by Representative Siler and Senator Stine to approve the minutes of the September 15, 2009, Labor and Industry meeting were approved by voice vote.

Representative Hoffman welcomed everyone to the Horse Park.

Representative Edmonds introduced thoroughbred owner and breeder Martine Head of Deauville, France. Ms. Head expressed concern that marketing efforts in Europe and elsewhere for the World Equestrian Games were lagging. She said Europeans involved in equestrian events may not be aware of the significant work in place at the Horse Park for the 2010 Games. She said the 2014 Games will not be able to offer the

same caliber of facilities as those in the United States at the Horse Park. She suggested getting not only those involved in the world games but participants of others equestrian events as well.

Responding to Representative Pasley's question, Ms. Head said that as an observer, the 2010 Games are not featured enough in Europe. She suggested increasing public relations efforts in Europe as she feared that people would regret not coming once they see the games unfold.

Representative Wuchner asked if marketing the games as a holiday with side trips would be more interesting for the European traveler. Ms. Head noted that children will be in school in September so it is not a holiday period in Europe. She suggested partnering with European sister cities such as Deauville, France, Kildaire, Ireland, and Shizuoka, Japan.

John Nicholson, Executive Director of the Kentucky Horse Park, gave an update on the preparations at the Horse Park for the 2010 World Equestrian Games. Mr. Nicholson said the new indoor arena has already hosted several successful events. He said beyond the 2010 Games, the facility was needed as the park had outgrown its existing facilities. The new arena allows the park to be competitive in attracting future events and noted that the arena is already booked for 27 events outside of the World Equestrian Games.

Mr. Nicholson said the genesis behind the Horse Park was John Gaines' work to create a people's horse farm. It allowed visitors to experience Kentucky's equine heritage. The Horse Park evolved and has been successful in equine entertainment and education. Part of that success is the International Museum of the Horse which will host the international exhibit titled "A Gift from the Desert," in 2010--a \$3 million exhibit funded principally by the Saudi Arabian Equestrian Federation. It will feature priceless art and artifacts featuring the Arabian horse.

Mr. Nicholson said that the Kentucky Horse Park Foundation was formed to allow private money to fund facilities for horse shows. Currently, there are over 70 national and international events. The original intent was for private organizations to be headquartered at the park. In 1986, the American Saddle bred Association opened their national headquarters and museum at the park. To date, there are 35 organizations headquartered at the park including the United States Equestrian Federation. Mr. Nicholson noted the number of private sector employees who work at the park, stating the best type of public investment is

one which fosters private investment within Kentucky's signature industry. Through the partnership with the Equestrian Federation the Horse Park heightened its profile nationally and internationally in an effort to secure the 2010 World Equestrian Games. Mr. Nicholson noted the importance of the British exhibit and the Imperial China exhibit because they fostered international relations as will the World Equestrian Games. He pointed out that the 2010 Games are the first to have a name sponsor. The sponsor, Alltech, Inc., is an international cutting-edge biotechnology company headquartered in Nicholasville, Kentucky. He said the 2014 World Equestrian Games in France will carry an Alltech name sponsorship as well.

Mr. Nicholson said the 2010 Equestrian Games would not have been possible without the vision and support of the Kentucky General Assembly. Referring to a construction update handout, Mr. Nicholson said of the approximately \$109 million in capital projects at the park, \$80 million are state funds. He said the new indoor arena and outdoor stadium have received great reviews and the infrastructure updates were well needed. \$28 million in private investments funded construction and renovation of new offices, an addition to the museum, and other facilities on the park grounds.

Responding to Senator Kerr's question, Mr. Nicholson said they are continuing to promote the games and noted that during the Alltech European Equestrian Championships in England there was a significant promotional effort there as well as at international equestrian events in Toronto Canada.

Responding to Representative Ballard's question, Mr. Nicholson explained that the World Equestrian Games are similar to the Olympics and are awarded to different areas and countries every four years. The 2014 Games will be in Europe. He said it is a possibility that the games will come back but other international events such as the annual World Cup Championships and the qualifiers for these type events are more promising. He said the Horse Park is now on the "international road" of equestrian sports.

Jamie Link, Chief Executive Officer, World Games 2010 Foundation, Inc. explained that the equestrian games consist of eight world championships of equestrian sport. The 2010 games will be the first to feature eight disciplines and the first to include paraequestrian events. Also, it will be the first time all events will be held in one designated area. The only event not held completely on Horse Park grounds is the 100 mile endurance ride. The Horse Park has

partnered with surrounding farms for this event. Mr. Link said the equestrian games will be the largest sporting event in the United States in 2010. It will be the second largest sporting event in North America, second only to the Vancouver Winter Olympics.

Mr. Link explained that the World Games Foundation is a self-funded, nonprofit organization. The Foundation receives its revenues from sponsorships, ticket sales, trade show sales, and hospitality sales. It is anticipated that there will be over 500,000 spectators at the 16-day event and 500 million television viewers globally. The initial projected economic impact is \$150 million. Mr. Link said hotel rooms and travel arrangements have already been booked. Staffed by approximately 30 people, the Foundation will rely heavily on volunteers for the games, with several thousand volunteers currently registered. The Park will host 1,500 to 2,000 media from around the world.

Mr. Link said ticket sales launched September 25 with over 125,000 sold to date. Through ticket sales, the Foundation has obtained one third of their revenue. Mr. Link said although the event has a \$76 million budget, the competitions must be flawless, therefore a great deal of resources have been devoted to operations. Other budgetary expenses include 35,000 temporary seats, 300-400 temporary structures as well as transportation and security costs. There will be several hundred motor coaches in to transport attendees to the games daily. The marketing budget is strategically set up to promote the games regionally, nationally, and internationally. The Foundation is working with the International Equestrian Federation, Alltech, Inc., several equine publications and journalists to market the games and will continue to increase marketing in print and electronic media around the world to promote ticket sales. Mr. Link said the Foundation is also working with the Kentucky congressional delegation and federal organizations primarily in areas of transportation and security.

Mr. Link said the "Kentucky Experience," coordinated by the Tourism Cabinet, will promote state tourism, Kentucky products, and will host Kentucky entertainment. It will be featured in a 25,000 square foot facility in the main trade show area. Mr. Link said the legacy of the first United States sponsored World Equestrian Games is important.

Senator Stine said she had received complaints about the unavailability of hotel rooms. Mr. Link suggested booking travel through the Foundation's website. He said some periods are being booked faster than others and some hotels are requiring

minimum lengths of stay. The average booking is seven days. He said there are rooms available including areas outside of Lexington in central and northern Kentucky as well.

Responding to Senator Stine's comment, Mr. Link said regional media have been very cooperative in covering the upcoming games. Representatives are also attending core competitions in Europe to promote the games, as well as working with the FEI and other media outlets in Europe. He said there is a lot of interest in group tours so they are working with the Tourism Cabinet to coordinate efforts with tour operators in Europe to promote the games. They are also working with other world markets to market the games.

Secretary Sparrow added that six international travel writers who specialize in equine sport are currently in Kentucky touring the area in preparation for the Equestrian Games. She said the cabinet has a public relations firm in London to market in Europe and other efforts include marketing horse shows in Canada. Secretary Sparrow said the cabinet has been working with regional tourism partners in marketing the games.

Senator Westwood asked if there was a transportation plan to get visitors to and from local airports. Mr. Link said shuttle plans are being made for nearby airports including Louisville and northern Kentucky and daily park-and-ride options are being developed as well. Car rental agencies have been contacted regarding their inventories.

Responding to Representative Embry's question Mr. Link said tickets have been sold to people from all 50 states and over 40 countries. He said Europe will be the strongest market but they are marketing in areas outside of Europe as well.

Representative Carney expressed concern about current financial hardships schools are facing and having to pay a fee for children to tour the Horse Park. He noted the educational importance of children experiencing one of Kentucky's signature areas. Mr. Nicholson said there are a number of class tours throughout the year. He said that while the fee is a nominal \$2 per student, he understands the potential hardship. The education department at the park has designed curricula for teachers to use horses to teach various disciplines. He said it is web-based as well. Representative Carney suggested waiving the fee at least for next year. Mr. Nicholson said it was a worthy idea to investigate.

Representative Wuchner noted the differences in European mass transportation and that of the United States and asked if transportation

packets had been considered. Mr. Link said they are providing motor coaches and the Tourism Cabinet is working with local governments to incorporate public transit systems to help provide transportation for ancillary travel. Mr. Link said their goal would be to provide free shuttle service from park and ride locations but was unsure if this could be budgeted. If not, they would consider a nominal charge for round trip transportation to and from the park. The volume of visitors in those areas has yet to be determined.

Senator Harper Angel asked if information technology was being fully utilized in marketing the games. Mr. Link said IT links were being included wherever possible.

Responding to Senator Harper Angel's question, Mr. Link said there are significant security plans in the works. There will be many foreign heads of state, royalty, as well as local, state, and national dignitaries. He said there will be perimeter security as well as internal event security in place. He said it is important to be secure without undue intrusiveness. Prohibited items lists will be posted in the parking lot, at the park entrance and on the website for the games.

Responding to Senator Webb's question, Mr. Link said for safety reasons there will be a no-dog policy for the games. The Foundation is working with the Lexington Humane Society to provide temporary shelter if needed and many hotels are pet friendly. The no-dog policy will also be publicized. Mr. Nicholson added that dogs are not allowed by orders of the United States Department of Agriculture to help prevent the spread of communicable diseases between dogs and horses. He said dogs will be welcome at the park before and after the games.

There being no further business, the meeting adjourned at 11:30 AM.

Following the meeting the committees toured the new facilities at the Horse Park.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

**Minutes of the 5th Meeting
of the 2009 Interim
October 9, 2009**

The 5th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 9, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Gary Tapp, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Bu-

ford, Julian M. Carroll, Julie Denton, Denise Harper Angel, John Schickel, Dan "Malano" Seum, Kathy W. Stein, Damon Thayer, and Robin L Webb; Representatives Tom Burch, Larry Clark, Ron Crimm, Tim Firkins, David Floyd, Dennis Horlander, Adam Koenig, Reginald Meeks, Charles Miller, Ruth Ann Palumbo, Carl Rollins II, Arnold Simpson, Ron Weston, and Susan Westrom.

Guests: Mac Stone, Executive Director, Office of Agricultural Marketing and Product Promotion, Department of Agriculture; Curtis Sigretto, Elk Creek Vineyards, Ed O'Daniel, President of the Kentucky Winery Association; Arch Gleason, President, Mary Harvell, General Counsel, Howard Kline, CFO, Kentucky Lottery Corporation; Denise Logsdon, Secretary, Kentucky Board for Massage Therapy; Pam Jenkins, Lobbyist, Kentucky Chapter of the American Massage Therapy Association.

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

Minutes of the September 11, 2009, meeting were approved as submitted without dissent.

First on the agenda Senator Damon Thayer introduced a bill he is considering filing for the 2010 General Assembly to consider. He told members his bill was very simple. He said it only changes the cap on the amount of wine that a small farm winery is allowed to produce annually. He said the current cap is 50,000 gallons per year and his proposal raises the cap to 100,000 gallons per year. Senator Thayer said that when Senate Bill 82 was passed no one anticipated the rapid growth in the Kentucky wine industry and that there are some wineries getting close to producing 50,000 gallons of wine per year.

Curtis Sigretto, owner of Elk Creek Vineyards, told committee members that he moved to Kentucky in 1985 and opened Elk Creek Hunt Club and Sporting Clays. Mr. Sigretto said that he has held numerous tournaments with clays, including tournaments that have helped raise over two million dollars for the Boomer Esiason Foundation in eight years. He said that this year the U.S. Open shoot was held at Elk Creek with over 1,000 shooters from around the world. Mr. Sigretto said that as an entrepreneur he saw the need for fine wine and began construction for a winery in 2005. Thanksgiving weekend of 2006 Elk Creek Vineyards opened with a winery designed to produce 5,000 gallons of wine. He stated that currently Elk Creek is the largest winery in Kentucky with 36 acres planted and 14 varieties of wine. Mr. Sigretto said

that the winery is now producing over 40,000 gallons and distributes to Ohio, Indiana and soon Illinois. He said over 50,000 people, per year, visit the winery. Also, Mr. Sigretto said he has three stores across the state, and has wine in the Kentucky Proud store at Rupp Arena. He said that the 50,000 gallon limit hinders his ability to grow his product line. He told the committee that a winery in Indiana sells over 25,000 cases of wine to Kentucky visitors on a yearly basis.

Representative Westrom asked why the industry had a 50,000 gallon cap. Senator Buford responded that the small farm wineries were exempt from paying the 11 percent wholesale tax and the wholesale distribution was subsidized, adding the wineries were afforded other privileges such as promotional money. Senator Buford said that there are 16 out-of-state licenses and that they would also be allowed to increase their gallonage if Kentucky changes the cap. Also, the number of wineries that could direct ship, avoiding the wholesale price, would increase. Senator Buford said perhaps a solution would be to make a license that would fit individual small farm winery needs.

Edward O'Daniel, President of the Kentucky Winery Association, said that raising the limit to 100,000 would bring parity between the state law and the federal law. He said a new license could be created for distributors or another type of winery license that would not allow for the advantages currently in place.

Senator Thayer said another consideration to raising the gallon cap was helping the grape growers who have crops they cannot sell since the small farm wineries are at capacity.

Representative Clark said Senator Buford's comments were to the point. He said that he would be reluctant to expand the gallonage cap knowing that out-of-state wineries would get the wholesale tax break. He said that Huber Wines would come into Kentucky and put the smaller farm wineries out of business.

Senator Thayer said he wanted to help the wineries grow their business. He added that he would work with Senator Buford and Representative Clark to draft legislation that would not be punitive to expanding wineries.

Mr. Sigretto added that he did not feel that out-of-state wine sales would hurt the Kentucky small farm wineries. He told the committee that he had marketing ideas that had "national legs," but if he could only produce 50,000 gallons in Kentucky he would have to produce wine in California. This would mean that he

could not add the "Kentucky Proud" sticker to the back of his wine bottles. Also, with the current law he would lose his tasting room if he produced more than 50,000 gallons of wine.

Senator Carroll said that wine making was brought into Kentucky to supplement the decline of tobacco crops. He said he was concerned with the 100's of wineries around the United States that would come into Kentucky if the gallonage limit was increased above 50,000 gallons.

Senator Schickel said if the wineries were willing to pay the tax when their production rose above 50,000 gallons the legislature should help them.

Mac Stone, Executive Director for the Office of Agricultural Marketing and Product Promotions, explained to the committee members that Stacia Alford was responsible for the day-to-day business with the Grape and Wine Council and the distribution of the Small Farm Winery Fund. He said that there are currently 54 small farm wineries and most of those produce less than two or three thousand cases per year. He said even these small wineries cost hundreds of thousands of dollars to start up. Mr. Stone said that when the wineries were forced into the three-tier system the distribution fund was started to allow them to have some competitive advantage. He said that Elk Creek Vineyards has utilized the fund.

Mr. Stone said that the Departments of Agriculture and Tourism share a marketing position and have done very well attracting tourists to the farms. He said the enologist and viticulturist at the University of Kentucky have been invaluable. He said a quality certification program is being developed and they are holding competitions at the State Fair. Mr. Stone said the benefits of being in the small farm winery program are the \$100,000 per year that the wineries share for marketing and promotion of their own individual winery. He said there is a formula that allows the larger wineries to have access to more funds and the smaller wineries who are not able to invest their half of a large amount to receive a lesser amount. There is also a prorated formula for the distribution funds.

Mr. Stone said there is a vintner's license that allows for production and wholesale distribution of wine. He said that tasting rooms and on-site sales, as well as off-site retail, are the way most of the small wineries will operate for a long time to come. He said that the issue of grape production and purchasing of grapes fluctuates from year to year. This year was a wet year and the vintners have problems with sugar and pH levels causing an off flavor.

Mr. Stone said the incentive has been lost to buy Kentucky grapes due to the higher cost of production. He said many wineries can purchase grape juice in a barrel rather than having grapes that were not the right quality. He said the wineries have noted that sales are holding their own even though the economy has been down. Mr. Stone said that the legislature could consider allowing for a larger gallonage limit while still offering incentives. He said that the tasting room is invaluable. He said the Grape and Wine Council is evaluating different methods to offer incentives as well.

Mr. Stone said the one area of growth has been expanded retail which will call for more production at a cheaper price. He said Sunday sales for the smaller winery is the single largest thing that would help their growth. He said that Sunday sales in the tasting room would increase a small farm winery's business by as much as fifty percent.

Representative Clark said the 50,000 gallon threshold was to protect the Kentucky wineries. Regarding retail sales, he said he was trying to pass legislation to sell wine in larger grocery stores; however, stores were reluctant to reserve floor space for Kentucky wine.

Senator Tapp said that due to the amount of money that was going into the Small Farm Winery fund the threshold was put in place to make sure there would be help with advertising and distribution and would be fair to all Kentucky wineries.

Senator Buford commented that Mr. Stone, Representative Clark and the winery owners might wish to meet with the distillers and distributors to draft language permissive.

Senator Tapp said that this upcoming session was going to be his last. However, he stated he would like to see the General Assembly do a better job of helping Kentucky businesses. He said construction projects all across the state, paid for with tax-payers dollars, are being done by out-of-state construction companies, electricians, architects. He said there are in-state vendors who can do the job.

Senator Tapp also took the opportunity to recognize and welcome Senator Robin Webb as the newest member to the committee.

The next item on the agenda was a presentation from the Kentucky Lottery Corporation. Arch Gleason, President of the Kentucky Lottery gave the annual report. He said lottery sales consistently have risen modestly since it began. He said the sales improvement last year was 4.2% with an increase in dividends to the Commonwealth at 6.4 percent. He said that a report issued by the

Rockefeller Institute shows that, due to the recession, for the first time since 1970, gaming revenues to state governments will be down. He said other states that operate a lottery appear to be about 2% down.

Mr. Gleason said that since the Kentucky lottery went on line in 1989, sixty percent of lottery sales have gone to players; commissions paid to retailers was 6.2 percent of sales and the lottery's operating expenses have been 7.3 percent with the state getting 26.3 percent. He said that \$1.66 billion was turned over to the General Fund and this figure included \$214 million to Support Education Excellence in Kentucky, (SEEK). One point three billion dollars was dedicated to the Kentucky Educational Excellence Scholarships (KEES) Reserve Fund. Thirty million dollars was dedicated to the Literacy Development Fund, and \$20.8 million to the Kentucky Affordable Housing Trust Fund (in the years 1999 through 2003). Mr. Gleason said that proceeds from the Lottery in FY 2010 are \$3 million off the top goes to the Literacy Development Fund. Of the remaining funds, 78% goes to scholarship and grant programs; 45% is split out to KEES and 55% is to the College Access Program (CAP) and Kentucky Tuition Grants (KTG). Any unclaimed prize money, typically between \$8 and \$10 million, goes to the KEES Reserve Fund. He said that remaining proceeds, by statute, remain in the General Fund to be used to support restoration of higher education funds.

Mr. Gleason said that during the last five years the operating costs, including cash sales, prizes, operating expenses and dividend transfers have fluctuated but are typically in the range of 6 percent. Mr. Gleason said that in 2009 the Lottery made the decision to offer free tickets as prizes. He said offering free tickets kept the players interested in the game and allowed the Lottery to improve profitability, explaining that previously a winning two dollar ticket exchanged for cash and now the ticket is exchanged for another ticket. Mr. Gleason said that the Lottery reduced the limit per drawing on the Pick 3 and Pick 4 games from \$3 million and \$2 million to \$1.5 million allowing the Lottery to achieve a \$1.1 million higher gross profit sales for the year, on Pick 3 in particular. Mr. Gleason said the Lottery has reduced advertising expenses by \$2 million; reduced salaries, wages and benefits by \$1.6 million by eliminating 25 positions; restructured and minimally reduced retailer incentive compensation by \$1.6 million; and reduced the cost for scratch-off ticket printing, contracted, and professional services by two percent. He said the Lottery

is still delivering quality lottery services.

Mr. Gleason said the Lottery profits have increased by six percent in an industry that has seen a decrease in profits across the United States. He said that the economy in Kentucky has not yet rebounded. He added that most tickets sold are to the average citizens, between the ages of 25 and 55 with slightly greater than a high school education and an average income. Mr. Gleason said that currently on-line sales are up 11 percent compared with the previous year. He said this was driven by Power Ball.

Mr. Gleason told the committee that future challenges to the Lottery are; increasing instant ticket sales, Scratch-Off and Pull-tab, by \$11.1 million; increasing sales of the online games, Pick 3, Pick 4, CashBall, Win for Life, 3 Line Lotto and Powerball by \$7.3 million. Mr. Gleason said sales in these games have remained even, or flat, for several years. He said that current economic conditions, including the high unemployment rate, have a negative impact on disposable income. A maturing product mix and increased competition for gaming sales are being tracked. Mr. Gleason said that the expansion of more active forms of gaming in neighboring states poses a challenge for Kentucky sales. He said the Lottery is prepared to respond if Kentucky law is changed to expand gaming. Mr. Gleason said the possibility of internet wagering laws changing would have an impact on gaming in Kentucky as well.

Representative Keene asked why the Lottery cannot report to the public on where profits are dispersed. Mr. Gleason responded that the Lottery is prohibited by statute to mention programs that benefit from lottery sales. Senator Buford asked if it was possible to tax lottery tickets. Mr. Gleason said the tax would have to be included in the price of the lottery ticket. Senator Buford asked if there are statistics from other states on product sales when a neighboring state expands gaming beyond a lottery. Mr. Gleason said he was not aware of any report on this. Senator Buford asked if, in Mr. Gleason's opinion, the Governor could issue an Executive Order and have the Lottery control Video Lottery Terminals (VLTs) at race tracks. Mr. Gleason said that VLTs may not be the same as slot machines; but current law prohibits slot machines. Representative Meeks asked if upper management was among the staff reduction. Mr. Gleason said the lay-off involved 15 sales positions, closing one regional office, and mid-level management positions were reduced. Senator Webb said the legislature should be aware of future proposals that

would undermine the integrity of the Lottery and public education. Representative Miller asked if there was a method to track winning scratch-off tickets that are redeemed for more scratch-off tickets. Mr. Gleason said the Lottery tracks the number of tickets printed and the overall sales of the game as well as validation of prizes claimed. Prizes are considered unclaimed 180 days after the game ends. He added that in an on-line game if no one claims the prize within 180 days the ticket is considered unclaimed.

Last on the agenda, there was a discussion of issues for the upcoming General Assembly regarding massage therapy. Pam Jenkins, representing the Kentucky Chapter of the American Massage Therapy Association and Denise Logsdon, Secretary for the Kentucky Board of Licensure for Massage Therapy spoke to members. Ms. Jenkins said that massage therapists have been licensed since 2003. Ms. Logsdon said the board would like to clarify the definition of massage therapist to help licensees better understand the law. She said specifically the practice of chair massage at kiosks in malls should be licensed to better protect the public. She said the board does not intend to raise fees but wants to clarify late renewal and reinstatement. She said the board is currently processing applications for certificate of good standing from schools, and are requesting to add a nominal processing fee to the schools.

There being no further business to come before the committee, the meeting was adjourned at 11:45 a.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Minutes of the 5th Meeting of the 2009 Interim October 28, 2009

The fifth meeting of the Interim Joint Committee on Local Government was held on Wednesday, October 28, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Walter Blevins Jr., Julian M. Carroll, Carroll Gibson, Mike Reynolds, John Schickel, Elizabeth Tori, and Johnny Ray Turner; Representatives Ron Crimm, Mike Denham, Ted Edmonds, Derrick Hoffman, Brent Housman, Adam Koenig, Stan Lee, Tom McKee, Reginald Meeks, David Osborne, Arnold Simpson, Kevin Sinnette, Ancel Smith, Ken Upchurch, and Jim Wayne.

Guests: LaDonna Thompson and Rodney Ballard, Department of Corrections; Tony Wilder, Department for Local Government; Michael Foster, Denny Nunnelle, and Shellie Hampton, Kentucky Association of Counties; Vince Lang, Kentucky County Judge/Executives' Association; Bobby Waits and Marshall Long, Kentucky Jailers' Association; Ron Wolf, Louisville Metro Government; Mark Mangeot, Justice Cabinet; J. D. Chaney, Bert May, and Tony Goetz, Kentucky League of Cities; and Ned Sheehy, Lexington-Fayette Urban-County Government.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, John Ryan, Kris Shera, Tom Dorman, Matt Niehaus, and Cheryl Walters.

Upon the motion of Representative Henderson, seconded by Representative Crimm, the minutes of the September 24, 2009 meeting, were approved.

Representative Riggs recognized Senator Thayer. Senator Thayer expressed the committee's condolences to Representative Riggs in the passing of his father.

Representative Riggs stated that the purpose of the meeting was to discuss the implementation of the Auditor of Public Accounts' recommendations for jails. He referred members to the Auditor's report which was included in the folders. Representative Riggs then recognized Commissioner LaDonna Thompson and Deputy Commissioner Rodney Ballard with the Department of Corrections (DOC).

Regarding the recommendation that DOC should develop and implement a uniform jail financial management system to capture all jail expenditures, Commissioner Thompson told the committee that this is being done at the county level. She noted that county government uses a uniform budget schedule after being approved by their local fiscal courts. Commissioner Thompson added that these budgets are submitted to the Department for Local Government (DLG). She pointed out that DOC does not have any role in setting budget policy at the local level.

Regarding the recommendation that DOC should maintain a cumulative population report for each detention center for the fiscal year, identifying the cumulative number of state, federal, county, and other counties/states inmate days for each fiscal year, Commissioner Thompson stated that this is being maintained on a weekly basis. She added that local governments keep an annual population report.

Regarding the recommendation that DOC should explore restructuring the per diem fee for holding state prisoners and consider indexing the

per diem to the consumer Price Index (CPI, Commissioner Thompson explained that the CPI increase is a good idea. She said DOC has recommended a CPI adjustment be figured into the jail per diem on an annual basis and have requested increased funding. Commissioner Thompson noted that they had locked into tying in per diem payments to jails based upon the services jails provide, but because of various reasons, a fair way of determining that payment structure could not be figured out.

Regarding the recommendation that new or expanded jails should only be constructed after review and approval by DLG and DOC, Commissioner Thompson stated that 2009, SB 76 proposed this language and was defeated. She pointed out that DOC does not have the authority to prevent a county to build a local jail if a county so desires. Commissioner Thompson noted that DOC does offer guidelines and recommendations, but the final decision belongs to the fiscal court.

Regarding the recommendation that the Kentucky Jailers' Association and DOC should undertake a thorough review of the management of medical expenses incurred by the county jails, Commissioner Thompson stated that in 2006, 14 jails privatized their medical service. In 2009, 44 jails now privatize their medical service. She added that jails do work together for best practices and share information. Commissioner Thompson noted that DOC shares best practices with jails, also. She continued to say that jails use the Correct-Care systems which administers and facilitates medical care for inmates. CorrectCare reviews medical charges for appropriateness. Commissioner Thompson added that if jails use the DOC pharmacy, the state pays for this cost for both county and state inmates. She said that jails can sometimes use their own pharmacies and still participate in CorrectCare. Commissioner Thompson attributed a 39 percent savings in medical bills through the use of Correct Care by jails in the last biennium.

Regarding the recommendation that DOC should review and adjust the state's funding formula for medical expenses so that the funds are applied against actual expenditures for medical services, and consider reimbursing 100 percent of medical costs incurred by jails that have agreed to participate in medical management programs prescribed by DOC, Commissioner Thompson said they pay the cost of medical management and that DOC does not have a line-item budget to reimburse the counties at 100 percent. However, she noted that 2009 HB 191 was designed to offset the costs of county catastrophic

medical inmates to include caring for pregnant females.

Regarding the recommendation that counties should review their policies with the goal of maximizing inmate fees; ensure the jail has an adequate accounting system to track fees owed and collected, Commissioner Thompson explained that in FY 2005, jails collected \$3.5 million; in FY 2008, they collected over \$4 million—an increase of almost \$600,000. She noted that jail management systems are running negative balances on amounts owed by inmates. Commissioner Thompson added that collection of fees owed by inmates after they are released from jail has been difficult because released inmates are often unemployed or transients. She noted that it is easy to obtain a civil judgment, but difficult to collect it. She added that some jails have turned debts over to a collection agency to see if monies owed can be collected.

Regarding the recommendation that jails, at a minimum, use competitive bidding or documented price comparisons to purchase food or meals, and if meal costs are above the statewide average, fiscal courts should demand explanations, Commissioner Thompson said jails are privatizing services more and more. She said the smaller the jail, the less the jail is able to privatize because of a lack in volume. With more jails privatizing their food service, she said it has allowed jailers to call and do price comparisons of their food service operations.

Regarding the recommendation that jails should report to the fiscal court all elements of the financial transactions involving telephone service vendors, Commissioner Thompson stated that revenue and expenditure transactions are between the local jailer and fiscal court. She noted that DOC could require reports, but it would have no impact on the contracts.

Regarding the recommendation that DOC should perform a mandatory jail efficiency audit if a jail requests state reimbursement for inmates and inmate cost per day exceeds the state average by more than 10 percent, Commissioner Thompson said that DOC does not do an efficiency audit. She explained that DOC pays a set fee to house state inmates; and the jailers work with the fiscal courts for any amount in excess of that amount.

Representative Riggs asked if DOC brought a copy of the review of the medical expenses. Commissioner Thompson replied no, but they would see that the committee got a copy of it. She cited some medical savings figures from the report.

Representative Riggs asked if

DOC has been satisfied with CorrectCare. Commissioner Thompson replied that DOC has been satisfied with CorrectCare.

Representative Riggs asked why DOC did not do a jail efficiency audit. Commissioner Thompson said that efficiency issues were between the county and the jails. She added that the per diem remains the same amount always.

Representative Koenig asked how food was bidded out. Mr. Ballard stated that there is no requirement to bid out food services, but that there was an increased interest in privatizing food services.

Representative Koenig asked how many jails are in Kentucky. Mr. Ballard said there were 77 full service jails in Kentucky.

Representative Hoffman expressed concern with private food service. He asked who the main food service contract was with generally in Kentucky. Commissioner Thompson stated that Aramark was the main food service contractor and provides food service for the state.

Representative Hoffman asked if DOC knows of any jail that had returned to providing their own food service once they had privatized. Mr. Ballard said he knew of none that had done so.

Senator Carroll asked how much it costs to house a prisoner. Commissioner Thompson replied it was over \$50 a day to house a prisoner in a state facility and that the state pays \$34 a day to house a state prisoner in a county jail. Senator Carroll wondered why the state would not house more prisoners in county jails and then expressed concerns about the lack of educational attainment amongst prisoners. Commissioner Thompson indicated that the per diem costs for housing prisoners were averages and that program levels offered in the institutions were a factor also. In addition, she cited the classification of prisoners held in county jails and statutory requirements relative to the housing of prisoners in county and state facilities.

Senator Carroll asked how many regional jails were in Kentucky, and if DOC was working to increase that number. Commissioner Thompson said there are three regional jails. She noted that regionalization was a recommendation in the University of Louisville jails study. Senator Carroll asked if that study could be made available to the committee. Commissioner Thompson said that study would be made available to the committee.

Senator Carroll also asked how many prisoners were high school dropouts. Commissioner Thompson said she would find out.

Representative Lee asked what

percentage of jails privatized their food services, if they all used a specific vendor, and if the contract was a bid out. Mr. Ballard replied that there were three vendors in the Commonwealth: Aramark, Kellwell, and Cantina. He indicated that the counties made the decision of whether or not to bid for food service. Commissioner Thompson noted that Aramark was Kentucky's vendor and the contract was bid.

Representative Lee asked how much money is saved by jails contracting with food service vendors. Commissioner Thompson said she did not know the current figure but would make that figure available to members.

Representative Lee asked if a reason for the North Point prison riot had been determined. Commissioner Thompson responded by saying the Cabinet had gathered a critical response team and was conducting extensive investigations to determine the cause. She noted that a report was pending. Mr. Ballard interjected that in his county's jail, privatizing food service saved five staff positions. He further noted that food can be bland but that he regularly sampled the food.

Senator Thayer asked how many jails used Aramark. Mr. Ballard answered that 20 jails used either Kellwell or Aramark. Senator Thayer noted that Aramark was an often used vendor and suggested that no riots had occurred in other locations.

Representative Henderson asked if there has been any discussion to consolidate jails. Mr. Ballard replied yes, but there are no tax incentives and no help from the legislature.

Representative Henderson also asked if DOC would agree that most jails are in the red. Mr. Ballard said "yes." Representative Henderson expressed concern over drug related medical cost impacts to jails and noted the necessity of consolidating jails.

Regarding food costs for jails, Senator Tori asked how many jails cultivate their own food. Mr. Ballard said he didn't have the exact number but that several jails grow their own food. Senator Tori also asked if DOC encourages jails to grow their own food or is it left up to the jailers. Mr. Ballard said they do encourage it, but that many of the urban jails do not have the land to grow their own food.

Representative Crimm asked what behavioral controls are available in prisons. Commissioner Thompson replied that external punishments are available, such as additional charges, and internal controls are available, such as segregation.

Representative Wayne commented that it was his understanding

that the daily reimbursement rate to jails happens after a person is incarcerated, that pre-incarceration is not reimbursed. Commissioner Thompson said that was correct.

Representative Wayne expressed concern over the lack of a required bidding process for counties in securing food service contracts. He stated that it is in the best interest of the Commonwealth to treat prisoners humanely.

Commissioner Thompson noted that in her experience, the philosophy of DOC has been the humane treatment of inmates, and they have tried to provide social services to the inmates.

Senator Schickel commented that Kentucky is actually used as a corrections model nationally. He noted the history of the elected jailer and the reasons behind elections. Senator Schickel further noted that, as the Auditor indicated in the jail study, that many jails were efficient and used best practices, and could be used as models. He said that, in his experience, riots were the result of a breakdown in discipline.

Senator Blevins commented that the General Assembly has to step up to the plate to fund jails. He questioned practices of continuing to imprison individuals who are not longer threats. Senator Blevins also commented about radio communications problems in facilities. He asked about canteens in prisons. After explaining how canteens operate, Commissioner Thompson noted that grants have been received by DOC for radios and monitoring equipment.

Representative Edmonds commented that a county consolidation bill has been prefiled and that counties are discussing consolidation as a way to help with the cost of funding jails.

In reference to Representative Wayne's comments about potential bidding abuses, Representative Koenig noted that counties do have required ethics codes and are regularly audited.

Representative Riggs invited DOC to suggest legislative changes they felt necessary.

Representative Riggs next introduced Commissioner Tony Wilder with the Department for Local Government (DLG). Commissioner Wilder told the committee that DLG receives reports from jails on a quarterly basis. He stated that jailers must present their budget to the fiscal court by April 1st. Commissioner Wilder explained that it becomes part of the general budget that is considered on May 1st. He added that DLG receives budgets to review to see if they are balanced and receive and monitor quarterly reports. Commissioner Wilder noted

that ultimately fiscal courts bear fiduciary responsibility. Regarding the building of jails, he stated that counties must go through the state-local finance officer when seeking bonding for amounts in excess of \$500,000. Commissioner Wilder said there are statutory requirements in existence for these procedures.

Representative Riggs noted that there are 40 jails that are doing well and the remainder are not doing as well. He asked what DLG was doing to spread best practices information. Commissioner Wilder answered that best practices were discussed at the various conferences conducted throughout the state.

Representative McKee asked if there are jails showing a profit and if so, which jails. Commissioner Wilder stated that there are some jails showing a profit, but he did not know which ones. He noted that the number of "paid" prisoners makes a difference in profitability. Commissioner Wilder said he would make that information available to the committee.

Senator Thayer stated that at the next meeting, the committee should hear from the jailers that are making money and what they are doing right.

Representative Denham asked Commissioner Wilder if he could recommend one thing to reduce prison population, what it would be. Commissioner Wilder said he would recommend substance abuse treatment instead of jail time.

Senator Gibson, after citing some local statistics and practices of his local regional jails, commented that there needs to be more regional jails. He noted that federal prisoners tend to be profitable for jails.

Representative Riggs lastly introduced Mr. Michael Foster, President of the Kentucky Association of Counties (KACo). Mr. Foster stated that he agrees with a unified corrections system, and that training should be provided for jail efficiency. He mentioned that as Christian County's attorney, he was proud of his county jail's performance. Mr. Foster noted that the jail design has a lot to do with efficiency. He stated in his personal opinion, there should be more oversight because some jails were built that should not have been built. Mr. Foster mentioned that privatization of food services should remain a local decision, noting that Christian County feeds its prisoners for \$1.04 per prisoner per day.

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

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES

AND ENVIRONMENT Minutes of the 4th Meeting of the 2009 Interim October 23, 2009

The 4th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Friday, October 23, 2009, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Tom Jensen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators David E. Boswell, Tom Jensen, Ray S. Jones II, Bob Leeper, Dorsey Ridley, John Schickel, Katie Kratz Stine, Robert Stivers II, Gary Tapp, and Johnny Ray Turner; Representatives Hubert Collins, Stan Lee, Reginald Meeks, Tim Moore, Don Pasley, Marie Rader, Kevin Sinnette, Ancel Smith, and Fitz Steele.

Guests: Rodney Andrews, Center for Applied Energy Research; John Lyons, Division of Air Quality; Tim Vaughn, Kentucky 8-1-1; Bruce Scott, Department for Environmental Protection.

LRC Staff: Tanya Monsanto, Biff Baker, Lowell Atchley, and Kelly Blevins.

Senator Jensen announced that the committee had a quorum and asked for a motion to approve the minutes from September 25, 2009. After a motion and a second, the minutes were approved. Then Senator Leeper gave a brief report of the Regulated Utilities Subcommittee. He stated that the meeting dealt with funding for emergency 9-1-1 service. It also received testimony on 2-1-1 nonemergency service. The subcommittee took reports from 9-1-1 coordinators in Ohio and in North Carolina. After a motion and a second, the report was approved.

Senator Jensen announced the chair's intention to request a December meeting and directed staff to proceed with a LRC request. Then Senator Jensen introduced Rodney Andrews with the Center for Applied Energy Research. Mr. Andrews discussed current technologies in carbon management and projected energy demand in the United States. Currently, the United States emits roughly 6 million metric tons of carbon dioxide and that is projected to expand. Electric generation is the largest source of carbon dioxide; although transportation supplies roughly equal quantities. The bigger picture with carbon dioxide is that while most emissions currently come from the developed world, the newly industrializing countries, particularly those in Asia, will contribute considerably more carbon dioxide in the future.

Kentucky is very exposed to risk in a carbon constrained world. This is due to Kentucky's reliance on coal. More homes in Kentucky are heated by electricity, and we have energy intensive industries located in Kentucky that take advantage of the cheaper power rates. Kentucky's carbon dioxide emissions per capita are higher than in other states. Based on assumptions provided by the Kentucky based electric utility, E.ON U.S., rates will increase dramatically under carbon constraint policies. It may result in a loss of Kentucky's highly competitive heavy industries as they seek to relocate to less costly energy sources. Kentucky's options are to switch to natural gas or to build new plants that have better efficiencies. Switching to natural gas shifts the dependence away from coal to gas but gas prices have fluctuated widely. Kentucky has limited renewable resources so those options are limited but Kentucky can improve energy efficiency.

Kentucky needs to focus on pre-combustion capture because it is unlikely that the state will decommission its existing plants. However, in order to achieve precombustion on existing plants, investments must be made on expensive retrofits. Kentucky also has deep saline aquifers, and there is considerable discussion among experts regarding biological organisms such as algae being used to fix carbon in permanent storage sites. In fact, Kentucky will need to do everything it can to limit carbon emissions because of the reduced number of options available.

Currently there is no best available technology to capture or limit carbon emissions as there is for other pollutants, and coal remains one of Kentucky's best natural resources. It will continue to be a mainstay as an energy feedstock. Kentucky would have a superior position dealing with the issue of carbon constraints if the state expended resources on energy efficiency up front rather than expended resources on capturing and sequestering emissions on the back end. Biomass is the only realistic long-term, reliable source of renewable energy in Kentucky.

Senator Jensen asked if carbon could escape from the sequestration site after injection, particularly if a catastrophic event like an earthquake occurred. Mr. Andrews replied that some carbon escapes, some carbon dissipates over time, but the majority will remain captured under pressure. Some of the carbon will become fixed as calcium carbonate, and yes, an earthquake could cause a catastrophic well failure. It is a remote possibility. The biggest issue for those working on carbon capture and sequestration is migration of car-

bon dioxide. Slow leaks can occur.

Representative Moore asked what food grade carbon dioxide is and what the primary waste products of animals are. Mr. Andrews replied food grade carbon dioxide is the substance in soda pop that makes it fizz, and the primary output of animals is carbon dioxide through respiration. Rep. Moore used these questions to argue that the question of carbon dioxide as a pollutant is hypersensitized in the public sphere, and rarely is the cost of controlling carbon emissions illustrated in a manner juxtaposing GDP and emissions levels as shown by Mr. Andrews in testimony.

Mr. Andrews stated there is a relationship between affluence and carbon dioxide emissions. It is not possible to determine whether controlling carbon dioxide emissions will lead to a decline in the standard of living in the United States. Rep. Moore stated that it is important to emphasize that Western carbon emissions are related to the United States productivity rate, but the technology will likely overcome the carbon issue as it has addressed other problems in the past.

Rep. Gooch stated that the algae technology is very promising even though the acreage needs are significant. Environmentally friendly solutions can be uneconomic if there are significant resource needs to produce the energy. It takes 26 percent of the nation's renewables to replace what Kentucky produces in electricity in a year's time. Mr. Andrews agreed that there are negative effects from some of the renewables particularly water needs and it is certainly true that algae farms require land and water. Retrofits to existing plants will cause efficiency losses in electric generation.

Senator Leeper asked how much energy comes from Kentucky coal, and have you examined the issue of nuclear energy. Mr. Andrews replied about 5% of the nation's energy is from Kentucky coal. Kentucky mines around 100 million tons and burns only 35 million. So the rest goes to the nation. The Center for Applied Energy Research has not examined nuclear energy because of the moratorium on nuclear power. The technology is viable, but it hasn't been subject to further research. Sen. Leeper followed Mr. Andrews's response by arguing that the moratorium prevents the state from looking at new technologies and ideas.

Then Mr. John Lyons with the Kentucky Division of Air Quality provided an update on air quality throughout the state. He stated that air quality is inextricably linked to energy production. Currently, air quality is good in Kentucky due to

improvements over the past eight years. Programs such as the NOX-SIP and Acid Rain have shown success. For example, sulfur dioxide emissions have dropped from 79% over the past 25 years since the program's inception. The only nonattainment ozone area is the Boone-Kenton-Campbell area, but this area should be redesignated to attainment in the coming year.

In 2008, U.S. EPA lowered the standard which led to many counties being designated as in attainment, but the new administration is proposing a more stringent standard of .02 and if this goes into effect than 20 counties will fall into nonattainment. Then, Mr. Lyon discussed regulatory actions in the past year. The issue for Kentucky is the new "endangerment finding" which was issued as a new rule by U.S. EPA. It is not finalized but will require Kentucky to start addressing the problems of greenhouse gases. The endangerment finding grew out of the attempt to target new vehicle emissions of greenhouse gases. However the finding will affect Title V Prevention of Significant Deterioration PSD permits and may address best available control technology. Also the greenhouse gas reporting rule went into effect. Mr. Lyons then discussed legal challenges and the impact of future climate change legislation. Mr. Lyons stated that the problem is there is no money to cover these regulatory changes as the Division like other agencies has significant budgetary shortfalls.

Sen. Jensen asked if there are federal resources to address the fiscal problems. Mr. Lyons responded that the agency receives a 105 grant, and there may be an increase in that grant amount. However if the general fund match is unavailable then there is less money from the federal government. Sen. Jensen asked how much general fund dollars are needed. Mr. Lyons replied roughly \$400,000.

Rep. Gooch stated he was disappointed because the United States may not meet its energy demands. These new pollutants will add to the existing litigation tying up good projects. He asked if anything could be done from a legislative standpoint to stop legal actions from stalling projects. Mr. Lyons stated that he had no suggestions. The Division will continue to issue permits along the existing regulatory guidelines but an interesting aside is that the legal challenges are now at the federal rather than state level.

Rep. Gooch continued by asking who files the legal actions. Mr. Lyons responded principally the Sierra Club and other environmental groups. The U.S. EPA has the final decision of Prevention of Significant Deterioration (PSD) permits. The filings and

petitions are similar for most cases. One legislator asked if the prevailing parties can recover from the action and has the state ever sought recovery after a decision was found in the state's favor. Mr. Lyons stated he did not know about right of recovery but the state had never pursued such recovery. If this is a viable option then the Division will keep the opportunity under advisement. The Division expends considerable personnel time on litigation. There are three attorneys dedicated to air quality litigation.

Sen. Jensen asked if the attorneys have ever asked that sanctions be imposed to prevent frivolous lawsuits. Mr. Lyons stated no. Sen. Schickel asked for clarification on a statement that air quality has never been better. Mr. Lyons clarified that the programs to reduce air pollution have worked and Kentucky has a very good monitoring program.

Sen. Jensen then announced that Sen. Stivers had just been named Majority Floor Leader for the Senate, and the committee congratulated Sen. Stivers on his new position. Then, Sen. Stivers asked about carbon dioxide monitoring, whether emissions come from oceans, and how much carbon dioxide Kentucky produces. Mr. Lyons replied that the Division does not monitor emissions of carbon dioxide. Mr. Andrews interjected that he estimates Kentucky produces roughly 93 million tons of carbon dioxide per year. He would provide some comparable statistics on sources of carbon dioxide.

Secretary Len Peters of the Energy and Environment Cabinet stated that oceans are a carbon sink; they absorb carbon dioxide. However human respiration and plants contribute emissions as well as other anthropogenic sources. The concern is that there may be an upset in the carbon balance over the past 100 years during the industrial revolution. Sen. Stivers followed up asking for a breakdown on sources. Secretary Peters stated that the cabinet could provide that information.

Rep. Steele asked about an event in Pikeville on October 13th and whether there is information about the response from US EPA. Commissioner Bruce Scott states that the U.S. Army Corps of Engineers will determine whether the nationwide 21 permit will continue to be available or whether the permitting process will develop into a single permit system. A decision is not made at this time.

Sen. Jensen thanked everyone for attending the meeting and invited Mr. Tim Vaughn to speak on a legislative proposal involving 8-1-1. Mr. Vaughn stated that they propose an 8-1-1 call center in Kentucky. This

center would work through a process to aid utilities in locating lines and informing all the parties before excavation work begins. Sen. Jensen then announced the next meeting would be held on November 17, 2009 at 1:00 PM which is not the regularly scheduled date. After a motion and a second, the committee adjourned.

**INTERIM JOINT COMMITTEE
ON NATURAL RESOURCES &
ENVIRONMENT**
Subcommittee on Regulated Utilities
Minutes of the 1st Meeting
of the 2009 Interim
October 23, 2009

The 1st meeting of the Subcommittee on Regulated Utilities of the Interim Joint Committee on Natural Resources & Environment was held on Friday, October 23, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Fitz Steele, Co-Chair; Senators David E. Boswell, Brandon Smith, Katie Kratz Stine, and Gary Tapp; Representatives Hubert Collins, Tim Couch, Keith Hall, and Marie Rader.

Legislative Guests: Representative John Will Stacy.

Guests: Richard Taylor, Executive Director for Information Technology Services, North Carolina 911 Board; Shawn Smith, Ohio 911 Coordinator; Joe Barrows, Executive Director, Kentucky Commercial Mobile Radio Service; David Lucas, Chairman, Commercial Mobile Radio Service Board; Terry Tolan, President, Kentucky United Way; and Hollie Hopkins, Kentucky United Way.

LRC Staff: Tanya Monsanto and Kelly Blevins.

A quorum being present, Chair Leeper welcomed the members and stated that the meeting would be about the important issue of 911 funding within the Commonwealth. He then invited Richard Taylor from the North Carolina 911 Board and Shawn Smith from the Ohio 911 Board to give testimony regarding 911 funding in their respective states.

Mr. Taylor began by discussing the 911 funding system in North Carolina prior to the advent of cellular phones. Now there are many types of technology for accessing 911 that previously did not exist. North Carolina adopted a leadership approach to coping with changes in technology. In 1989, a 911 bill was passed that allowed counties to impose a fee on wireline phones to be set at the local government's discretion. This system caused many problems; there was no

oversight, no control over how much the local governments could charge, and no requirement that the 911 service actually be provided after the fee was imposed. In 1998, North Carolina adopted legislation to impose a single statewide wireless 911 fee administered by a 911 board. In 2007, another bill was passed to establish a uniform minimum level of 911 service across the state. This bill created a flat 911 fee for all voice communication devices, implemented a distribution method for the 911 fees collected, and modernized delivery of 911 service through the state 911 board.

Under the 2007 bill, a 911 fee of \$0.70 was imposed on all active voice communication connections that are capable of accessing the 911 system. The collected funds are distributed back to each Public Safety Answering Point (PSAP). The distribution formula has two parts. The first part is a base amount that is equal to the 911 funding level for the local government or PSAP at the time the new system was implemented. The second part entails the board using the leftover collected funds to either set a percentage for per capita distribution or to make grants available to assist PSAPs with their purchasing needs. In order to be eligible for the additional money, the PSAP must provide enhanced 911 service (both wireline and wireless service).

The bill also required the board to develop a statewide 911 plan, which is basically a business plan for 911 service delivery. The plan development began in 2008 with the hiring of a company to do data collection to determine what was occurring in primary and secondary PSAPs. Since the 2007 funding model is not sustainable, a new model is currently under development through the statewide plan, which should be complete by December 1. Several changes in the system to be included in the plan are already being considered. First, PSAP funding should be considered on a cost per seat basis. If a PSAP employs fewer than two people working seven days per week, then it should be forced to consolidate with another PSAP. The number of PSAP seats per county should be determined by population and the amount of cost for delivery.

Another important power of the board is the authority to conduct audits of PSAPs to ensure proper use of funds. Additionally, the PSAP grant account is important to ensure that PSAPs in rural and high cost areas are able to deliver the quality of 911 service available in other areas of the state. One particular grant awarded to a PSAP was to fund an orthophotography project for the entire state. This is an exciting project because it

will allow every county in the state to update their mapping systems and will allow PSAPs across different counties to share geographic information.

There are two grant programs: one is "continuity and consolidation" which provides funding and gives priority to any county that wants to consolidate a PSAP, and the other is the "enhancement program" that provides funding for pursuing new technologies for PSAPs.

Currently, a 911 study group created from 2009 legislation is studying the 911 funding and distribution system. The group is composed of county commissioners, PSAPs, and PSAP associations, but no carriers. Visit www.nc911.gov for more information.

Chair Leeper thanked Mr. Taylor for his presentation and asked him if there were any mistakes or lessons learned from the implementation of the new 911 system in North Carolina that Mr. Taylor would like to share.

Mr. Taylor responded that they could have done a better job of emphasizing the importance of enhancing the 911 system through the consolidation of secondary PSAPs.

Chair Leeper asked if there were counties when the new system was implemented that had been collecting 911 fees but still did not have a 911 service in place. Mr. Taylor stated that the county must have 911 service in order to receive any funding through the 911 board. The counties' ability to impose a fee was also eliminated with the 2007 legislation.

Senator Boswell asked if anyone was prosecuted in the counties that improperly used funds collected to provide 911 service for other purposes. Mr. Taylor said that some were prosecuted.

Rep. Collins asked how many 911 board members there were. Mr. Taylor responded that there were 17 members. There are not many local government representatives. Most of the voting of the board has not been politically motivated; the members are genuinely concerned with furthering the best interests of the state.

Rep. Collins then asked how the board was compensated and what percentage of the collected funds went toward the administration of the board. Mr. Taylor stated that the board was not compensated and that one percent of the fees collected was retained by the carriers first, and then one percent of the remainder went to the operation of the board. The board distributes \$0.68 for every \$0.70 collected.

Chair Leeper asked if carriers are comfortable that the money being collected for 911 is being used in an

efficient way. Mr. Taylor said that they are comfortable with the oversight and that the money is being spent properly. There is some concern that there are one hundred twenty-nine 911 centers serving one hundred counties. The telecommunications companies believe that the job could be done with fewer call centers.

Co-chair Steele asked how long the board members served per term. Mr. Taylor responded that they have a four year cycle with unlimited re-appointment potential. The Governor, the President Pro-Tem and the Speaker of the House each get an equal number of appointments.

Chair Leeper thanked Mr. Taylor and asked Mr. Smith to give his presentation regarding the 911 funding system in Ohio.

Mr. Smith began by discussing the history of 911 legislation in Ohio. In 1985, legislation was passed to set up a framework through which counties could offer 911 service through fees assessed on wireline telephone connections. Each county had to pass a 911 plan that detailed which companies would provide the service, how the service would be funded, how the funds would be allocated, how many 911 centers would take calls, and what territories those centers would serve. The plans had to be approved by the municipalities and townships in the county before they could take effect.

In Ohio, wireline 911 is funded under a bill-and-keep system whereby wireline telephone companies submit tariff proposals to the Public Utilities Commission for review. The charges are capped at the cost to the provider, and the individual users are billed on a monthly basis to cover the network portion of the 911 system. County 911 centers do not receive any bill for the wireline network portion of the 911 system. Local governments can set a fee not to exceed \$0.50 to cover the costs of 911 services. The fees are collected by the wireline companies and remitted to the counties on a quarterly basis. Under this plan, counties could only have three primary 911 centers. Counties also had the option of passing a tax on real or improved property; the charge to the individual owner was capped at the estimated cost of the 911 system. Sales taxes or property taxes to be levied for no more than five years could also be passed by the counties.

In 2004 Ohio passed wireless 911 funding legislation, which originally set the wireless fee at \$0.32 to be collected by the wireless provider. Wireless providers were allowed to keep two percent of the fee for administrative costs and the remaining ninety-eight percent is remitted to the Public Utilities Commission. The

commission is allowed to keep up to two percent to cover their costs, but usually only keeps one and a half percent. The remaining money is remitted to the counties based on a percentage that is calculated once per year based on information provided by the wireless carriers on the number of wireless customers in each county. The money remitted to the counties can be used for wireless purposes, like costs for networking equipment. The wireless surcharge includes pre-paid providers (Tennessee Model). Ohio does not have audit authority over the counties.

The wireless surcharge was intended to sunset in 2008, but it was extended to 2012 and lowered from \$0.32 to \$0.28. Also, the number of PSAPs that could operate under the funds remitted to the counties was capped at 5.

To date, \$107 million has been distributed since 2005. Last year \$37.3 million was distributed to counties. There are 300 PSAPs in 88 counties, and roughly half of those PSAPs can take wireless calls. The tariffs charged by phone companies range anywhere from \$0.12 to \$0.24 per month per customer. There are 64 counties providing Phase II (location of the caller and callback number) service and 73 providing Phase I (tower location information and callback number). All 88 counties provide wireline enhanced 911 service.

Chair Leeper asked if the Ohio fee was a set statewide fee. Mr. Smith responded that the \$0.28 wireless fee was a statewide fee while the wireline fee varied according to the tariff set in each area. Chair Leeper then asked if the fee was set by county, and Mr. Smith stated that the fee was established by telephone service area.

Chair Leeper asked Mr. Taylor what the fee structure in North Carolina was, and Mr. Taylor responded that it was a set \$0.70 fee across the board. Costs for providing wireline service are passed on to the PSAP, unlike in Ohio, where the costs are assumed by the carrier.

Chair Leeper asked Mr. Smith why some PSAPs in Ohio did not take wireless calls. Mr. Smith said that when the PSAPs were originally established, wireless phone technology was not yet available. When the need to support wireless calls arose, some PSAPs were allowed to opt out from taking the wireless calls because they had no funding to update their equipment.

Sen. Stine asked how pre-paid cell phone surcharges were applied in both Ohio and North Carolina. Mr. Smith responded that Ohio adopted the "Tennessee Model" through which pre-paid providers were offered a variety of options to remit the funds that they collect for 911

service to the state. One option is to collect the funds at the point of sale, another is to deduct leftover minutes from a user's account at the end of the month equal in value to the cost of the surcharge, and yet another is to take the carrier's Ohio revenues, divide them by fifty, and multiply by \$0.28. This formula was derived from average pre-paid wireless use data.

Mr. Taylor responded that North Carolina is currently in a three year moratorium on collecting pre-paid wireless surcharges. One of the pre-paid companies has sued the state of North Carolina because they believe that were not required to pay the surcharge under the current North Carolina legislation. As a result, a new pre-paid model is under development in North Carolina.

Mr. Smith clarified that in Ohio, the burden is still on the pre-paid carrier to remit that payment to the state. Mr. Taylor was talking about a retail model whereby the retailers collect the payment and remit it directly to the state, bypassing the pre-paid carrier.

Co-chair Steele asked if the wireless surcharge was administered per phone or per wireless plan. Mr. Taylor and Mr. Smith both responded that the surcharges were administered per phone.

Chair Leeper next invited Joe Barrows and David Lucas of the Kentucky Commercial Mobile Radio Service (CMRS) Board to discuss wireless 911 funding in Kentucky.

Mr. Barrows began by explaining how 911 services are funded in Kentucky. Counties are allowed to set their own local wireline fees by ordinance. The CMRS has no jurisdiction over wireline fees; it only deals with the collection of wireless 911 fees from wireless carriers. The board consists of ten uncompensated members who are mostly telecommunications experts or 911 practitioners. The wireless surcharge collected by carriers is \$0.70, which is then remitted to the CMRS and disbursed to PSAPs. Carriers are allowed to keep one and one-half percent for administrative costs (about \$0.01 of the \$0.70 collected). The rest is sent to the board, which keeps two and one-half percent for administrative costs (about \$0.02 of the remaining \$0.69). From the remaining balance, \$0.07 goes to a grant fund, which generates about \$2 million per year. The remaining \$0.60 is divided between direct payments to PSAPs which get \$0.48 (about \$16.5 million) and carriers which get \$0.12 (about \$4 million per year) through the cost recovery program. Half of the \$0.48 that goes to PSAPs is put into a pro-rata account through which all PSAPs throughout the state get the same quarterly distribution. The

other half is distributed by a volume calculation, which allots more money to areas that have higher wireless 911 call volumes.

Mr. Lucas commented on the success of the legislation that brought about the current wireless 911 funding system in Kentucky. Kentucky was one of the first five states in the nation to have border-to-border coverage for wireless 911. There are 102 PSAPs in the state, with the Kentucky State Police providing service in over twenty counties. All PSAPs must be certified before they receive money from the CMRS.

Sen. Stine asked how pre-paid carriers were charged in Kentucky and how the competitive grant program worked. Mr. Lucas responded that the program allows up to 10% or a \$2 million cap on grant funds. The board has process \$5.5 - \$6 million so far. The grants go out 3 times per year. Grants are scored by peer groups, who provide the board with final grant scores. The board distributes grants to the applicants with the highest grant scores. The grants are monitored over the year to ensure that they are properly used.

Sen. Stine then asked how the grants were scored. Mr. Lucas said that the scoring depends on several things, including whether the grant is for a 911 allowable expense and whether the expense is reoccurring or if it is a one-time capital improvement.

Mr. Lucas stated that the board is currently involved in litigation with three carriers who believe that the wireless 911 funding legislation does not allow for collection of funds from pre-paid carriers. It has always been the board's position that the legislation does cover pre-paid carriers. Currently, about twenty percent of wireless customers use pre-paid carriers, so this is an important national issue.

Sen. Stine asked what the majority of other states were doing with regard to the pre-paid issue. Mr. Barrows responded that about four states have adopted some form of point-of-sale legislation (Wisconsin, Texas, Louisiana, and Maine). These states have only recently passed this legislation, so it is too early to tell the result.

Chair Leeper thanked Mr. Barrows and Mr. Lucas for their presentation. He then asked Terry Tolan and Hollie Hopkins from the Kentucky United Way to discuss 211 non-emergency phone service.

Ms. Tolan began by explaining that 211 is the 911 for non-emergency health and human services information and referral. It is free and confidential service that was established by the FCC in 2000. Call centers for 211 connect citizens with the human

services, physical and mental health services, employment support, disability assistance, and volunteer opportunities that are available in their own communities.

As many as sixty percent of calls made to 911 are actually for non-emergency purposes. If people have an alternative to get non-emergency information, they will use it, thereby reducing the number of inappropriate 911 calls. This makes 911 call centers more effective and efficient. The 211 centers are comprehensive resource databases for all the services available in Kentucky. These databases can be especially important for effectively directing callers to the resources and services that they need in times of disaster. Many states have one hundred percent 211 coverage, but Kentucky only has forty-eight percent coverage, mainly in the highly populated areas of the state.

Unlike 911, the 211 program did not develop organically. A plan for statewide rollout of the program was developed when the number was first awarded to the Kentucky United Way in 2001, but implementation of the statewide program was never accomplished. There is now a statewide 211 coordinator, and a plan has been approved to establish an efficient system of three call centers to handle all of the 211 calls for the entire state. The Kentucky United Way is now looking for financial resources to fund the rollout. All money for the program currently comes from private donors. It would cost about \$3 million to establish statewide 211 service in Kentucky. Annual operational costs would be about \$5 million per year. If 211 were funded the same way that 911 is funded, it would be about \$0.10 per month per wireless, wireline, or voice-over-IP subscriber. For more information, visit www.uwky.org/211advocacy.html.

Sen. Boswell asked if any other satellite agencies of the United Way helped in generating revenue for 211. Ms. Tolan responded that no other agencies were helping to generate revenue. All of the funds were donated by corporate or individual private contributors.

Sen. Boswell asked if the reason why 211 was not widely available during last winter's ice storm was that statewide service was not yet provided. Ms. Tolan answered affirmatively, but stated that 211 was available in the Louisville area and was very involved in getting help to people in need. The 211 service was also very helpful during the August flash flooding in the Louisville area. Sen. Boswell then asked if any money was available for 211 funding through the Department for Homeland Security. Ms. Hopkins answered that they were pursuing that avenue, but for

federal DHS money, there must be a public-private partnership. The United Way itself could not obtain the money on its own.

Chair Leeper thanked Ms. Tolan and Ms. Hopkins and the committee members. There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Minutes of the 3rd Meeting of the 2009 Interim October 27, 2009

The 3rd 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 27, 2009, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Damon Thayer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Walter Blevins Jr., Julian M. Carroll, Alice Forgy Kerr, John Schickel, Elizabeth Tori, and Johnny Ray Turner; Representatives Kevin D. Bratcher, Larry Clark, Joseph M. Fischer, Melvin B. Henley, Mary Lou Marzian, and Ron Weston.

Guests: Trey Grayson, Secretary of State; Sarah M. Jackson, Rhonda K. Farmer, and Emily Dennis, Registry of Election Finance; Representative Fred Nesler; Debbie Batliner, Kentucky Municipal Clerk's Association.

LRC Staff: Greg Woosley, Judy Fritz, Bill VanArsdall, Alisha Miller, Karen Powell, and Terisa Roland.

Chairman Thayer asked for approval of the September 22, 2009 minutes, and the minutes were approved.

First on the agenda was a presentation by the Secretary of State, Trey Grayson, on the Secretary of State and the State Board of Elections' 2010 Legislative Agenda. Secretary Grayson stated that there were three legislative items relating to elections that did not pass both chambers in the 2009 regular session. The first of these items was the Secretary of State's clean-up bill that would codify an opinion from a circuit court case, that would clarify the procedures applicable to special elections, and that would establish clear guidelines for independent candidates. Sec. Grayson also stated that some of the current language in the statute relating to certification deadlines was confusing, and that the bill would also address this confusion.

The second legislative item discussed by Secretary Grayson was the State Board of Election's clean-up bill. Secretary Grayson stated that the primary change in the bill concerned members of county boards of elections and, specifically, the procedures to temporarily replace a member on a county board if they are unable to serve. This bill also would address the procedures for handling absentee ballots, training for election officers, and the security of ballot boxes. Several members of the Task Force posed questions regarding the provisions governing the replacement of board members, with some concerned that the county boards could have trouble getting a quorum if the proposed replacement was subject to approval.

The third legislative item discussed by Secretary Grayson concerned the maintenance of eligible voter rolls by county clerks, and the necessity to minimize mistakes caused when city boundaries are changed and cross precinct lines. For this item, Debbie Batliner, from the Kentucky Municipal Clerk's Association, joined Secretary Grayson, and Ms. Batliner noted that this is particularly problematic in city and school board elections. The proposed change would require maps of any changes in city boundaries to be submitted to the county clerk to allow the clerk to correctly allocate voters. Ms. Batliner noted that this effort was unopposed by the Secretary of State's office, the State Board of Elections, the Kentucky School Boards Association, the Kentucky Association of Counties, the Kentucky League of Cities, and the Kentucky Municipal Clerk's Association. Secretary Grayson noted that if legislation is considered and passed in the 2010 regular session it might need an emergency clause and a specified effective date, and that, if passed, the Secretary of State's office would prefer for the change to be in effect for the general election cycle.

Finally, Secretary Grayson gave a demonstration on the Fast Track web filing and notification service available through the Secretary of State's website. Several members of the Task Force posed questions about the service, specifically about fees, and Secretary Grayson noted that the service was free. A copy of the meeting tape can be found in the LRC library for a complete review of the first agenda item.

The second and final item on the agenda was a presentation by the Registry of Election Finance on past legislative attempts to amend campaign finance regulations and on important issues to consider for the 2010 regular session. Appearing and testifying from the Registry were Sarah Jackson, Executive Director, Rhonda Farmer, Assistant Executive

Director, and Emily Dennis, General Counsel. The Registry began the testimony by noting that several attempts to change campaign finance regulations have been made in the last few regular sessions, but that most of the major needed changes had not passed both chambers. Ms. Dennis noted three bills specifically, SB 62 in the 2009 session, SB 08 in the 2008 session, and SB 159 in the 2007 session, but emphasized that no major changes had been made to campaign finance regulation in more than ten (10) years. Ms. Dennis also stated that many of the proposals were intended to clarify, rather than substantially change, the regulations, and that the majority of the proposals would make the Registry more efficient and assist candidates by amending several disclosure requirements. Several members of the task force posed questions and voiced their opinions and concerns. A copy of the handout material from this presentation and of the meeting tape can be found in the LRC library for a complete review of the second agenda item.

Chairman Thayer said that the co-chairs intended to have a November meeting, but that a request might be made to the LRC to move the meeting from November 24th to November 17th because of the Thanksgiving holiday. It was noted that the November meeting would be the last interim meeting.

Chairman Thayer concluded all business and the meeting was adjourned at 2:30.

INTERIM JOINT COMMITTEE ON TRANSPORTATION Minutes of the Fifth Meeting of the 2009 Interim November 3, 2009

The fifth meeting of the Interim Joint Committee on Transportation was held on Tuesday, November 3, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests Appearing Before the Committee: From the Kentucky

Transportation Cabinet - Mike Hancock, Acting Secretary; Geri Grigsby and Ann D'Angelo, General Counsel, Kim Jenkins, Legislative Liaison, Steve Waddle, Acting State Highway Engineer; Chuck Knowles, Deputy State Highway Engineer for Projects Delivery and Preservation; Allen Myers, Asphalt Branch Manager, Division of Materials; David Steel, Branch Manager, Bridge Preservation Branch; Carol Brent, Division of Planning; and Thomas Zawacki, Commissioner, Division of Vehicle Regulation.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Linda Hughes.

Senator Smith moved to approve the Committee's September 1, and October 6, 2009 minutes, as submitted. Representative Rader seconded the motion, which passed by voice vote.

At this time Jack Fish, President of Kentuckians for Better Transportation, was recognized for his service. Mr. Fish will retire effective December 31, 2009. The Committee also recognized and welcomed Mr. Thomas Zawacki, the new Commissioner of the Division of Vehicle Regulation, within the Kentucky Transportation Cabinet.

Co-chairman Collins presented a slide show of construction areas in Pikeville that the Committee saw prior to its meeting on October 6, 2009. Chairman Harris told the members that he found the tour very informative and, since so many of the members were unable to make the tour in October, he asked Chairman Collins to present the slide show at today's meeting.

The next item to be discussed by Committee was the Transportation Cabinet's 2010 legislative agenda. Mike Hancock, Acting Secretary, was assisted by Geri Grigsby, General Counsel, and Kim Jenkins, Legislative Liaison. Secretary Hancock said that the Cabinet's legislative package mostly contained housekeeping measures. Some of those measures included changing the KRS references from KAVIS to an automated vehicle information system, deleting the requirement for motorcycle sidecar registration, and eliminating the mandatory microfiche storage of documents in lieu of using a computer generated filing system. Secretary Hancock stated that the Cabinet fully supports any driving safety legislation, such as the restriction of texting while driving.

Secretary Hancock stated that the Road Fund outlook is not good, and he estimates that the 2010 Six Year Highway Plan will contain the same projects that were in the 2008 Plan, with no additions.

Chairman Harris inquired as to when in the session the legislature

can expect receiving the Cabinet's Road Plan. Secretary Hancock stated that distribution has historically been the last week in January or the first week in February, and he expects it to be around that same time.

Senator Boswell asked if the Cabinet were routinely inspecting overpasses. He commented that while driving under some of the state's overpasses he noticed holes in the concrete exposing the structure's rebar, and expressed his concerns. Secretary Hancock said that the overpasses are routinely inspected and what Senator Boswell was noticing was cosmetic only and no reason for concern.

Steve Waddle, Acting State Highway Engineer and Chuck Knowles, Deputy State Highway Engineer for Projects Delivery and Preservation discussed the Transportation Cabinet's position of contracting with local governments for maintenance of state highways within their jurisdictions. Mr. Knowles said that the state has been contracting with Fayette County Metro for several years and is currently in the process of negotiating such a contract with Jefferson County Metro. Mr. Knowles said that Fayette County Metro's contract requires Fayette County to conduct routine maintenance on the state highways within their jurisdiction. He said that the state is required to make monthly payments to the County while the County is required to send its invoices to the state for services rendered. Mr. Knowles said that he hoped to have Jefferson County Metro on board with that same type arrangement in the near future. Mr. Knowles said that the contracts do not include interstates, but that the Cabinet was fully responsible for all interstates.

Representative Henderson asked if the Cabinet had similar arrangements with other counties and if there were savings involved in these types of arrangements. Mr. Knowles said yes the Cabinet has a contract with one other county. He noted that there really were no savings involved, just faster maintenance response for that county.

The next item on the Committee's agenda was the discussion of crumb rubber asphalt versus rubberized asphalt. This presentation was discussed with Steve Waddle, Acting State Highway Engineer; Chuck Knowles, Deputy State Highway Engineer for Projects Delivery and Preservation; and Allen Myers, Asphalt Branch Manager, Division of Materials.

Mr. Myers said that the state used crumb rubber asphalt for a couple of projects in the 1990s, and to date those projects are still holding up well. The Thornhill Bypass

in Frankfort is one project, done in 1993, that used crumb rubber. He said the project ran around \$16 more per ton and cost 50 percent more than a project using regular asphalt. He noted that that project used 650 used tires per one lane per one mile.

Mr. Myers said that there is also a process using shredded or chunk rubber instead of rock. He said the state did a project in Mason County using chunk rubber in lieu of rock. That project called for the use of 1800 tires per one lane per one mile, and Mr. Myers said he is unaware of any problems on that job.

Mr. Myers stated that warmer weather is more conducive to crumb or chunk rubberized asphalt, but that the cost would still be about 50 percent more than using regular asphalt. And he said that he has not seen any evidence that rubberized asphalt lasts longer than regular asphalt.

Co-chairman Collins said that he was seeing more potholes in the center seams of highways than he remembered ever seeing in past years. Mr. Myers said that there are two types of asphalt mixtures, one mixture for durability and another for strength. He stated that in the past few years the Cabinet had focused on a strength mixture and because of this, asphalt durability had suffered. He informed the Committee that the Cabinet was now focusing on pouring more durable asphalt and that that should eliminate some of the problems Chairman Collins was referring to.

At this time Secretary Hancock, Ann D'Angelo, Attorney, and David Steel, Branch Manager, Bridge Preservation Branch, Kentucky Transportation Cabinet, explained Administrative Regulation 603 KAR 5:230 to the Committee.

The last item on the Committee's agenda was the report from the Subcommittee on Waterways' October 20th and November 3rd meetings. Senator Leeper, who chaired the October 20th meeting, presented that meeting's report, and Representative Coursey, who chaired the November 3rd meeting, gave that meeting's report. Following the explanations Senator Leeper moved to approve the reports. Seconded by Representative Coursey, the motion was approved by voice vote.

With no further business before the Committee, the meeting adjourned at 2:20 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

**Subcommittee on Kentucky Waterways
Minutes of the Third Meeting
of the 2009 Interim
November 3, 2009**

The third meeting of the Subcommittee on Kentucky Waterways of the Interim Joint Committee on Transportation was held on Tuesday, November 3, 2009, at 10:30 AM, in Room 149 of the Capitol Annex. Representative Will Coursey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Will Coursey, Co-Chair; Senators Ernie Harris, and Ed Worley; Representatives Charles Miller, Tanya Pullin, and Alecia Webb-Edgington.

Guests Appearing Before the Subcommittee: Steve Reeder, Executive Director, Kentucky River Authority.

LRC Staff: Brandon White, Dana Fugazzi, and Linda Hughes.

Senator Worley approved the Subcommittee's August 4, and October 20, 2009 minutes, as submitted. Senator Leeper seconded the motion, which was approved by voice vote.

Mr. Steve Reeder, Executive Director of the Kentucky River Authority discussed the operations of the authority as well as the locks on the Kentucky River. He said the Kentucky General Assembly established the Kentucky River Authority (KRA) in 1986 to assume operation of the river's locks and dams numbered 5 through 14 from the United States Army Corps of Engineers. And that following the drought of 1988, the Authority was given a mission to protect and improve the waters of the Kentucky River through environmental management of the entire watershed. This was the first effort by the Commonwealth to protect a major water resource through watershed management.

Mr. Reeder stated that the Kentucky Basin is 7400 square miles, flowing through 41 counties, containing 14 dams and locks. Approximately 750,000 people live on the river with 500,000 living on its main stem.

Mr. Reeder said that KRA is responsible for maintaining these 14 lock and dam structures. These structures were constructed by the United States Army Corps of Engineers for navigation purposes but are only used now for recreational boating and water supply. The 14 locks with their access points are as follows:

Lock 1 - Carrollton (access is off an abandoned road off KY 227);

Lock 2 - Henry County (access is off KY 389);

Lock 3 - Owen County near

Monterey (access of US 127);

Lock 4 - Frankfort (access Wilkenson Blvd.);

Lock 5 - Lawrenceburg (access Lock 5 Road off US 62);

Lock 6 - Versailles (access was not noted);

Lock 7 - Harrodsburg (access off KY 29);

Lock 8 - Jessamine County (rough access from the north/east side of river);

Lock 9 - Jessamine County (in Valley View on KY 169);

Lock 10 - Fort Boonsboro (access within state park);

Lock 11 - Richmond (access off KY 1886 to Lock 11 Road)

Lock 12 - Irvine (adjacent to golf course);

Lock 13 - Lee County (access was not noted); and

Lock 14 - Beattyville (access is upstream from the KY 399 bridge).

Mr. Reeder stated that Locks 1 through 4 were operational until 2002 due to a sand company operating in Frankfort. However Locks 1 through 4 are now only open on summer weekends, and Locks 5 through 14 are currently inactive.

Mr. Reeder said that there are eleven cities that depend upon the Kentucky River for their water supply. Those Kentucky cities are Frankfort, Lawrenceburg, Versailles, Lancaster, Nicholasville, Wilmore, Harrodsburg, Lexington, Winchester, Richmond, and Irvine. He noted that an average of 44 billion gallons of water is drawn from the river annually, with 28 billion of those gallons going for the main stream.

Mr. Reeder said that KRA is charged with developing comprehensive plans for the management of the Kentucky River Basin, including long range water supply, drought response, and ground water protection plans. He said KRA maintains a six-year plan similar to the state's Six Year Highway Plan. The KRA adopts regulations to improve and coordinate water resource activities within the basin among state agencies. He said that it is also charged to develop recreational areas within the basin.

Mr. Reeder said that \$2.5 million federal money and \$660,000 state money have recently been identified to repair Lock 10 at Boonsboro State Park. Bids have come in at \$1.6 million for repairs at Lock 3, and \$3 million is needed for repairs of Locks 7 and 8.

The KRA is supported by water-user fees, Tier I and Tier II, collected from facilities which draw water from the basin. Exemptions are given to facilities using water for agricultural purposes. These fees are then passed on to the citizens in the basin who purchase water or the product manufactured by use of the water re-

source. Tier I, the fee charged households drawing from the Kentucky River is set at 2.2 cents per 1,000 gallons, with that money used to fund KRA overhead. Tier II, the fee charge industries drawing from the Kentucky River is set at 6 cents per 1,000 gallons. Tier II fee was originally 1.6 cents per 1,000 gallons but was raised to fund improvements at Lock 3. Mr. Reeder said the current industries drawing from the river are two distilleries, three rock quarries, two power plants, and one hydropower plant. Tier II fees charged those industries generate approximately \$800,000-\$900,000 annually.

Mr. Reeder said that the Kentucky River Authority will maintain and manage water resources on the Kentucky River Basin, provide clean water supply for the citizens of the Basin, provide leadership and a common forum for all stakeholders of the Basin, and promote the highest and best recreational uses of its water resources.

Senator Leeper asked if there were currently any safety issues on Locks 1 and 2. Mr. Reeder said no, not to his knowledge.

Senator Leeper asked how many locks were currently operational. Mr. Reeder said Locks 1 through 4 work occasionally.

Senator Worley said that approximately 18 percent of Kentuckians draw water from the Kentucky River, and while water recreation is great, the primary emphasis should be on the usage of drinking water. He stated that in his opinion, given the state's budget situation, no money should be spent on any lock or dam for the purpose of water recreation. He said that the establishment of KRA was for the sole purpose of drinking water and industry water needs in the Commonwealth.

In closing Dr. Donald C. Haney, a KRA Board Member, stated that the Authority continues to maintain the water supply in the river basin at the same level it did in 1970. He said that given the population escalation since 1970, maintaining that level at times has become a challenge.

With no further business before the Subcommittee, the meeting adjourned at Noon.

**INTERIM JOINT COMMITTEE
ON VETERANS, MILITARY
AFFAIRS, AND PUBLIC
PROTECTION
Minutes of the 4th Meeting
of the 2009 Interim
October 8, 2009**

The 4th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, October 8, 2009, at 10:00 AM Central Time, in

Greenville, KY, at the Wendell H. Ford Regional Training Center. 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 Perry B. Clark, Julie Denton, Jerry P. Rhoads, and Jack Westwood; Representatives Dwight D. Butler, Mike Cherry, Ron Crimm, Myron Dossett, David Floyd, Fred Nesler, Steven Rudy, and Ancel Smith.

Guests: Rep. Martha Jane King, Rep. Brent Yonts, and Rep. Eddie Ballard; Gen. John W. Heltzel, Gen. Edward Tonini, Department of Military Affairs; Terry Cole, Rodney Harclerod, Steve Montgomery, Logan County; Leamon Kendrick, Wayne Settle, Todd County; Rick Newman, County Judge-Executive, Muhlenberg County; Ed DeArmond, Mayor, Greenville; Jerry Mitchell, Mayor, Central City; Charlotte Whittaker, Donald Ford, Ohio County; Col. Mike Jones, DMA; Vicki Marin, Kentucky Division of Emergency Management; William McDaniel, Andrew Spencer, Joshua Layson, Kentucky National Guard; Tony Borders, Sharon Grove Volunteer Fire Department; John M. Grant; and Joe Burgan, LRC.

LRC Staff: Erica Warren, CSA, Mustapha Jammeh, Tiffany Opil, Clint Newman, and Rhonda Schierer.

Chair Pullin started the meeting by welcoming special guests Rep. King, Rep. Yonts, and Rep. Ballard. Chair Pullin thanked the Kentucky National Guard for welcoming the committee to the Wendell H. Ford Regional Training Center.

Chair Pullin and Co-Chair Tori presented Adjutant General Edward Tonini with a resolution in recognition of the National Guard's response in Western Kentucky during the 2009 ice storm and clean up. Gen. Tonini began his presentation by discussing how the GI Bill will affect the Kentucky National Guard. He stated that the post-911 bill will not significantly decrease the needs of the Kentucky National Guard Tuition Assistance Program. Gen. Tonini stated that 4,200 of the 8,388 soldiers and airmen qualify at some level for the post-911 GI Bill. Of those who qualify, only 1.6% qualify for full benefits and only 19.5% qualify at the 50% level. Gen. Tonini stated that a soldier may elect to transfer the benefits under the post-911 GI Bill to a spouse or child. He stated that only five guard members qualify at the 100% level.

Gen. Tonini stated that the Kentucky Tuition Assistance Program is marketed to pay 100% of the tuition towards a bachelor's degree to any in-state institution. It also pays up

to the in-state level at approved private institutions, and tuition is paid directly to the institution. State-funded expenditures for FY 09 were just over \$4.7 million. They were exhausted by the spring semester of 2009, so there was no state funding remaining for the summer programs. A federal grant to the program picked up the summer tuition dollars. He added that there is no guarantee that the federal funds will be available from year to year. Gen. Tonini stated that applications for tuition assistance are increasing due to repeating deployment cycles. Tuition is increasing and more people are applying, which presents a problem. Gen. Tonini stated that they have already allocated \$3.1 million for the fall program in FY 10 which is 65% of the allocated amount. They have received 1,167 applications for the spring 2010 semester. He added that FY 10 is shaping up to have a serious shortfall in delivering their objective of 100% tuition reimbursement. Gen. Tonini stated that, out of all the military tuition assistance programs, the Kentucky National Guard Tuition Assistance Program is most beneficial to them.

Gen. Tonini gave an introduction to the Wendell H. Ford Regional Training Center (WHFRTC). He stated that the training center is considered a gem of a facility around the United States. The facility is the largest of three operated by the Kentucky National Guard. WHFRTC is easily accessible and is the premier mechanized infantry and maneuver training area east of the Mississippi River. The WHFRTC provides cost effective training facilities for active duty and reserve military units from every branch of the service, the Federal Emergency Management Agency (FEMA), State Police, and local and county law enforcement. It is also used by the Boy Scouts. The training center provides a full spectrum for live, virtual, and constructive training. The WHFRTC is also used to conduct sustained operations in support of federal and state emergencies in the western regions of the Commonwealth. It was officially dedicated in October 1997 to honor Senator Wendell Ford. Gen. Tonini added that WHFRTC is now over 11,000 acres in size and provides complete accommodations for nearly 1000 troops. He stated that the total federal investment is \$43 million for construction in 14 years. Gen. Tonini encouraged members to tour the facility by UH-60 Black Hawk helicopters after the meeting.

Chair Pullin thanked Gen. Tonini for hosting the committee at the WHFRTC and also thanked Rep. Yonts and Sen. Rhoads for hosting the committee in their district.

Rep. Floyd asked Gen. Tonini if

tuition assistance included air national guard in Kentucky. Gen. Tonini stated that the federal assistance is strictly for Kentucky's Army National Guard, but that state funds cover both Army and Air National Guard.

Chair Pullin asked for presenters from Logan and Todd County to come forward along with Rep. King and Sen. Tori. Chair Pullin, Rep. King, and Sen. Tori presented Logan and Todd county responders with a resolution honoring them for their service to the Commonwealth during the 2009 ice storm and the clean up afterwards. Rep. King spoke on the 2009 ice storm and the amazing things that the local responders and neighbors did in that time and thanked them for their service.

Chair Pullin then asked Rep. Martha Jane King, Wayne Settle, Safety Officer for the Clifty Fire Department in Todd County, Terry Cole, Chief of the Logan County Search and Rescue, and Rodney Harkleroad, Director of Emergency Management for Logan County, to tell the committee about experiences they had during the 2009 ice storm. Terry Cole stated that it was amazing how all the emergency workers and neighbors came together as a community to do whatever necessary to help one another. He expressed his desire to figure out what they could do to better prepare themselves for another emergency situation. Mr. Cole shared a story about the Dunmore area in Muhlenberg County which had been without water for a few days. Todd and Logan County had water, so together and with the help of Tommy Nelson, a volunteer firefighter, they put together a mile and a half of water supply line to get water to the Dunmore area. Chair Pullin stated that she felt the waterline symbolized Kentuckians' ingenuity and drive to help their neighbors.

Wayne Settle, Safety Officer with the Clifty Fire Department in Todd County stated that the fire department supports and does mutual aid to five or six fire departments around them. He stated the ice storm was devastating and that Clifty Fire Station became a command post and a feeding place. Clifty Fire Department did road clean ups, daily welfare checks, delivered lamps, heaters, and became a distribution center for kerosene for heaters. He said one of the main things they needed at the fire station was a generator. He thanked Rep. Martha Jane King for all that she did to help. He added that churches brought in hot food to prepare and take to those who could not get out. Mr. Settle stated that a new generator would be crucial to the fire department and that overall, they are struggling financially because of the outlay the volunteer fire department

had during the ice storm. The overall cost for the department's needs to recoup and purchase a generator so that they can properly function is approximately \$35,000.

Rodney Harkleroad with Logan County Emergency Response spoke briefly to the committee on the good and bad that happened during the ice storm. He stated that only the dispatch center was on a generator, and backup generators are desperately needed. Chair Pullin expressed appreciation for not only what they did during the disaster but also for the local responders bringing their stories before the committee so that they can learn what has and has not worked.

Sen. Tori asked the responders if preparedness is ongoing now to meet another disaster should it occur. Wayne Settle stated that preparedness is always ongoing and the main thing that the fire departments can do is keep their equipment up-to-date and expressed the need for generators for power. Sen. Tori asked if they are seeing improvements in their communications. Mr. Settle stated that they are better equipped and they do have better communications. Rep. King added that Todd County and Logan County sit in two different area development districts, and it separates them and creates some situations where communication and coordination are difficult. Mr. Cole stated that they need communications that will allow them to be on the same system so that they can help each other and they are working on that.

Chair Pullin called on Rep. Yonts and Sen. Rhoads and local responders from Muhlenberg County. Chair Pullin stated that they would like to express their thanks to all of the local responders in Muhlenberg County and presented them with a resolution on behalf of all the responders in gratitude for all they did during the 2009 ice storm. Rep. Yonts thanked the Kentucky National Guard for all of their assistance. Sen. Rhoads stated that there was a resolution passed on the Senate side as well recognizing the efforts of the first responders and he would get copies to everyone. He recognized Rep. Eddie Ballard for his contributions during the ice storm.

Chair Pullin called on some local responders from Ohio County and expressed appreciation and gratitude to everyone in Ohio County for their efforts during the 2009 ice storm. Sen. Rhoads asked Charlotte Whittaker, who oversaw an emergency shelter, and Donald Ford, who assisted with debris cleanup, to speak on the effects of the ice storm in Ohio County. Ms. Whittaker stated that the Southern Elementary School was set up as a shelter as it was the

only place with power. Food from the other 7 schools was moved to the Southern Elementary School. Ms. Whittaker stated that they had 350 people in the shelter and they prepared 9,000 hot meals during those days. She stated that their biggest problem was communications. Ms. Whittaker stated that they had help from low-income home energy assistance program (LIHEAP), women, infants, children program (WIC), and the one nursing home with power did laundry for those in the shelter. Alabama Public Health assisted by sending 7 nurses and 1 environmental specialist there to keep things safe. She added that there were many needs for people ranging in age from 21 months to 98 years.

Co Chair Tori asked for the current unemployment rate in Ohio County. Ms. Whittaker stated that it is just in excess of 10% and close to 12% in Muhlenberg County.

Donald Ford, Project Coordinator for cleanup efforts in Ohio County, spoke to the committee on the cleanup efforts in the county during the ice storm and afterwards.

Chair Pullin announced that there would be an air and land tour of the WHFRTC upon adjournment and asked Col. Bullard to inform the members about the tour. Col. Bullard announced that there would be 2 black hawk helicopter tours.

There being no further business, the meeting adjourned.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

October 20, 2009

The Capital Projects and Bond Oversight Committee met on Tuesday, October 20, 2009, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Tom Howard, and Brett Antle, Office of Financial Management; John Hicks, Governor's Office for Policy and Management; Sam Ruth, Department for Facilities and Support Services; Charles Bush, Division of Real Properties; Sandy Williams and John Covington, Kentucky Infrastructure Authority; Rick McQuady and John Herald, Kentucky Housing Corporation; and Jim Ackinson, Kentucky Higher Education Stu-

dent Loan Corporation.

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

Representative Rudy made a motion to approve the minutes of the September 15, 2009 meeting. The motion was seconded by Senator Carroll and approved by voice vote.

Senator Leeper called on Don Mullis, Committee Staff Administrator, to discuss correspondence and information items. Mr. Mullis said members' folders contained several correspondence items: the quarterly status reports from the Finance and Administration Cabinet, the universities that manage their own construction projects, and the Administrative Office of the Courts (AOC); correspondence to the Finance and Administration Cabinet relating to the Kentucky Housing Corporation (KHC) proposed conduit bond issue; correspondence from the Division of Real Properties regarding the 2008-2009 Biannual Lease Law Compliance audit; and correspondence from the Finance and Administration Cabinet regarding a report to use the Construction Management-at-Risk project delivery method for the Northpoint Training Center project.

Next Mr. Mullis noted that members' folders also contained several information items: the Annual Report of Bonds Outstanding; the Semi-Annual Report of the Kentucky Asset/Liability Commission; a memo from Kristi Culpepper, Committee Analyst, regarding Kentucky's Bonded Indebtedness; Economic Development Bond (EDB) report for fiscal year ending June 30, 2009; Auditor Report on Procedural Compliance with KRS 45A.840 – 45A.879; a letter from the Kentucky Infrastructure Authority (KIA) to the City of Nortonville regarding a Fund C loan; and the staff and bond market updates.

Representative Damron asked if the increase in appropriation-supported debt in the Annual Report of Bonds Outstanding included debt issued and serviced by state universities. Mr. Mullis responded that it did.

Representative Damron then asked, in reference to the Semi-Annual Report of the Kentucky Asset/Liability Commission, how much money Kentucky could potentially lose on interest rate swap agreements if the credit rating of National Guaranty Public Finance Corporation (National) is downgraded. He noted that various swap providers and bond insurance companies have been downgraded, which has caused problems with derivatives contracts. Representative Damron said that one of the problems the Committee had with the University of Kentucky's (UK) financing [of Samaritan Hospital] was that the Kentucky Association

of Counties would have to pass on any additional costs associated with the transaction to UK. Tom Howard, Executive Director, Office of Financial Management (OFM) responded that the market valuation on the swap arrangements as of September 30, 2009, was approximately \$23 million against the Commonwealth, but this is an unrealized loss. He said that OFM is working with the swap provider to identify refunding opportunities where the state may be able to purchase the outstanding notes [associated with the swap agreements] at a substantial discount due to concerns about the bond insurer. This may mitigate the effect of the loss, depending on the amount of notes that can be tendered and at what price. He said that they examined the transaction over a year ago and received some adverse tax opinions, but OFM is reevaluating the current tax opinion given some recent transactions in the marketplace. Mr. Howard said the transaction continues to have the lowest cost of financing relative to other long-term debt. He said the swaps are cost of funds swaps, so there is no basis risk, and that if interest rates rise, the value of the swaps could quickly move in the state's favor. Mr. Howard noted that the issue is the potential termination trigger of National's rating being downgraded below its present level.

Representative Damron asked OFM to notify the Committee if the swap agreements are terminated. Mr. Howard responded affirmatively.

Representative Damron asked if the termination of the swap at a loss would reduce the state's investment income. Mr. Howard responded that the swaps are not on the asset side of the balance sheet, but on the liability side, and that the termination of the swaps would affect the amount of appropriated debt service for a given year. He said that he thought the termination of the swaps would have minimal impact.

Representative Damron commented that Committee members as well as many in the audience are interested in the impact of the swap agreements on the state's appropriation-supported debt service. He asked if the swap could potentially impact the amount of new debt that the state could issue. Mr. Howard replied that it depends on whether the notes can be tendered and at what price. [He said that whatever the gain or loss is on the transaction, it would be amortized over the term of the refunding issue, so the transaction would have a modest impact either way.]

Representative Damron asked what the state's exposure on the transaction would be in the current market. Mr. Howard replied that the

termination value on the swap is approximately \$23 million, but the purchase price on the notes [through a tender offer] could be as low as 80 cents on the dollar. He said that the tender price on the outstanding notes could offset the termination payments on the swaps, but it is unclear at this point.

Senator Carroll said he was interested in the amount of authorized but unissued debt and how the General Assembly's previous debt authorizations will affect the state's outstanding appropriation-supported debt. Mr. Mullis responded that the information is included in Ms. Culpepper's memorandum, but that staff will provide it in a simpler format. He added that the information Representative Damron requested regarding university debt is also included in the memorandum.

Representative Damron commented that it was difficult to distinguish what portion of the debt service is paid from taxpayer dollars and what portion of the debt service is paid from other sources. He said that policymakers need to look at how both factors impact the state's budget. Representative Damron further commented that when university debt is consolidated into the total amount of outstanding debt, it is not accurate to say that the state is responsible for repaying the entire amount.

Representative Westrom asked what the status was on the letter sent to the City of Nortonville (City) in Hopkins County regarding the KIA Fund C loan arrearages. John Covington, Executive Director, KIA, came to the table to discuss the loan status. Mr. Covington said that KIA has just been informed that the City has passed a rate increase and is now in compliance with the requirements of the loan.

Next Senator Leeper recognized John Hicks, Deputy Director, Governor's Office for Policy and Management, and Sam Ruth, Commissioner of Facilities and Support Services, Finance and Administration Cabinet. Mr. Hicks reported that the Finance and Administration Cabinet has approved an unbudgeted project for the Labor Cabinet (Cabinet), Department of Workplace Standards, to purchase an item of equipment. The project scope is \$400,000 (50% federal funds, 50% restricted funds) and provides for the purchase of an Incident Response Command Center/Mobile Outreach Vehicle. The vehicle will serve as the Cabinet's command center as it investigates incidents and collects information.

Senator Carroll made a motion to approve the unbudgeted project. The motion was seconded by Representative Westrom and passed

unanimously by roll call vote.

Next Mr. Hicks reported that the Finance and Administration Cabinet has approved an unbudgeted project for the Education and Workplace Development Cabinet (Cabinet), Department of Workplace Investment, to purchase a new Interactive Voice Response System. The project scope is \$1,600,000 (100% federal funds) and the new system will enable unemployment insurance claimants to use a telephone to file an initial claim, inquire about their benefits, and request a continued benefits check.

In response to questions from Representative Damron, Mr. Hicks said that in addition to the new automated system, the Cabinet will still have live people to answer phones. He also said that the Cabinet has had an unprecedented level of demand and the new system is needed because of the high increase in calls.

Senator Carroll made a motion to approve the unbudgeted project. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

Mr. Hicks then reported a \$1,036,606 allocation from the Finance and Administration Cabinet Maintenance Pool for the Central Lab Roof Replacement project. Mr. Ruth said that the Central Lab Building was built in 1994 and currently houses labs for the Kentucky State Police, the Energy and Environment Cabinet, and Family Services, as well as extensive file and artifact storage for the Kentucky Historical Society. The current roof has been repaired several times over the past five years and is no longer repairable.

In response to a question from Representative Wayne, Mr. Ruth said that the original roof had a 10-year warranty and the new roof will have a 20-year warranty.

Next Mr. Hicks reported a \$2,189,100 scope increase (100% federal funds) for the Kentucky State University (KSU) Center for Families and Children. The increase in funding is provided by the U.S. Department of Agriculture's Land Grant program and will allow more square footage to accommodate 80 children, a larger playground area, and LEED silver design. If approved, the revised project scope would be \$4,211,100.

Senator Leeper asked who would be responsible for the maintenance and operation of the building. Mr. Hicks responded that KSU would be responsible.

Senator Carroll made a motion to approve the scope increase for KSU. The motion was seconded by Senator Tori and approved unanimously by roll call vote.

Senator Leeper called on Charles Bush, Director, Division of Real Properties, Finance and Administration

Cabinet, to report several items relating to leases. Mr. Bush first discussed a report of changes in square footage for 10 state leases for the period April through June 2009. The lease modifications were less than \$50,000 and did not require Committee action.

Next Mr. Bush reported a lease modification for the Cabinet for Health and Family Services (Cabinet) in Pike County (PR-3626). The Cabinet has requested improvements to its facility to improve the security. The improvements will consist of replacement of various locksets and cylinders, and installation of electronic push button locksets and lock guards. The cost of the improvement is \$5,150 and will be amortized over the remaining lease term (through June 30, 2016).

Lastly Mr. Bush reported 25 emergency leases. Mr. Bush said that the Finance and Administration Cabinet has declared an emergency under KRS 56.805 to allow for procurement of temporary storm debris storage sites for the Transportation Cabinet. No action is required for emergency leases.

In response to a question from Senator Carroll, Mr. Bush said that of the 51 storm debris storage sites, the Transportation Cabinet has made final payments on 40 of the sites.

Senator Leeper called on Sandy Williams, Financial Analyst, KIA, to present 28 loan requests. Ms. Williams said that the first loan request was an \$11,000,000 Fund A loan for the City of Maysville in Mason County for the Maysville Combined Sewer Elimination project. The loan term is 20 years with an interest rate of two percent.

The second loan request was a \$500,000 Fund A loan for the City of Maysville in Mason County for the Washington Area Improvements project. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The third loan request was a \$3,420,238 Fund A loan for the Louisville and Jefferson County Metropolitan Sewer District for the River Road Interceptor project. The loan term is 20 years with an interest rate of two percent.

The fourth loan request was a \$480,000 Fund A loan for the Louisville and Jefferson County Metropolitan Sewer District for the University LIVE sanitary sewer extension project. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

Senator Leeper asked why the engineering fees for the University

LIVE project were so high. Ms. Williams said she would have to report this information back to the Committee.

In response to another question from Senator Leeper, Ms. Williams said that KIA has established deadlines for each project to be funded through the American Recovery and Reinvestment Act and all projects will meet the February 2010 construction contract start date.

The fifth loan request was a \$5,000,000 Fund A loan for the Louisville and Jefferson County Metropolitan Sewer District for the Western Flood Pump Station Replacement project. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The sixth loan request was a \$230,100 Fund A loan for the City of Prestonsburg in Floyd County for the West Prestonsburg Sewer Replacement project. The loan term is 20 years with an interest rate of one percent.

The seventh loan request was a \$365,300 Fund A loan for the City of Prestonsburg in Floyd County for the Westminster Street Combined Sewer Separation project. The loan term is 20 years with an interest rate of one percent.

The eighth loan request was an \$891,571 Fund A loan for the City of Prestonsburg in Floyd County to modify the existing Wastewater Treatment Plant. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act and \$803,000 will be used toward fulfilling Kentucky's Green Reserve requirement.

The ninth loan request was a \$975,000 Fund A loan for the Electric Plant Board of the City of Mayfield in Graves County for the Red Duck Creek Interceptor Rehabilitation project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The tenth loan request was an \$800,000 Fund A loan for the City of Russellville in Logan County for the Wastewater Project #1. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The eleventh loan request was a \$1,100,000 Fund A loan for the City of Calvert City in Marshall County for the Riverport Lift Station and Force Main project. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The twelfth loan request was a \$300,000 Fund A loan for the City of Kuttawa in Lyon County for the replacement of an existing 80 gallon per-minute (GPM) pump station at full capacity with a 220 GPM duplex submersible pump station. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The thirteenth loan request was a \$750,000 Fund A loan for the City of Sacramento in McLean County for the Gravity Sewer Phase I project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The fourteenth loan request was a \$1,150,000 Fund A loan for the City of Paintsville in Johnson County for the Package Treatment Plants Replacement project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The fifteenth loan request was a \$300,000 Fund A loan for the Grant County Sanitary Sewer District for Phase I of a Sanitary Sewer Extension project. The loan term is 20 years with an interest rate of three percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The sixteenth loan request was an \$801,203 Fund A loan for the City of Morehead in Rowan County for the benefit of the Morehead Utility Plant Board for the Big Woods Area Sewer Line Extension project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The seventeenth loan request was a \$1,293,013 Fund A loan for the City of Morehead in Rowan County for the benefit of the Morehead Utility Plant Board for the Phase IV Inflow and Infiltration Reduction System Rehab project. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The eighteenth loan request was a \$600,000 Fund A loan for the City of Winchester in Clark County for the construction of the Vaught Court Outfall Sewer project. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The nineteenth loan request was a \$489,469 Fund A loan for the City of Falmouth in Pendleton County for the Pendleton County High School Extension project. The loan term is 20 years with an interest rate of one percent. The funding for this loan

comes from the American Recovery and Reinvestment Act.

Senator Tori asked how KIA determines the interest rates for the various loan programs. Ms. Williams said that KIA has three interest rates for the federally-funded loan programs. In order for a community to qualify for a three percent interest rate, it must have a median household income at or above 80 percent of that of the Commonwealth, \$33,672 (based on the 2000 census). To qualify for a one percent interest rate, the community must have a median household income at or below 80 percent of that of the Commonwealth. If a community does not fall under either of those criteria's, a two percent interest rate is given. Additionally, a community that qualifies for the three percent interest rate can also receive a two percent interest rate if the project is regional or if the funds are being used to comply with a Consent Decree.

Senator Buford made a motion to approve the 19 Fund A loan requests. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

The twentieth loan request was for an increase to a previously approved \$338,997 Fund B loan for the City of Owingsville (City) in Bath County. The City requested a \$458,252.57 (135%) increase to repay a Rural Development (RD) loan, which will result in over \$490,000 in interest savings for the City versus the 40-year RD loan that would bear a higher interest rate. The new loan amount is \$797,249.57. The loan term is 30 years with an interest rate of 0.40 percent.

The twenty-first loan request was a \$564,835 Fund B loan for the City of Falmouth in Pendleton County for the Oak Haven Sewer Extension project. The loan term is 20 years with an interest rate of one percent.

The twenty-second loan request was a \$1,772,429 Fund B loan for the City of Prestonsburg in Floyd County to modify the existing Wastewater Treatment Plant. The loan term is 20 years with an interest rate of one percent.

Representative Wayne asked if there was precedent for using a Fund B loan to repay non-KIA debt. Ms. Williams responded that KIA typically only offers funds for refinancing from other funding sources in extreme circumstances. The reason KIA provided the City of Owingsville (City) with funds to repay the RD loan was for economic benefits. She said that this Fund B loan increase will allow the City to offer an affordable rate structure to the industrial customers that will be served by the

new wastewater treatment plant, hence keeping the businesses from moving out of the Bath County Industrial Park.

Representative Wayne asked if the Fund B loan increase was for the benefit of Custom Foods. Ms. Williams responded affirmatively.

Representative Wayne then asked if Custom Foods is still in existence and whether or not the company has ever filed bankruptcy. Ms. Williams said she would report the information back to the Committee.

Representative Damron commented that the loan increase would keep the Bath County Industrial Park from losing businesses and jobs.

Representative Damron asked if KIA could provide the Committee with the current balances in the Fund A, B, C, and F accounts. Ms. Williams said she would report the information back to the Committee.

Representative Rudy made a motion to approve the three Fund B loans. The motion was seconded by Senator Buford and approved unanimously by roll call vote.

Next Ms. Williams reported that the twenty-third loan request was a \$1,800,000 Fund C loan for the City of Bardstown in Nelson County for the Bardstown-Nelson County Industrial Park Transmission project. The loan term is 20 years with an interest rate of three percent.

The twenty-fourth loan request was a \$3,500,000 Fund C loan for the City of Bardstown in Nelson County for the Water Treatment Plant Clearwell Storage Tank and Filter Renovation project. The loan term is 20 years with an interest rate of three percent.

Representative Rudy made a motion to approve the two Fund C loans. The motion was seconded by Representative Westrom and passed unanimously by roll call vote.

The twenty-fifth loan request was a \$683,200 Fund F loan for the City of Campton in Wolfe County for construction of a one million gallon per-day water treatment plant. The loan term is 20 years with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The twenty-sixth loan request was a \$500,000 Fund F loan for Western Mason Water District in Mason County for the Germantown Water upgrade. The loan term is 20 years with a two percent interest rate. The funding for this loan comes from the American Recovery and Reinvestment Act.

The twenty-seventh loan request was an \$805,000 Fund F loan for the City of Prestonsburg in Floyd County for the KY 114 System Emergency tie-in with the Magoffin County project. The loan term is 20 years

with an interest rate of one percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

The twenty-eighth loan request was an \$800,000 Fund F loan for the Winchester Municipal Utilities through the City of Winchester in Clark County for construction of an Elevated Storage Tank Rehabilitation project. The loan term is 20 years with an interest rate of two percent. The funding for this loan comes from the American Recovery and Reinvestment Act.

Senator Carroll made a motion to approve the four Fund F loan requests. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

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

Senator Leeper called Mr. Howard and Brett Antle, Deputy Director, OFM, to the table. Mr. Antle first presented two new bond issues for the Kentucky Economic Development Finance Authority (KEDFA). The first new bond issue was for KEDFA Hospital Facilities Revenue Refunding and Improvement Bonds, Series 2009 (Saint Elizabeth Medical Center, Inc.). Proceeds from this conduit bond issue will 1) finance the acquisition, construction, installation, and equipping of healthcare facilities, including a new ambulatory care facility in Covington, Kentucky; and 2) Refund Hospital Facilities Revenue and Refunding Improvement Bonds, Series 2003 A, 2003 B, and 2003 C.

Representative Wayne made a motion to approve the KEDFA bond issue for St. Elizabeth Medical Center, Inc. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Mr. Antle said the second new bond issue was for KEDFA Hospital Revenue Bonds, Series 2009 (Owensboro Medical Health System, Inc.). Proceeds from this conduit bond issue will 1) provide funding for the construction of a replacement hospital in Owensboro, Kentucky; and 2) Refund Kentucky Health System Variable Rate Revenue Bonds (Owensboro Mercy Health System, Inc.) Auction Rate Securities, 2001 Series A, 2001 Series B, and 2001 Series C.

Representative Wayne commented that by locating the hospital on the outskirts of Owensboro, as opposed to downtown, will deplete downtown property values.

Representative Damron made a motion to approve the KEDFA bond issue for Owensboro Medical Health

System, Inc. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

Next Mr. Antle presented a new bond issue for State Property and Buildings Commission (SPBC) Revenue Bonds, Project No. 96 Series A, B, and C in a principal amount not to exceed \$425,000,000. Proceeds from this bond issue will provide permanent financing for projects authorized in HB 267 (2004-06 Budget), HB 380 (2006-08 Budget), HB 1 (2007 2nd Special Session), and HB 406 (2008-10 Budget).

Representative Damron asked if the issuance would allow OFM to do all Build America Bonds if the market makes that more advantageous. Mr. Howard responded affirmatively.

In response to another question from Representative Damron, Mr. Howard said OFM has flexibility with how they can market this bond issue.

Representative Damron made a motion to approve the new SPBC bond issue. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Next Mr. Antle presented a new bond issue for Kentucky Housing Corporation (KHC) Multifamily Housing Revenue Bonds, Series 2009 (Country Place Apartments). Proceeds from this conduit bond issue will be used to finance the acquisition, rehabilitation, and equipping of the 150-unit Country Place Apartments in Hebron, Kentucky. All of the units included in the project will be reserved for families earning 60 percent or less of the area median income. [This bond issue was presented at the September 2009 meeting and the Committee deferred action on the project until KHC responded to Committee members' questions about transaction participants and various policy issues.]

Representative Wayne commented that all his concerns regarding the KHC bond issue have been addressed.

Representative Rudy made a motion to approve the new bond issue for KHC. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

Senator Leeper asked Rick McQuady, Chief Executive Officer, KHC, and John Herald, Chief Financial Officer, KHC, to come forward to discuss a possible new housing financing program that was not on the agenda. Mr. McQuady said that on October 19, 2009, the Obama administration announced a new temporary bond purchase and liquidity program to assist state housing finance agencies (HFAs). Under this new program, the Treasury will purchase Fannie Mae and Freddie Mac securities backed

by new housing revenue bonds issued by state housing finance agencies. State HFAs will request funds pursuant to the allocation formulas used for determining the HFAs extra private activity bond cap under the Housing and Economic Recovery Act of 2008. According to the program, 60 percent of the new bonds will be purchased by the federal government and 40 percent must be purchased in the private market.

Mr. McQuady said because he was just informed of this new program yesterday, he did not have all the details. He said he did know that as a result of this program, KHC will be able to offer lower-rate mortgages to Kentucky families. He also said that because 60 percent of the bonds that will be allocated to KHC must be issued by December 31, 2009, KHC needs to be able to have flexibility in order to go to market as the program is launched. Mr. McQuady asked the Committee to allow KHC to take the actions necessary to participate in the new program. He said KHC will be bringing the issue to the Board of Directors to approve later in the week.

Representative Wayne asked what the default rate was for KHC mortgages compared to the private market. Mr. McQuady said that all of KHC loans are 30-year fixed rate loans and KHC does not participate in predatory lending practices. About a year ago, when the extent of the predatory lending in the market was first realized, the private housing market experienced a dramatic increase in 90-day delinquency rates as well as foreclosure rates, while KHC's foreclosure and delinquency rates remained as they had over the past five years. KHC's delinquency rate remained at about three percent and the foreclosure rate at two percent, respectively. However, as a result of the recent increase in unemployment in Kentucky, KHC's delinquency rates have risen to five percent and foreclosure rates to three percent.

In response to questions from Senator Carroll, Mr. McQuady said KHC ensures borrowers demonstrate the ability to make payments on a second mortgage either through the \$8,000 federal first-time homebuyer tax credit or through annual payments. He said KHC has not experienced any problems as a result of the second mortgage loans. Mr. McQuady said KHC encourages borrowers to pay the second mortgage with the tax credit as opposed to annual payments.

In response to a question from Representative Westrom, Mr. McQuady said the second mortgage is a six percent fixed rate loan for 10 years.

In response to a question from Senator Buford, Mr. McQuady said when KHC receives the details of the federal program it will determine whether or not (the program will work for Kentucky families) to participate.

Senator Buford asked KHC to report to the Co-Chairs of the Committee the final details prior to participating in the new program. Mr. McQuady said KHC would report to the Committee prior to participating.

In response to a question from Senator Carroll, Mr. McQuady said he did not include an amount of bonds that can be issued since the federal government has not yet provided the details.

Senator Buford made a motion to approve KHC to have the ability to take actions necessary to participate in the New-Issue Bond Program. The Committee's approval is conditioned upon KHC reporting transaction details to the Committee as KHC moves forward on any potential bond issues related to this program. Additionally, the Committee's approval is conditioned upon KHC receiving all of the necessary approvals from the KHC Board of Directors and other state entities. The motion was seconded by Representative Wayne and passed unanimously by roll call vote.

Next Mr. Antle presented a new bond issue for the University of Kentucky (UK) General Receipts Bonds, 2009 Series B – Build America Bonds – Direct Payment in a par amount of \$100,765,000. Proceeds from this bond issue will provide funding for the Expand Patient Care Facility – Hospital Phase III, as authorized in HB 4 (2009 Special Session).

Senator Buford made a motion to approve the new bond issue for UK. The motion was seconded by Representative Damron and passed unanimously by roll call vote.

Mr. Antle then provided a follow-up report for the KHC Housing Revenue Bonds 2009 Series B (Non-AMT), in the amount of \$60,000,000. Proceeds from this bond issue will refund outstanding KHC obligations and make funds available to finance mortgages. No Committee action was needed.

Mr. Howard said the next item on the agenda would be best presented by Jim Ackinson, Chief Financial Officer, Kentucky Higher Education Student Loan Corporation (KHESLC). Mr. Ackinson said KHESLC is requesting an extension on the Insured Student Loans Revenue Bonds, 2008 Series A (approved by the Committee in August 2008) for the purpose of providing KHESLC with bridge financing to originate student loans under the Federal Family Education Loan Program (FFELP), in conjunction with the

Federal Loan Participation Purchase Program. Mr. Ackinson said that the State Investment Commission has agreed to extend the final maturity from November 15, 2009 to February 15, 2010. The amount of principal outstanding under the financing will be reduced from the original \$50 million to \$24.9 million. A minor portion of the bonds (\$100,000) will remain outstanding until November 2011 in order for the General Bond Resolution to remain available as a future financing resource.

Senator Leeper asked what impact the proposed federal legislation to eliminate FFELP would have on KHESLC. Mr. Ackinson said the effect would be dramatic, as it would eventually eliminate KHESLC and replace it with direct lending through the federal Department of Education.

In response to a question from Senator Buford, Mr. Ackinson said KHESLC is hopeful to have a "carve-out" role if the federal legislation is passed, but nothing is guaranteed and KHESLC could be completely eliminated.

Senator Carroll made a motion to approve the extension of the final maturity on the KHESLC bond issue. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Next Mr. Antle reported 14 new bond issues with the School Facilities Construction Commission (SFCC) debt participation for Ballard County, Barbourville Independent (Knox County), Boyd County, Bracken County, Corbin Independent (Whitley County), Erlanger-Elsmere Independent (Kenton County), Hancock County, Kentucky Interlocal School Transportation Association Special Issuer Loan Program, LaRue County, Lyon County, Martin County, Paintsville Independent (Johnson County), Raceland-Worthington Independent (Greenup County), and Spencer County.

Representative Rudy made a motion to approve the 14 new SFCC bond issues. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

Senator Leeper asked Mr. Mullis to report the new local school bond issues. Mr. Mullis said there were four new school district bond issues with 100 percent local debt support for Fayette County, Jefferson County, Logan County, and Oldham County. All disclosure information has been filed. No Committee action was needed.

With there being no further business, Senator Buford made a motion to adjourn the meeting. The motion was seconded by Representative Rudy and the meeting adjourned at 2:45 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October Meeting of the 2009 Interim October 13, 2009

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 13, 2009, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Robert Brown, Angela Evans, Education Professional Standards Board; Joe Cowles, Mary Elizabeth Harrod, Personnel Cabinet; Tamela Biggs, Kentucky Teachers' Retirement System; Bruce Nix, Lisa Swiger, Richard Dobson, Jim Oliver, Department of Revenue; Lee Harris, Kentucky Real Estate Commission; Mary Bailey, Stephen Boyd, Board of Hairdressers and Cosmetologists; Fran Belvin, James Grawe, Frances Short, Board of Licensure for Professional Art Therapists; Dawn Powers, Katie Smith, Catherine Staib, Cabinet for Economic Development; Abby Powell, Ron Price, Bruce Scott, Division of Water; Carl Campbell, James Dickinson, Division of Mine Reclamation and Enforcement; Kim Collings, Division of Oil and Gas; Patricia Cooksey, Nicole Biddle, Marc Guilfoil, Kentucky Horse Racing Commission; Michael Bennett, Michael Green, Dawn Bellis, Richard Moloney, Department of Housing, Buildings and Construction; Jason Bentley, Kentucky Oil and Gas Association.

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 13, 2009, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

EDUCATION PROFESSIONAL STANDARDS BOARD: Board

16 KAR 7:010. Kentucky Teacher Internship Program. Robert Brown, division director, and Angela Evans, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Sections 4, 6, 7, 8, and 11 to comply with the drafting and format requirements of

KRS Chapter 13A; and (2) to amend Section 7 to clarify that the maximum stipend is per teacher intern. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Board

101 KAR 2:102 & E. Classified leave administrative regulations. Joe R. Cowles, deputy executive director, and Mary Elizabeth Harrod, director, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 5, 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.

Personnel Cabinet, Unclassified

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

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 5, and 10 to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 5(2) to insert language included in the parallel administrative regulation for classified employees that was not included in this administrative regulation, authorizing an appointing authority to require an employee not in a policy-making position who has accrued 200 hours of compensatory leave to take off work using compensatory leave in an amount sufficient to reduce the compensatory leave balance below 200 hours. Without objection, and with agreement of the agency, the amendments were approved.

TEACHERS' RETIREMENT SYSTEM: General Rules

102 KAR 1:310. Benefit eligibility conditions for members providing part-time and substitute services. Tamela A. Biggs, staff attorney, represented the system.

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.

FINANCE AND ADMINISTRATION CABINET: Kentucky Department of Revenue: Office of Income Taxation: Income Tax; Individual

103 KAR 17:150 & E. New home credit. Bruce Nix, director, 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 Sections 1 to 6 to comply with the drafting and format requirements of KRS Chapter 13A; and (3) to amend Section 3 to require that a denial letter be sent to a buyer if the application is denied to notify the buyer of the appeal rights available under KRS 131.110. Without objection, and with agreement of the agency, the amendments were approved.

Division of Miscellaneous Taxes: Selective Excise Tax; Motor Vehicle Usage

103 KAR 44:130 & E. New motor vehicle trade-in allowance.

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; and (2) 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: Kentucky Real Estate Commission: Commission

201 KAR 11:121. Improper conduct. Lee Harris, general counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Section 1 to: (a) return to the list of improper conduct the advertising of guaranteed sales plans without required disclosures; and (b) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:215. License recognition; application requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete an unnecessary definition; and (2) to amend Sections 1, 2, and 3 to correct citations and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:300. Use of facsimile and electronic-mail transmissions; electronic storage.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 3 to specify that a document

received by email, like a document received by fax, must be placed in the licensee's file; (3) to amend Section 1 to delete outdated provisions; and (4) to amend Sections 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.

201 KAR 11:450. Broker management course.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 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.

Board of Hairdressers and Cosmetologists: Board

201 KAR 12:105 & E. School districts. Stephen Boyd, vice chair, and Mary Bailey, board secretary, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (2) to amend Section 6 to provide criteria to establish need; (3) to amend Section 7 to: (a) provide criteria to establish economic feasibility; and (b) provide all requirements for the application process; (4) to create a new Section 9 to incorporate by reference the required application; and (5) to amend Sections 1 to 4 and 6 to 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Professional Art Therapists: Board

201 KAR 34:010. Licensure of professional art therapies. Fran Bevin, board chair, and Jim Grawe, assistant attorney general, represented the board.

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

201 KAR 34:015. Examination.

201 KAR 34:020. Fees.

A motion was made and seconded to approve the following amendment: to amend Section 5 to correct a typographical error. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 34:030. Continuing

education requirements.

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

201 KAR 34:040. Code of ethics.

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

201 KAR 34:050. Complaint procedure.

CABINET FOR ECONOMIC DEVELOPMENT: Kentucky Economic Development Finance Authority: Kentucky Business Investment Program

307 KAR 8:010 & E. Application for Kentucky business investment programs. Catherine Staib, assistant general counsel, and Katie Smith, deputy commissioner, represented the authority.

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

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:310. Surface water permit fees. Bruce Scott, commissioner, represented the department.

In response to questions by Representative Ford, Mr. Scott stated that while the department did not require on-site inspectors for water line extensions, local jurisdictions might have local ordinances requiring the on-site inspectors. The department reviewed post-construction certifications submitted to it for quality assurance and investigated on-site if complaints were received.

Department for Natural Resources: Division of Mine Reclamation and Enforcement: Performance Standards for Surface Mining Activities

405 KAR 16:140. Disposal of coal mine waste. Carl Campbell, commissioner, and Jim Dickinson, division director, represented the department.

In response to questions by Representative Lee and Co-Chair

Combs, Mr. Campbell stated that this administrative regulation and 405 KAR 18:140 were amended to mirror federal regulations and were not more stringent than the federal regulations. The changes were in the best interests of the industry and were good for the community.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 2 to establish a twenty-four (24) hour deadline for notifying the cabinet if an inspection discloses a potential hazard; and (4) to amend Sections 2, 3, 4, and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Performance Standards for Underground Mining Activities

405 KAR 18:140. Disposal of coal mine waste.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 2 to establish a twenty-four (24) hour deadline for notifying the cabinet if an inspection discloses a potential hazard; and (4) to amend Sections 2, 3, 4, and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Energy Development and Independence: Division of Oil and Gas Conservation: Division

805 KAR 1:190. Gathering lines. Carl Campbell, commissioner, and Kim Collings, division director, represented the department. Jason Bentley, Kentucky Oil and Gas Association, appeared in support of this administrative regulation.

In response to questions by Representative Ford, Ms. Collings stated that the changes were being made to comply with statutory changes that went into effect June 25, 2009.

At the September 8, 2009, meeting of the Administrative Regulation Review Subcommittee, 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 add authorizing language; (3) to amend Section 13(5) to clarify provisions; and (4) to amend Sections 1, 3, 11, 12, 13, 15, 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.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to add language concerning the Executive Order that reorganized the agency into the "Energy and Environment Cabinet"; (2) to amend Section 11(5)(b) to clarify that the line marker requirements for slopes greater than twenty (20) degrees shall apply to lines installed after June 25, 2009; and (3) to amend Sections 1 and 18 to change the name of the "Division of Oil and Gas Conservation" to the "Division of Oil and Gas." Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Division of Licensing: Thoroughbred Racing

810 KAR 1:004. Stewards. Nicole Biddle, acting general counsel, Patty Cooksey, director of marketing, and Marc Guilfoil, deputy executive director, represented the commission.

At the September 8, 2009, meeting of the Administrative Regulation Review Subcommittee, a motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 for organization and clarity; (2) to amend Sections 1 and 2 to use statutory terminology; and (3) to amend 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.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1(1)(b) to state that a steward must have passed a written and oral examination, instead of a written or oral examination as originally drafted; and (2) to amend Section 1(1)(c) to delete the indefinite requirement that a steward be of good moral character and reputation. Without objection, and with agreement of the agency, the amendments were approved.

Harness Racing

811 KAR 1:015. Race officials.

At the September 8, 2009, meeting of the Administrative Regulation

Review Subcommittee, a motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 4 to use statutory terminology; and (2) to amend Sections 2, 4, 8, 11, 12, 14, and 22 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2(2)(b) to state that a judge must have passed a written and oral examination, instead of a written or oral examination as originally drafted; and (2) to amend Section 2(2)(c) to delete the indefinite requirement that a judge be of good moral character and reputation. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Board of Home Inspectors: Kentucky Board of Home Inspectors

815 KAR 6:010. Home inspector licensing requirements and maintenance of records. Mike Bennett, staff attorney, and David Michael Green, chair, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Section 2 to: (a) establish material to be submitted with the application for licensure; and (b) clarify the waiting period after a failed examination before an applicant is eligible to retake the test; (4) to amend Section 5 to establish material to be submitted with the application for license renewal; (5) to amend Sections 1 through 8 and 10 to comply with the drafting and format requirements of KRS Chapter 13A; and (6) to amend Section 10 to clarify ramifications for a licensee who fails to provide applicable information after a name change. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 6:020. Advertising by home inspectors.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; and (2) to amend Sections 2 and 3 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were ap-

proved.

Division of Building Code Enforcement: Electrical Inspectors

815 KAR 35:060. Licensing of electrical contractors, electricians, and master electricians pursuant to KRS 227A.060. Dawn Bellis, general counsel, and Richard Moloney, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to insert citations; (2) to amend Section 6 to clarify that an applicant shall have ten (10) business days to file an appeal; and (3) to amend Sections 2 through 9 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 35:090. Electrical training program standards.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations; (2) to amend Section 7 to insert criteria for the Interim Credential Form; and (3) to amend Sections 1, 3, 4, 5, 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.

The following administrative regulations were deferred to the November 10, 2009, meeting of the Subcommittee:

PERSONNEL CABINET: Board

101 KAR 2:066 & E. Certification and selection of eligibles for appointment.

101 KAR 2:120. Incentive programs.

FINANCE AND ADMINISTRATION CABINET: Office of the Secretary: Property

200 KAR 5:315. Debarment.

GENERAL GOVERNMENT CABINET: Kentucky Real Estate Commission: Commission

201 KAR 11:190. Disciplinary proceedings.

201 KAR 11:250. Listing and purchase contracts and other agreements entered into by licensees; provisions required; seller-initiated relisting request disclosure form. Lee Harris, general counsel, represented the commission.

In response to questions by Representative Ford, Ms. Harris stated that this administrative regulation should be amended to clarify that a licensee from a company's broker could contact existing customers to inquire about relisting a property but

that licensees from a different company's broker could not contact customers that currently have property listed with a different licensee unless the seller initiated the contact.

A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to specify that a relisting agreement can be negotiated only if the seller initiated contact with the licensee; and (2) to amend the RELATES TO paragraph and Sections 1, 2, 4, 5, and 6 to correct statutory citations and to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved. Without objection, and with agreement of the agency, this administrative regulation as amended was deferred to the November meeting of the Subcommittee.

Kentucky Board of Social Work: Board

201 KAR 23:075. Continuing education.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Waste Management: Solid Waste Facilities

401 KAR 47:090. Solid waste permit fees.

EDUCATION CABINET: Kentucky Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:031. Repeal of 701 KAR 5:035.

Food Service Programs

702 KAR 6:010. Local responsibilities.

702 KAR 6:020. District school nutrition director.

702 KAR 6:031. Repeal of 702 KAR 6:030.

702 KAR 6:040. Personnel; policies and procedures.

702 KAR 6:045. Personnel; school nutrition employee qualifications.

702 KAR 6:075. Reports and funds.

702 KAR 6:090. Minimum nutritional standards for foods and beverages available on public school campuses during the school day; required nutrition and physical activity reports.

Office of Chief State School Officer

702 KAR 7:125. Pupil attendance.

702 KAR 7:140. School district calendar.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Office of Mine Safety and Licensing: Miner Training, Education and Certification

805 KAR 7:060. Program approval.

Sanctions and Penalties

805 KAR 8:060. Criteria for the imposition and enforcement of sanctions against licensed premises.

PUBLIC PROTECTION CABINET: Department of Insurance: Health and Life Division: Trade Practices and Frauds

806 KAR 12:070. Life insurance application requirements.

Life Insurance and Annuity Contracts

806 KAR 15:080. Paid-up life insurance policies.

Health Insurance Contracts

806 KAR 17:020. Disclosure of other coverage in application.

806 KAR 17:391E. Repeal of 806 KAR 17:390, 17:400, 17:410, 17:420, 17:430.

Kentucky Horse Racing Commission: Division of Licensing: Harness Racing

811 KAR 1:070 & E. Licensing standardbred racing.

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

900 KAR 6:125. Certificate of Need annual surveys, and registration requirements for new magnetic resonance imaging units.

Commission for Children with Special Health Care Needs: Division of Clinical and Augmentative Services: Children with Special Health Care Needs Services

911 KAR 1:085. Early hearing detection and intervention program.

The subcommittee adjourned at 1:50 p.m. until November 10, 2009.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE Minutes of the 3rd Meeting of the 2009 Interim October 13, 2009

The third meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, October 13, 2009, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Kent Stevens, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Kent Stevens, Co-Chair; Senators Dan Kelly and Ken Winters; Representatives Mary Lou Marzian and Harry Moberly Jr.

Guests: Mr. Wayne Young, Kentucky Association of School Administrators; Ms. Robyn Oatley, private citizen; Ms. Robin Hill, Kentucky Department of Education; Mr. Clyde Caudill, Kentucky Association of School Superintendents; Mr. Robert Brown and Ms. Marilyn Troupe, Education Professional Standards Board.

Legislative Guests: Representatives Linda Belcher and Derrick Graham

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

Representative Stevens asked for a motion to approve the minutes of the June 9 and August 10, 2009, meetings. Senator Westwood made the motion to approve the minutes, seconded by Senator Winters. The minutes were adopted by voice vote.

Representative Stevens introduced Dr. Terry Holliday, Commissioner, and Mr. Ken Draut, Associate Commissioner, Office of Assessment and Accountability, Kentucky Department of Education (KDE) to give the committee a report on the 2008-2009 assessment results.

Dr. Holliday said principals and teachers are working hard in Kentucky schools, but more work is needed to close the achievement gaps and improve student proficiency. He said KDE is looking at further processes to address those concerns.

Mr. Draut said Kentucky is utilizing the Kentucky Core Content Test (KCCT) and the alternate assessments in reading, mathematics, science, social studies, and writing on-demand. He said these scores are used for reporting to the federal No Child Left Behind (NCLB) accountability system. The scores are also used to report the state's percentage of novice, apprentice, proficient, and distinguished students. An interim report is generated and distributed to schools to identify areas of improvement resulting from the test scores.

Mr. Draut discussed some issues that were analyzed during the 2009 interim assessment period. He said the student performance level definitions (novice, apprentice, proficient, and distinguished) remain the same. The 2009 NCLB data calculations are unchanged. The United States Department of Education approved Kentucky to delay the NCLB results due to multiple natural disasters in 2008-2009. Finally, Title I and Non-Title I schools and districts are held accountable based on Adequate Yearly Progress (AYP) status.

Mr. Draut said Kentucky met 19 out of 25, or 76 percent, of its target goals for NCLB. He noted African-American and disabled students did not meet their goals in reading and mathematics. Limited English proficient students and those who qualify for free and reduced lunch did not meet their goals in reading.

Mr. Draut said 696 schools met 100 percent of NCLB AYP goals, which is 60.2 percent of all schools. He said 78 percent of elementary schools met 100 percent; 37.6 percent of middle schools met 100 percent; 19.9 percent of high schools met 100 percent; and 75 of 175 schools, 42.9 percent, met 100 percent of their goals. He also discussed the summary of tiers

of consequences for Title I schools and districts and the summary of non-Title I schools eligible for state assistance. These detailed graphs are located in the meeting folder located in the Legislative Research Commission (LRC) library.

Mr. Draut said the Commonwealth Accountability Testing System (CATS) is suspended as a result of Senate Bill 1 passed in the 2009 regular session. He said school performance is no longer reported on individual school growth charts. No indices (accountability or academic) are generated and reported by the KDE. He noted the Interim Performance Report replaces the Kentucky Performance Report and includes three reports: trend data; disaggregation; and core content.

Mr. Draut reported the percentages of proficient and distinguished students by content and grade span. He also reported the 2009 disaggregated data for students and the percentages that were proficient and distinguished by subject area. The detailed charts are located in the meeting folder in the LRC library.

Mr. Draut said the ACT EXPLORE and the ACT PLAN test scores increased since 2006, while still falling below the national norm study scores. The EXPLORE test is administered to students in the 8th grade and the PLAN is administered to students in the 10th grade. He said the ACT data were released in August 2009 and show two years of trend data. The average ACT scores for Kentucky juniors improved from 2008 to 2009 in English and mathematics. Students scored lower in 2009 in reading, science, and in overall composite scores. The percentages of Kentucky students meeting college readiness benchmarks remained the same in English in 2008 and 2009. The percentage went up one point in mathematics and science, and decreased three points in reading. The percentage of Kentucky junior students meeting all four benchmarks on the ACT increased from 10 to 11 percent from 2008 to 2009. He also reported on the disaggregated trend data for the ACT scores, which were similar to the trend data in the KCCT scores.

Senator Westwood said the KCCT reporting indicates no significant gains or decreases in scores. He asked why there are significant drops in proficiency in the disaggregated scores, particularly in middle and high school. He also is concerned that only 20.8 percent of African-American students are reaching proficiency and distinguished levels. Mr. Draut responded that the trend in Kentucky has been that elementary students do better on the KCCT. He said the middle school students tend

to do better than the high school students. It is noted that only 19 percent of the high schools met their AYP goals. He said this may impact NCLB reporting because it is focused on subgroups that tend to have lower scores. Senator Westwood said he wants to focus on middle grades and hopefully the progress will continue to the high school level. He said these figures may actually be worse than what is being reported because it is unknown if the dropouts are being calculated that may have dropped out before the testing took place.

Senator Winters said one issue that precipitated Senate Bill 1 was the realization that young people are not held personally responsible for their performance on assessment tests. He said the longitudinal data that will be kept on students in the future will have a dramatic effect on the test results.

Dr. Holliday said he believes the people have been working hard, but changes must be made in the system. He wants to focus on adolescent literacy, student accountability, strengthening math instruction, and preparing teachers to teach students with a wide range of ability levels in the classroom. He said that KDE has developed an intervention matrix. This creates focus on the schools and districts that may need the most comprehensive type of assistance from KDE. Schools that receive the most intensive intervention will be the school districts that have the lowest proficiency performance and have large gaps between the subgroups. He said KDE will provide targeted intervention to districts with good proficiency, but have large gaps. In addition, KDE will provide targeted intervention to school districts with low proficiency and low gaps. He said basic intervention will be given to school districts who are on the "bubble" or have small achievement gaps and higher overall performance, but have missed AYP for at least two years. He noted KDE is required by the new school improvement grant funds to identify the lowest performing five percent of schools in Kentucky. The schools identified will be provided with very intensive support and significant dollars.

Dr. Holliday said KDE is focusing on the "Race to the Top" application and what it might include for funding on improving instruction. He said the school districts are going to perform no better than the quality of instruction that the children receive from their teachers. He said the education system needs to provide teachers the coaching and support necessary to successfully teach children of all abilities. KDE has identified current funding sources available for teacher professional development. He also

noted that KDE is aligning all the programs they currently have to coincide with the expectations of Senate Bill 1.

Dr. Holliday explained the instruction improvement system that he hopes is funded through the "Race to the Top" federal competitive grant dollars. This system would be available to teachers on-line and would provide school districts and schools with a coherent set of interconnected tools and resources to assist with: curriculum planning; measuring student progress; on-line publishing of teacher lesson plans; job-embedded professional learning for teachers; and strong instruction leadership, including tools for classroom walk-throughs and teacher observation.

Senator Kelly asked how many schools are currently receiving intervention from the KDE. Mr. Draut said there were 119 schools involved with intervention in the 2008-2009 school year. There were 35-40 schools involved in the state accountability system.

Senator Kelly said there are complaints from higher education about the remedial resources being spent to get students prepared when that preparation should have occurred in high school. He said the KDE instructional improvement system is focusing resources to do what should have been done in the teacher preparation programs in higher education. He would like to see conversations about this issue take place when coordinating with higher education to develop the new standards. He said improving the skills and resources of instructors is important, however, services to children through early intervention need to be incorporated in KDE's plan. Senator Kelly's final point was about the reporting that KDE provides to the General Assembly. He finds it less informative to see the data of all schools merged together and would like to see specific data on the schools that KDE is providing services to. He would like to see data on how KDE's interventions are working in the low performing schools.

Mr. Draut said media packets were disseminated that highlight specific school data. He will see that the information is distributed to the committee members.

Dr. Holliday said he is meeting with the university presidents about teacher preparation. He said there are 48,000 teachers currently working in the system that need tools to be prepared to assist with early interventions. He also said KDE is working with the Southern Regional Education Board (SREB) to define senior level courses at the high school for the remedial work that students may need prior to enrolling in college.

He said KDE is currently working on potential regulations that may need to be brought to the Education Assessment and Accountability Review Subcommittee (EAARS) to grant students credit for those courses.

Senator Winters said the committee is interested in "Race to the Top" and the General Assembly is attempting to do things legislatively that will compliment that initiative. He would like Dr. Holliday to comment on the strengths and weaknesses that Kentucky has in applying and obtaining the federal grant dollars. Dr. Holliday said KDE is in the final stretch of preparing the grant application and feels that Senate Bill 1 will be a great strength. He discussed the excellent partnership that KDE has with the educators association, administrators association, school board association, and the Council on Postsecondary Education (CPE). He said potential barriers or weaknesses include how to address the charter school issue and the turnaround of low performing schools. He said KDE will bring a white paper with concepts addressing those issues to the committee in December 2009 prior to the next legislative session.

Senator Westwood said improvements were made in early literacy with the passage of Senate Bill 186 several years ago. He is now concerned about the middle school literacy and if teachers are teaching reading in the content areas. He said student scores are dropping in the middle and upper grades and this may not be due to the difficulty of the courses. It may be that the students cannot read the textbooks in order to learn the course material. He would like to see the money in the instructional improvement system to address the literacy piece and also to prepare teachers in postsecondary education to understand they have to teach reading in the content areas.

Dr. Holliday said he spoke to Mr. Dale Brown, former superintendent for Warren County Schools, who said they had experienced the problems with adolescent readers and partnered with Western Kentucky University (WKU) to address the issue. WKU offered training to classroom teachers at the high schools, along with 31 professors from WKU, to address adolescent literacy issues and how to deal with reluctant readers. The program was a success and many students made significant gains after being reassessed a year later. He said that adolescent literacy issues are at the core of Kentucky's problems, in conjunction with student and teacher accountability. He feels end-of-course assessments may help with these issues.

Representative Moberly said Kentucky's scores show the same

problems of students performing well in elementary school and then dropping in middle and high school. He said this has been the pattern and he hopes KDE will get a new plan that is supported by federal stimulus dollars to implement innovative and creative programs. He said students with disabilities are making no better progress today than they were years ago and this needs serious attention. He wants KDE to work with the Education Professional Standards Board (EPSB) to work on teacher preparation issues that are long overdue. He asked why schools that are low performing cannot model successful schools so that all schools perform well in the system. He is disheartened that only 19 percent of high schools are meeting AYP. It is time for improvements and for schools to quit repeating the same mistakes year after year. He said innovative ideas such as charter schools and differential pay for teachers may need to be explored in schools that consistently show no improvement. He also said teacher incentives should be implemented to help salaries increase at a higher rate throughout their 27 year profession.

Representative Stevens said there are so many major problems facing Kentucky's educational system that it is hard to know where to start. He said dropouts are a major issue and 70 percent of people incarcerated are high school dropouts. He mentioned that children starting preschool coming from lower socioeconomic families only have 1,500 words in their vocabulary and are at an immediate disadvantage from the children starting with 2,500 word vocabularies. He said Kentucky should be focusing on the two, three, and four year olds more than it is. He wants middle and high school students to perform at the same levels of elementary school students. He also believes that vocational education needs more attention in the future. He feels change is needed in the way Kentucky operates because what it has been doing the last few years is not working.

Representative Graham said Kentucky's high school students do not have study skills. He said students may know and understand the material as it is being taught, but they do not know how to prepare and study for a test. He said this is a skill set that should be taught to students at a very early age. He asked if KDE can encourage teachers to incorporate teaching study skill strategies to students in the transition period between elementary and middle school. Dr. Holliday said the new common course standards focus on study skills through the application of math and language arts and the real study skills that children need

to be successful in college. He said our country and state need to focus on current students. Teacher preparation is essential to the future, but Kentucky cannot afford to lose another generation of children that are sitting in classrooms today. He said if he makes mistakes moving forward it was always in the best interest of the children.

Representative Graham is disturbed by the number of free and reduced lunch students and is worried about African-American students being discouraged from taking Advanced Placement (AP) courses. He is concerned about the high number of students with disabilities that are not performing at a high level. Students are also deciding to enroll into the lower classes in order to achieve a higher grade instead of taking a more rigorous course. He feels KDE should encourage students from all socioeconomic backgrounds to take the AP courses. Dr. Holliday said one of KDE's key strategies in obtaining the "Race to the Top" dollars is how to provide funding support to recruit more minority and economically disadvantaged students into AP courses. He said more resources also need to be placed into Science Technology Engineering and Mathematics (STEM) initiatives.

Representative Moberly asked why females are scoring significantly higher scores on the KCCT exams, particularly in the upper grades. Dr. Holliday said females are scoring much higher than males in adolescent reading in middle and high school. Scores are more equal in math. He said studies show the reason as being attributed to females being more compliant and males not being interested in the reading material. Representative Moberly asked if KDE has any intervention or professional development strategies to address the issue. Dr. Holliday said KDE has hired Ms. Felicia Cummings-Smith, former executive director of the Collaborative Center for Literacy Development, to help KDE prepare professional development to address adolescent literacy issues. He also said SREB has published some strong recommendations that can be incorporated in KDE's training and development. He said postsecondary education faculty must be engaged in the training because they have the same issues of dropouts relating to student literacy levels.

Senator Kelly said he is pleased to hear Dr. Holliday discuss the Advance Kentucky program. He believes there will be a legislative initiative in the 2010 session to expand the program statewide. He talked about the partnership between the National Math and Science Initiative and the Kentucky Science and

Technology Center, to create a program to get more minority and lower socioeconomic students involved in AP courses. Since the implementation of the program, there has been a 76 percent increase in the number of students taking and passing math, science, and English AP courses; 200 percent increase in free and reduced lunch students; and a 200 percent increase in minority students. He urged Representative Graham to contact Dr. Joanne Lange at the Kentucky Science and Technology Center.

Representative Stevens asked for a motion to accept three reports from the Office of Education Accountability (OEA) that had been presented to subcommittee at an earlier meeting. Senator Westwood made the motion to accept the Review of School Fees and Supplies; Review of Education Technology Initiatives; and the Kentucky District Data Profiles-School Year 2007-2008 reports. Senator Winters seconded the motion. The motion was approved by voice vote.

Representative Stevens introduced Ms. Marcia Ford Seiler, Director, Ms. Brenda Landy, Legislative Analyst, Dr. Ken Chilton, Director of Research, OEA, to explain two parts of the math study. Ms. Seiler concurred with the members that the data seem to consistently remain the same. She thanked the staff at CPE, KDE, and EPSB for helping to gather the data for the report.

Ms. Landy said part one of the math study focused on assessment and course-taking. She said Kentucky is significantly below the national average on most achievement and college readiness measures. She noted the PLAN assessment scores that are administered to students in grade 10 are 12 percentage points below the national norm. The National Assessment of Educational Progress (NAEP) began state level testing of 4th and 8th grade students in the early 1990's, and are now conducted every other year. She said the NAEP scores conducted for 2009 will not be released until October 14th so scores will not be reported in this meeting. She noted the assessment scores have been rising for both 4th and 8th grade students nationally, and in Kentucky. However, there is concern that Kentucky's 4th graders are lagging behind the nation in the last three assessment periods.

Ms. Landy discussed the ACT, PLAN, and EXPLORE college readiness measures. She said there is no national norm for universal testing of 11th grade students, but ACT did provide a benchmark score that corresponds to a 50 percent chance of earning a B in college algebra, or a 75 percent chance of earning a C in college algebra. According to the CPE, two-thirds of Kentucky's college ma-

jors do not require college algebra. She said 44 percent of Kentucky juniors scored at or above the benchmark for general college math; 22 percent met the benchmark for the PLAN assessment; and 29 percent met the benchmark for the EXPLORE assessment. She noted Kentucky scored below the national norms in the PLAN and EXPLORE assessments.

Ms. Landy discussed the AP test scores in 2008. About half of the students attempting to take the exam are passing the exam. She said there are big differences in the exam activity by income level and race of students. The AdvanceKentucky project is trying to address the achievement gaps and trying to encourage disadvantaged students to take AP courses. There are detailed graphs with specific data information located in the meeting folder in the LRC library.

Ms. Landy discussed the KCCT math proficiency trends. She noted Kentucky has been administering a similar test from 1999 through 2006. In 2007, major changes were made to the test. The similar trend of elementary school students performing better than middle and high school students remains consistent. Many Kentucky middle and high schools do not seem to be set up to help students in a short amount of time. This is troublesome because high schools have just a few years to help students catch up on skills and knowledge that they need to be successful in college or the workplace. She said research shows that student achievement in high school depends on the solid foundation in earlier grades. She also noted that achievement gap trends within specific subgroups remain consistent with other assessment testing results. The female and male gaps are pretty small, but the gaps grow larger when comparing income, race, English proficiency, and disability status. Specific trend data and flow charts are located in the meeting folder in the LRC library.

Ms. Landy said research shows that students with a wide spectrum of abilities can benefit from challenging math courses, even after considering family income and prior achievements. She said the students taking the most demanding math courses score highest on the 12th grade NAEP assessment. She said nationally, students who take Algebra II are scoring at the 12th grade level on NAEP, and only those students taking calculus are receiving proficient scores.

Ms. Landy said more needs to be done than just cleaning up course codes to ensure alignment. She said there are few safeguards in place to ensure that Algebra I, geometry, or Algebra II, teach the same content

everywhere. She said courses can differ from district to district, school to school, and even classroom to classroom within a school. She noted current guidance is scant. The 1998 Program of Studies implementation manual could be helpful if updated. She said end-of-course exams will require that courses with the same name cover similar content.

Ms. Landy discussed high school graduation requirements. She said Kentucky's high school graduation requirements are among the most rigorous of all states. By 2012, Kentucky will be just one of eleven states requiring Algebra II as a graduation requirement. In addition, Kentucky is one of very few states that will make the course requirements mandatory because other states provide flexibility for some students who opt to take less rigorous courses.

Ms. Landy summarized the formal recommendations in the report. She said most of the recommendations have to do with the need to improve data quality for KDE, CPE, and EPSB. She also noted the recommendations in the report are meant to support and align with the goals of Senate Bill 1. The formal recommendations are located in the meeting folder in the LRC library.

Representative Stevens asked Dr. Holliday if he would like to make any comments. Dr. Holliday said that KDE agrees with the recommendations with one caveat. He said Kentucky needs to refine its regulatory language to ensure high expectations for students, school districts and schools in common course standards. Algebra I course codes and content need to include high level rigor across the Commonwealth. He said this is one example of the balance of local control with state authority and how that would work together. He also said Kentucky needs high expectations and consistent, standardized data monitored for its longitudinal data system.

Dr. Chilton discussed part two of the math study dealing with teacher quality and educator preparation programs. He discussed key agency roles within Kentucky's education system. EPSB approves and accredits educator preparation programs and certifies teachers. The CPE plays a role in data sharing, program approval, and resources. The KDE oversees school and district accountability. Most researchers agree that teacher quality is critical to student achievement. However, few researchers can define teacher quality in a way that is measurable. He said all Kentucky educator preparations programs are accredited by the EPSB and 98 percent of teachers are considered "highly qualified" by the NCLB standards. He said certified math teachers have all

passed content knowledge Praxis II examinations, yet Kentucky student mathematics achievement remains low. He noted after teachers receive full teacher certification in Kentucky, they are required to receive a master's degree within 10 years. Alternative routes are available to teachers and emergency certification is used when qualified candidates cannot be found. The issuance of emergency certificates is decreasing due to the demands of the NCLB and the definition of highly qualified teachers.

Dr. Chilton said Kentucky has thirty programs accredited by EPSB to train teachers. Fifteen programs also have dual certification by the National Council for the Accreditation of Teacher Education (NCATE). He said program requirements will be established for elementary, middle, and secondary math requirements. He also noted Kentucky will look at special education math requirements.

Dr. Chilton said certified elementary math majors are certified K-5, with no content area specialization. Elementary math content knowledge requirements generally do not include college algebra. Researchers believe elementary education majors need more "pedagogical content knowledge" to teach mathematics. EPSB has approved an elementary mathematics endorsement. He said middle school math teachers are certified in 5-9, and specialize in content area. He said there is variation in types of coursework required. High school math teachers are certified in 8-12, and specialize in content area. All programs include higher level mathematics coursework, including calculus. He said site visits found that administrators are comfortable with content knowledge of both middle and high school math teachers. There is a concern about pedagogical content knowledge. Finally, special education teachers are certified P-12, with no content area specialization. He said over 7,500 special education teachers received emergency certification or entered teaching through alternative options since 2000-2001. He said the programs lack rigorous mathematics content knowledge requirements.

Dr. Chilton discussed two recommendations from the report. The EPSB and the KDE shall form a joint task force to address the specific needs and challenges of teaching mathematics to special education students. This analysis should include review of current literature and best practice on the instruction of mathematics to special education students, review of the mathematics course work requirements of special education teacher training programs and master's programs throughout

Kentucky. Findings and recommendations shall be presented to EAARS by December 2010. He also said the EPSB and KDE, in collaboration with the Kentucky Committee for Mathematics Achievement, shall study the alignment of mathematics content knowledge and pedagogy courses required by educator preparation and master's programs to determine if important mathematics content and research-based teaching skills are provided sufficiently in mathematics content and pedagogy courses, including sufficient coverage of differentiated instruction. The findings should address concerns regarding the content and pedagogical preparation of mathematics teachers at both the undergraduate and master's level, offering recommendations to the EPSB on how programs and program evaluations can be improved. The findings and recommendations shall be reported to EAARS on or before December 2010.

Dr. Chilton said the EPSB uses Praxis II as content knowledge and pedagogy exams and determines pass scores. The tests are designed to demonstrate a "minimum" competency level. He said Senate Bill 1 will require reevaluation of tests and pass scores. Recommendations in this area include the KDE shall annually review and report the results of the Minority Educator Recruitment and Retention (MERR) program that was created to develop minority educators in the STEM disciplines. Reports should include participation by educator preparation program, the rates of program completion, employment by content area, and efforts of districts to recruit minority educators. He said EPSB shall evaluate the standards measured by mathematics exit exams required for math certification and ensure that the selected exit examinations and pass scores adequately reflect the content knowledge and pedagogy skills expected of all teachers.

Dr. Chilton said Kentucky requires teachers to obtain a master's degree within 10 years of initial certification. Research has not supported the value of master's degrees in producing more effective teachers. The EPSB's new Teacher as Leader master's program adds focus to the master's degree. He said the program will be mandatory starting in January of 2013. The program includes: collaboration with school districts to design courses, professional development, and job-embedded professional experiences; collaboration with Arts and Sciences faculty to meet academic and course needs; establishes a process to individualize a program to meet the candidates professional growth or improvement plan; incorporates interpretation and

analysis of P-12 achievement data; and facilitates direct service to school districts by educational faculty members. He said the recommendation is the EPSB shall develop a program evaluation methodology and timeline for measuring the math content and pedagogical impacts of the Teacher as Leader master's program by December 2010. The methodology should include data that permits detailed analysis at a content and program level.

Dr. Chilton said there are many variables that are measured in the literature associated with teacher quality. He said three indicators that are linked to compensation include teacher experience, educational attainment or rank, and certification. He noted novice level teachers with less than three years of experience do not get the same levels of student achievement as more experienced teachers. After the initial learning curve of teacher experience is surmounted, the benefits of years of experience levels out. This is an important point in considering teacher compensation over time. He said research is mixed on teacher certification and student gains. He noted that high performing schools tended to have more nationally board certified teachers than lower performing schools in Kentucky. The recommendation is that the KDE or EPSB should jointly develop a formula to accurately determine teacher shortage areas, long term trends, and the hiring needs of the state with a focus on ensuring that teacher availability and quality is equalized across the state.

Dr. Chilton discussed future challenges and considerations. He said a P-20 data system is needed to show the link between students to teachers, and to link teachers to educator preparation programs if Kentucky is every going to be to do a value-added assessment. The value-added assessment would be critical to any types of compensation changes, such as differential pay for teachers. It would also allow for a more comprehensive teacher evaluation system. He said the final part of the report looks at working conditions and how those are linked to teacher quality and teacher retention. The final recommendation, is the EPSB, in collaboration with CPE and KDE in developing the P-20 database, and should require sufficient data be included in the system that would permit value-added assessment of educator preparation programs that is more content and program specific than the current National Council for Accreditation of Teacher Education and state accreditation requirements.

Representative Stevens said some first year teachers are phe-

nomenal and do a great job. He said teacher experience is important, but there are exceptions to the rule.

Senator Winters asked for clarification on the median number of twelve courses being taken by high school math teachers. Dr. Chilton said 12 courses is the median number of math courses required for an education major who specializes in secondary education, or wants to become a high school math teacher. Senator Winters said he would like the number of classes for a high school math teacher and a math major verified. He also asked what two programs were accredited by EPSB that were not on the original list of 28 programs. Ms. Seiler said Boyce College and St. Catharine's College have been recently accredited to make 30 accredited programs.

Senator Kelly asked where the University of Louisville (UofL) research project report was published that dealt with variance and the difference in priority of math concepts being taught. Dr. Chilton said he could provide a copy of the report to Senator Kelly, but did not think it was published. Senator Kelly asked why the report was not published and if the information has been made available and responded to by the EPSB or the CPE. Ms. Seiler said she would speak to Dr. Bill Bush, UofL, and find out the specifics on the report. Senator Kelly asked what is happening with the Committee for Mathematics and if their final work product is ready for dissemination. Ms. Seiler said Dr. Bush said the Committee on Mathematics was getting together to determine next agenda items for the 2010 school year. Dr. Kelly asked if their work was shaping policy anywhere in Kentucky. Ms. Seiler said she would talk to Dr. Bush and suggested that EAARS may want to have him testify before the committee on current work of the Committee on Mathematics. Dr. Marilyn Troupe, Division Director, Division of Educator Preparation, EPSB, said the EPSB is using the information for strategic planning and for future design of math assessment. Senator Kelly said he is glad the EPSB is using the information, but he thought the information was to be used for identifying proposed curricula that should be uniform throughout the state. Mr. Michael Miller, Division of Curriculum Development, KDE, said the Committee for Mathematics is working with the group determining common course standards and is having discussion on common course codes and what the content shall be in the high school mathematics courses. Currently, Dr. Bush is using some funds from teacher academies to work on curricula content for Algebra I, Algebra II, and geometry. He

said this will potentially be used for end-of-course assessments. He said the issues identified in the mathematics report will be taken before the Kentucky Board of Education for policy action.

Representative Moberly said he is very interested in the UofL study. He said the mathematics committee is continuing to work because the final product is not completed. He asked about Kentucky's teacher preparation programs and if teachers needed more pedagogical content knowledge to teach mathematics. Dr. Chilton said the Kentucky Teacher Internship Program (KTIP) is an internship program designed to provide assistance to new teachers. Its main goal is to help new teachers experience a successful first year in the classroom. Mr. Robert Brown, EPSB, felt the internship program would address most of Representative Moberly's issues. Representative Moberly wants the EPSB to be diligent in preparing first year teachers to be successful in the classroom.

Representative Belcher said teachers have the content knowledge but have trouble conveying the information to the students. She asked if there was any work being done to help principals. Dr. Chilton said OEA surveyed the principals and superintendents in high performing and low performing schools and this information will be shared in the third part of the math study. Representative Belcher said she hears a lot about teacher professional development, but not many courses geared towards helping principals to evaluate teachers or be an instructional leader within the school. Dr. Troup said there is a redesign of the principal program currently taking place. She said the Teacher Leader Master's Program will focus on assisting schools and teachers in the school districts so that principals can focus on being instructional leaders. Dr. Troup said EPSB had a taskforce to look at the math requirements for elementary math teachers. She said it is not so much about the content that teachers are learning but how they apply that content knowledge in the classroom. Representative Belcher said educator preparation programs are wonderful, but she would also like see current principals receive assistance.

With no further business before the committee, the meeting adjourned at 12:30 p.m.

**GOVERNMENT CONTRACT
REVIEW COMMITTEE
Committee Minutes
November 10, 2009**

The Government Contract Review Committee met on Tuesday, November 10, 2009, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Jesse Crenshaw and Brent Yonts.

Guests: Charles Kendell, Mark Sizemore, Major Russ Harney, Sergeant Harvey Baxter, Onda Bennett, Anne Chaney, Lynsey Womack, Pat Wilson, Charlie Harman, and Dede Conner.

LRC Staff: Kim Eisner, Matt Ross, and Becky Brooker.

A motion was made by Senator Carroll to approve Minutes of the October meeting of the committee. Senator Tori seconded the motion, which passed without objection.

A motion was made by Senator McGaha to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Yonts seconded the motion, which passed without objection.

A motion was made by Senator McGaha to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Yonts seconded the motion, which passed without objection.

A motion was made by Senator McGaha to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Yonts seconded the motion, which passed without objection.

A motion was made by Senator McGaha to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Yonts seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

McBrayer McGinnis Leslie and Kirkland, 1000000801.

CORRECTIONS, DEPARTMENT OF:

Spalding University, 1000000680.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Bluegrass Pride Incorporated, 1000000537.

DEPARTMENT FOR MEDICAID SERVICES:

Navigant Consulting Incorporated, 1000000426.

DEPARTMENT FOR PUBLIC HEALTH:

Kentucky Pharmacists Association, 1000000484.

EDUCATION, DEPARTMENT OF: 22nd Century Technologies Incorporated, 1000000330; Multi, 1000000551.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

M2D Design Group, PLLC, 1000000475; Luckett and Farley Architects Engineers & Construction Managers Incorporated, 1000000498.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

The Community College Research Center, KCTPS426.

KENTUCKY HOUSING CORPORATION:

National Field Representatives Incorporated, 201018.

LEGISLATIVE RESEARCH COMMISSION:

Dr. Robert L. Linn, 091004; Jeffrey Nellhaus, 091005; Ron Hambleton, 091006; Pat Roschewski, 091007; Daniel Koretz, 091008; Doris Redfield, 091009.

MURRAY STATE UNIVERSITY: Hazard, Young, Attea & Associates Limited, 01510.

UNIVERSITY OF KENTUCKY: Eduventures Incorporated, K10128.

VETERANS AFFAIRS, DEPARTMENT OF:

Multi, 1000000348.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF:

Chrysalis House Incorporated, 0900012442.

DEPARTMENT FOR PUBLIC HEALTH:

Heartland Cares Incorporated, 0800006801; Volunteers of America of Kentucky Incorporated, 0800006803.

EASTERN KENTUCKY UNIVERSITY:

BioMedical Research Services, 10038.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Ross Tarrant Architects Incorporated, 0700003254; Roger Cunningham - Cunningham Consultants, 0900013104.

JUSTICE CABINET:

Donald L. Jones, 0900012739.

NORTHERN KENTUCKY UNIVERSITY:

Stepping Stone Holdings, LLC, 2010531.

POST SECONDARY EDUCATION, COUNCIL ON:

Sturgill Turner Barker & Moloney, PLLC, 0700003228.

TRANSPORTATION CABINET:

Municipal Engineering Company, 0600001528; Burgess & Niple Incorporated, 0700003514; Burgess & Niple Incorporated, 0800010336; PB Americas Incorporated, 0800010794; Florence & Hutcheson, 0900011420; Tetra Tech Incorporated, 1000000706; J M Crawford & Associates, C-03026967-1; American Engineers Incorporated, C-99004814-4; DLZ Kentucky Incorporated, C-99005073-12; Quest Engineering Incorporated, M-02417462-4.

UNIVERSITY OF KENTUCKY:

Sue Strong, PhD, K09138.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

University of Kentucky Research Foundation, 1000000797.

CORRECTIONS, DEPARTMENT OF:

Fulton County Jail, 1000000695; Council on Postsecondary Education, 1000000733.

DEPARTMENT FOR NATURAL RESOURCES:

Multi, 1000000539.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

National Energy Education Develop Project, 1000000141; Governor's Office of Agricultural Policy, 1000000146; Finance & Administration Cabinet, 1000000150; Kentucky Environmental Education, 1000000153; Kentucky Department for Housing Building and Construction, 1000000600; Kentucky Department for Housing, Building and Construction, 1000000602.

DEPARTMENT OF REVENUE:

Multistate Tax Commission, 1000000615.

EDUCATION, DEPARTMENT OF:

Marion County Board of Education, 0900012276; Trimble County Board of Education, 0900012309; Johnson County Board of Education, 1000000459; Martin County Board of Education, 1000000461.

INFRASTRUCTURE AUTHORITY:

City of Sebree, 1000000757.

MILITARY AFFAIRS, DEPARTMENT OF:

Hopkinsville Surface & Storm Utility, 1000000056; Hopkinsville Surface & Storm Utility, 1000000072; Multi, 1000000349; City of Greensburg, 1000000397; Multi, 1000000487.

OFFICE OF HOMELAND SECURITY:

Bluegrass Area Development

District, 1000000696.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Letcher County Fiscal Court, 1000000417; City of Williamstown, 1000000474; City of Dawson Springs, 1000000529; Harlan County Fiscal Court, 1000000547; Grayson County Fiscal Court, 1000000587; City of Lancaster, 1000000589; Hopkins County Fiscal Court, 1000000603; Hopkins County Fiscal Court, 1000000604; Letcher County Fiscal Court, 1000000608; Pike County Fiscal Court, 1000000610; City of Jackson, 1000000689; Lewis County Fiscal Court, 1000000698; Lewis County Fiscal Court, 1000000699; City of Barlow, 1000000700; Powell County Fiscal Court, 1000000702; Madison County Fiscal Court, 1000000705; Pendleton County Fiscal Court, 1000000711; Federation of Appalachian Housing Enterprises, 1000000714; Martin County Fiscal Court, 1000000724; Martin County Fiscal Court, 1000000726; Pennyriple Housing Corporation, 1000000734; Knox County Fiscal Court, 1000000743; McCreary County Fiscal Court, 1000000750; Lexington-Fayette Urban County Government, 1000000752.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Bluegrass Prevention Center Mental Retardation Board, 0900012773; Communicare Incorporated Adult, 0900012788; Cumberland River Mental Health Mental Retardation Board Incorporated, 0900012791; Mountain Comprehensive Care Center, 0900012793; Kentucky River Community Care Incorporated, 0900012968.

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Multi, 0900011722.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Bluegrass Area Development District Title III, 0900011879; Big Sandy Area Development District, 0900011882; Barren River Area Development District, 0900011884; Green River Area Development District, 0900011888; Kentuckiana Reg Planning, 0900011889; Lake Cumberland Area Develop District, 0900011891; Lincoln Trail Area Development District, 0900011892; Pennyriple Area Development District, 0900011894.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Gateway Community Services Organization, Incorporated, 0900012133.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Four Rivers Behavioral Health, 0900012110; Pennyroyal Mental Health, 0900012111; Green River Regional Mental Health Mental Retardation Board, 0900012112; Lifeskills Incorporated, 0900012113; Communicare Incorporated, 0900012114; Seven Counties Services, 0900012115; Northern Kentucky Regional Mental Health Mental Retardation Board, 0900012116; Comprehend Incorporated, 0900012117; Pathways Incorporated, 0900012118; Mountain Comp Care Center, 0900012119; Kentucky River Community Care, 0900012120; Cumberland River Mental Health Mental Retardation Board Incorporated, 0900012121; Lake Cumberland Mental Health Mental Retardation Board, 0900012122; Bluegrass Regional Mental Health Mental Retardation, 0900012123.

EDUCATION, DEPARTMENT OF:

Treasurer Barbourville Independent Board of Education, 0800007940; Treasurer Campbellsville Independent Board of Education, 0800007948; Corbin Independent Board of Education, 0800007963; Fairview Independent Board of Education, 0800008314; Lawrence County Board of Education, 0800008321; Lewis County Board of Education, 0800008323; Monticello Independent Board of Education, 0800008334; Shelby County Board of Education, 0900011736; Shelby County Board of Education, 0900011743; Owensboro Independent Board of Education, 0900011759; Shelby County Board of Education, 0900012080; Shelby County Board of Education, 0900012081; Jefferson County Metro Government - Department of Public Health/Wellness, 1000000016; Shelby County Board of Education, 1000000165.

INFRASTRUCTURE AUTHORITY:

Mountain Water District, 0900011387.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 0800007930; City of Bradfordsville, 0800011164.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Garrard County Fiscal Court, 0700004300; City of Elkton, 0700004476; City of Whitesburg, 0700004517; City of Eubank, 0700005384; City of Olive Hill, 0700006148; Perry County Fiscal Court, 0700006178; City of Florence, 0700006208; Lawrence County Fiscal Court, 0700006279; City of Bradfordsville, 0700006365; City of Bardstown, 0700006586;

Pike County Fiscal Court, 0800007269; Pike County Fiscal Court, 0800007270; Pike County Fiscal Court, 0800007274; City of Glencoe, 0800007950; Leslie County Fiscal Court, 0800010044; Leslie County Fiscal Court, 0800010046; Floyd County Fiscal Court, 0800010853; Floyd County Fiscal Court, 0800010910; Floyd County Fiscal Court, 0800011003; Leslie County Fiscal Court, 0800011048; Leslie County Fiscal Court, 0800011052; Leslie County Fiscal Court, 0800011076; Rockcastle County Fiscal Court, 0800011148; Rockcastle County Fiscal Court, 0800011149; Clay County Fiscal Court, 0800011161; Rockcastle County Fiscal Court, 0800011246; Rockcastle County Fiscal Court, 0800011295; Elliott County Fiscal Court, 0900011524; Leslie County Fiscal Court, 0900011529; Pike County Fiscal Court, 0900011588; Pike County Fiscal Court, 0900011589; Logan County Fiscal Court, 0900012777; Garrard County Fiscal Court, M-06105909-1; City of Dixon, M-06162409; Hickman County Fiscal Court, M-06237579.

TRANSPORTATION CABINET:

Barren River District Health Department, 1000000429.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Hospital Associates, 1000000519. Charles Kendell and Mark Sizemore 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.

STATE POLICE, DEPARTMENT OF

Law Enforcement Services, Mike Cuttler, 1000000723. Major Russ Harney and Sergeant Harvey Baxter discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR \$10,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

EASTERN KENTUCKY UNIVERSITY

Peggy Maki, 10054. Onda Bennett discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Tori seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT

Housing Authority of Bowling Green, 1000000590; Reach Incorporated, 1000000713; City of Richmond, 1000000716. Anne Chaney and Lynsey Womack discussed the contracts with the committee. A motion was made by Representative Crenshaw to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR COMMUNITY BASED SERVICES

Bluegrass Regional Mental Health Mental Retardation, 0900012175; Communicare Incorporated, 0900012178; Comprehend Incorporated, 0900012179; Cumberland River Mental Health Mental Retardation Board Incorporated, 0900012180; Four Rivers Behavioral Health, 0900012188; Kentucky River Community Care, 0900012189; Lifeskills Incorporated, 0900012191; Northern Kentucky Regional Mental Health Mental Retardation Board, 0900012194; Pathways Incorporated, 0900012200; Pennyroyal Mental Health, 0900012206; Seven Counties Services, 0900012213; Green River Regional Mental Health Mental Retardation Board, 0900012971. Pat Wilson 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 with Senator Gibson and Representative Crenshaw electing to abstain.

WORKFORCE INVESTMENT, OFFICE OF

Barren River Area Development District, 0800008066; Bluegrass Area Development District, 0800008173; Lake Cumberland Area Development District, 0800008176; Eastern Kentucky CEP Incorporated, 0800008180; Green River Area Development District, 0800008181; Lincoln Trail Area Development District, 0800008182; Louisville Metro Government, 0800008186; Pennyryle Area Development District, 0800008188; Northern Kentucky Area Development District, 0800009145; Buffalo Trace Area Development District, 0800009148. Charlie Harman and Dede Conner 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.

EXEMPTION REQUESTS
OFFICE OF HOMELAND SECURITY:

The Office of Homeland Security requested exemption from committee review for all agreements issued as instruments of obligation for funds under State and Federal Homeland Security Grant Programs. A motion was made by Representative Yonts to approve the request to December 31, 2010. Senator McGaha seconded the motion, which passed unanimously.

THE COMMERCIAL MOBILE RADIO SERVICE EMERGENCY TELECOMMUNICATIONS BOARD (CMRS):

The Commercial Mobile Radio Service Emergency Telecommunications Board (CMRS) requested exemption from committee review for all Purchase Orders (Master Agreements) issued as instruments of obligation for grant funds awarded by the CMRS Board. A motion was made by Representative Yonts to approve the request to December 31, 2010. Senator Tori seconded the motion, which passed unanimously.

DEPARTMENT FOR PUBLIC ADVOCACY:

The Department for Public Advocacy requested exemption from committee review for all personal service contracts with private attorneys for the representation of indigent defendants. Representative Yonts moved that the Department for Public Advocacy be exempt from monthly committee review pursuant to KRS 45A.690(1)(d)(11). In lieu of monthly reporting, Representative Yonts' motion required the Department for Public Advocacy to report the above described personal service contracts to the committee (with a copy to the Finance & Administrative Cabinet) on a quarterly basis. Senator Carroll seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:04 AM.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE
August 24, 2009

The Medicaid Oversight and Advisory Committee meeting was held on Monday, August 24, 2009, at 10:00 a.m., in Room 131 of the Capitol Annex. Representative Jimmie Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jimmie Lee, Co-Chair; Senators Walter Blevins Jr., Dan "Malano" Seum, and Katie Kratz Stine; Representative Joni L. Jenkins.

Guests: Bill Doll for the Kentucky Medical Association; and Jan Gould for the Kentucky Retail Fed-

eration.

LRC Staff: Miriam Fordham, Jonathan Scott, and Cindy Smith.

The first item on the agenda was a presentation on the impact of Kentucky stimulus funds on the Medicaid program by Betsy Johnson, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, and Neville Wise, Director, Administration and Financial Management, Cabinet for Health and Family Services. Commissioner Johnson said that Medicaid is the primary payer source for health care in Kentucky and Medicaid covers nearly half of all births in the Commonwealth per year. Medicaid provides health coverage to 1 out of every 3 children, and 1 out of every 7 seniors over age 65. Medicaid provides coverage to approximately 772,000 enrollees, representing about 20 percent of the Commonwealth's total population. The budget for the Department for Medicaid Services (DMS) is \$5.54 billion (actual expenditures) for FY 09 and is projected to be \$5.7 billion for FY 10. She said DMS only spends 2 percent on the administration of the program and 98 percent goes to pay for benefits for enrollees. There has been a steady increase in eligibles over the last year. There was a deficit of \$232 million in FY 09, which was an increase from \$183 million.

Next, Commissioner Johnson spoke about the American Recovery and Reinvestment Act (ARRA) of 2009, which was signed into law by President Obama on February 17, 2009. The impact of ARRA on Kentucky Medicaid was that the Federal Medical Assistance Percentage (FMAP) increased, and the increase offered a temporary fix to the \$232 million deficit for FY 09, with no projected deficit for 2010. She said that the FMAP rates are set annually pursuant to Section 1905(b) of the Social Security Act. She reported that in FY 2008, states' FMAP rates ranged from 50.0 percent to 76.29 percent and in FY 2009, states' FMAP rates ranged from 50.0 percent to 75.84 percent. Kentucky's normal base rate is 70.13 percent.

Next, Neville Wise reported on the effect of the enhanced FMAP on the general fund. He said that the Cabinet finished a revised Medicaid forecast in May in collaboration with the Governor's Office. They looked at the general funds and restricted funds that were available and added an additional \$14 million to that due to the fact that Medicaid was losing about \$14 million in revenue from other state agencies. There were also some new administrative costs to take care of, which left them with the new match rate. These figures showed that they could free up about \$383 million that could help

with shortfalls in other areas.

Representative Lee asked what percentage of growth was taken into the calculations based on growth in expenditures and the bad economy, how it was projected for the next fiscal year, and if that is included in what the estimate is of needed general fund dollars. Mr. Wise said that is included. He said originally they had budgeted for 1,000 new eligibles per month. He is assuming there will be around 3,000 new eligibles per month in the coming fiscal year, and they used the latest growth rate in expenditures that they had seen through last year to go forward into fiscal year 2010.

Representative Lee asked what plans have been made if the Cabinet's projections are incorrect. Commissioner Johnson said it is a projection, and the Cabinet is charged with running Medicaid as efficiently as possible. They continue to work on cost containment strategies that they have been working on for the past year. In the end, possible cuts will have to be looked at for reimbursement. Under ARRA, eligibility categories cannot be cut in order to maintain the increased funding through 2010.

Representative Lee said he has a real worry because if the unemployment rate goes below the 10 percent, the adjustment would be made in July. The stimulus dollars can be taken away because, if the rate drops, an adjustment will be made in the match rate. He worries that the excess dollars were given away and not put back for later. Commissioner Johnson said when the Legislature adopted the plan, there was very clear direction that Medicaid could not add to their base. So they are not growing the program at this time, only maintaining within the resources they currently have. The year 2011 is still an unknown because there is no way to know what the unemployment rate will be.

Representative Lee asked if the growth rate is 9 percent. Mr. Wise said it is between 6 to 7 percent, plus eligible growth.

Senator Stine asked if the growth rate is connected to the unemployment rate. Mr. Wise said the federal share of funding they receive is connected to the unemployment rate, and it can be adjusted next July.

Senator Stine said if the unemployment rate goes down, then less people will be using the program. Commissioner Johnson said that is true. Representative Lee pointed out that even if the unemployment rate decreases, people will still be eligible for a certain amount of time until they are reassessed based on the income they have.

Representative Burch asked

where the \$383 million in extra dollars went. Mr. Wise said that GOM would have to testify as to where it went, but that was the funding that Medicaid was able to free up to be used in some other place.

Senator Seum asked if the \$232 million deficit was calculated with the 70/30 formula, or was calculated with the 80/20 formula because of the unemployment rate. He said that including the federal share and using the 20 percent rule, there is really only a deficit of \$47 million. Commissioner Johnson said that is correct. Representative Lee said that technically there is no deficit because it was wiped out when the growth was figured. He said his concern is that, if there is a change in July 2010, the adjustment will put Medicaid back into a deficit and will take away the matching dollars since they were taken from the Cabinet and brought to the bottom line.

Representative Jenkins asked if the rules are still the same when Kentucky came under the new guidelines from the federal government. Commissioner Johnson said reimbursement to providers has not been cut.

Representative Jenkins asked when provider reimbursement had been increased. Commissioner Johnson said dental and physician reimbursement has been increased in the last few years.

Representative Jenkins asked if there are enough providers to take care of all the new enrollees. Commissioner Johnson answered that she is always concerned that some counties are not covered as well as they should be.

Next, Commissioner Johnson reported on the estimated additional federal funding under ARRA. She said that in SFY 2009, there is \$303.4 million, and in SFY 2010, there is a projected addition of \$486.9 million. She reported that the funding in 2011 is contingent upon the unemployment rate at that time. Commissioner Johnson said that the states' requirements to receive federal Medicaid stimulus funds are that: eligibility standards are no more restrictive than those effective July 1, 2008; funding from increased match rate is not for deposit in the reserve or the rainy day fund; the percentage of required state matching funds is limited to the rate prior to October 1, 2008; certain expenditures are not eligible for increased funding; and payments to practitioners, nursing facilities and hospitals must meet prompt pay requirements.

Next, Commissioner Johnson spoke about the KCHIP enrollment initiative. She said that from November 1, 2008, through July 31, 2009, the initiative has resulted in the successful enrollment of 22,212

additional children. As of November 1, 2008 there were 377,095 children enrolled. As of July 31, 2009, there were 399,307 children enrolled.

Representative Lee asked if there has been some change in KCHIP because the family income has dropped for some children who were previously eligible under KCHIP to the point that the kids became Medicaid eligible and not KCHIP eligible. He asked if that is why a greater number of KCHIP kids have not been seen. Commissioner Johnson said they are doing outreach and education and getting children into the KCHIP program, but in the mean time while the economy is in a downturn, some children are going directly to the Medicaid program. Some KCHIP children are moving to Medicaid due to a drop in family income.

Representative Lee asked how much of the \$30 million that was obligated for the increase in KCHIP kids has been used. Mr. Wise said in KCHIP it is a lot less than that because kids are coming in to Medicaid and KCHIP. They can move funding between the two funds to cover wherever the kids qualify.

Representative Lee asked if online registration is available for KCHIP. Commissioner Johnson said there is an application online, but it cannot be submitted online. The application can be printed out and mailed in, but the face to face contact has been eliminated.

Representative Burch asked if the initiative to increase KCHIP enrollment last year helped with enrollment numbers. Commissioner Johnson said since November of 2008, they have enrolled 22,212 new children.

Senator Seum asked if the 80/20 formula kicks in about 10 percent unemployment. Mr. Wise said as long as Kentucky is above 8.9 percent, Kentucky is at the highest possible match rate.

Senator Blevins asked what the total budget for Medicaid is. Mr. Wise said it is \$5.769 billion.

Senator Blevins asked what the percentage of providers in Kentucky is that do not take Medicaid. Commissioner Johnson said those numbers are kept by county. There are at least five counties with no Medicaid enrolled dentists. All that information is tracked for access issues.

Senator Blevins commended the Cabinet on the small administrative costs for the Medicaid program. Commissioner Johnson said Kentucky has one of the lowest administrative costs in the nation.

Representative Lee asked about the excellence programs and what the plans are for the future to improve the programs. Commissioner Johnson said new programs are im-

plemented to improve the health status of those enrolled in Medicaid and to save the programs money. These are sometimes a long term investment. Mr. Wise said it usually is just a percent reduction in what has historically been spent for that population.

Representative Lee asked how many people have been approved for the Michelle P. waiver, and how many are receiving supports. Commissioner Johnson said she didn't have those numbers with her. But, they are working closely with Protection and Advocacy and have sent letters to the people on the waiting lists, and they feel good about the program at this time.

Representative Lee asked when the Cabinet would be sending their budget request to LRC. Mr. Wise said that request is sent to GOPM around November 15, 2009, and a copy will be sent to LRC at that time.

The meeting was adjourned at 11:01 a.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

November 12, 2009

The Program Review and Investigations Committee met on Thursday, November 12, 2009, at 10:00 AM, in Room 131 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Senators Dan "Malano" Seum, and Katie Kratz Stine; Representatives Dwight D. Butler, Leslie Combs, Ruth Ann Palumbo, Arnold Simpson, and Ken Upchurch.

Guests: Commissioner LaDonna H. Thompson; Rodney Ballard, Director, Division of Local Facilities; Kentucky Department of Corrections. Victor Morris, Northpoint Training Center. Sally Sugg, Associate Commissioner; Connie Lester, Director, Division of Scholastic Assistance; Kentucky Department of Education.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek; Christopher Hall; Colleen Kennedy; Lora Littleton; Jean Ann Myatt; Sarah Spaulding; Katherine Thomas; Cindy Upton; Stella Mountain, Committee Assistant.

Senator Schickel said today was the deadline to submit new study topics.

Cindy Upton presented the report Cost of Incarcerating Adult Felons. She said the objectives of the study were to 1) describe the Kentucky correctional system and its funding and expenditures and compare it to other states; and 2) compare methods used by Kentucky

to methods used by other states to offset the cost of incarceration and make prisons more self-sustaining. She said the report focused on the direct cost to the state of incarcerating adult inmates in its custody and that balancing financial cost against other factors is a policy decision to be made by the General Assembly.

She said the Kentucky Department of Corrections houses state inmates in 13 state prisons (54 percent of state inmates, fiscal year 2009 cost of \$245.9 million), 3 contracted prisons (5.5 percent, \$20.6 million), 76 local jails (34.1 percent), and 20 contracted halfway houses (6.1 percent). Over the past 10 years, the state inmate population increased by almost 42 percent, the population on probation or parole doubled, and the cost to the department increased by more than 53 percent to \$451 million. The large inmate population is due in part to an increasing number of offenses defined as felonies, longer sentences for persons defined as persistent felony offenders, and a 42 percent recidivism rate.

She stated that national studies have shown that the financial cost of incarcerating nonviolent offenders is greater than the cost of alternatives. As of June 30, 2009, the state had 9,430 inmates—46 percent of all inmates—who had been convicted of nonviolent property and drug offenses, some as persistent felony offenders. The estimated cost for FY 2009 to incarcerate them was \$136.2 million. It is unknown how many of them would be candidates for community supervision. To illustrate the upper limit of potential savings of an alternative to incarceration, if all 9,430 could have been supervised in the community by probation and parole officers, a conservative estimate is that the cost would have been \$14.5 million for the year, more than \$121 million less than their incarceration cost. Recommendation 1.1 is that the General Assembly may wish to consider reducing the penalties for nonviolent offenses and amending KRS 532.080 to apply the persistent felony offender sentences only to persons convicted of violent offenses.

Ms. Upton said that the U.S. Department of Justice has estimated that 61 percent of inmates in state prisons and 44 percent of inmates in local jails have a mental health problem. About 75 percent of these inmates also met criteria for substance dependence or abuse. National research shows that participants in drug and mental health courts have lower recidivism rates than persons who receive treatment as usual. Recommendation 1.2 is that the General Assembly may wish to consider providing funding to expand the use of

drug and mental health courts.

She noted that although Kentucky's incarceration cost is high, at 2.4 percent of state spending in FY 2007, it was lower than the national average and lower than all but one of nine states with comparable numbers of inmates.

She said that federal and state constitutions, laws, and court rulings require the department to provide inmates a safe and sanitary environment, physical and mental health care, recreation, and access to religious services and a law library or free legal assistance. Compliance is monitored for the state and contracted prisons by auditors from the American Correctional Association. Monitors from the Department of Corrections ensure compliance by jails that house state inmates.

She said the department's cost of medical care for inmates in prisons was \$51.4 million in FY 2009. Costs are likely to increase as the inmate population ages. Nationally, more persons with mental illness are housed in correctional facilities than in mental hospitals and other institutions. In FY 2009, the department's cost of mental health treatment was \$10.7 million.

Ms. Upton stated that the three contracted prisons are operated under contract with Corrections Corporation of America. The cost to the department is the negotiated rate per day, some costs of inmate medical care paid by the department, and contract monitoring costs. KRS Chapter 197 requires contracted prisons to provide a level and quality of programs at least equal to those provided by state-operated prisons that house similar numbers of inmates and at a cost that provides the state with savings of at least 10 percent of the cost of housing inmates in similar prisons and providing similar programs to those types of inmates in state prisons. The statute has been difficult to implement because state and contracted prisons and the inmates they house are not similar.

She explained that funding of local jail operations is shared between counties and the state. Statute requires the department to pay each county a monthly allotment for operating expenses, regardless of whether the jail houses state inmates or is closed. She said the state is required to pay the county a per diem for each state inmate after the person is sentenced. In FY 2009, the department paid \$13.3 million in allotments and \$94.5 million in per diems to the counties.

She said county officials have expressed concern that the housing of inmates before they are sentenced or plead guilty to a felony offense is funded exclusively by the counties,

even though the inmates receive credit for time served in jail when sentenced for a felony offense. Recommendation 2.1 is that the General Assembly may wish to consider appropriating funds for the Department of Corrections to pay counties a per diem for incarcerating persons who serve time in local jails before being convicted of a felony offense.

She said that the state's requirements for inmate work are inconsistent. The Kentucky Constitution requires inmates to work in the prison and allows them to work outside the prison on public works projects. KRS 197.070(1) requires the department to provide employment for all inmates in prisons and to "exhaust every resource at its command" to provide employment for all inmates, which would include state inmates housed in local jails. KRS 196.110(2) requires the department to encourage the employment of inmates in ways that will contribute to their physical, mental, and moral improvement and to meeting the cost of their maintenance. A 1981 judicial consent decree resulting from inmate lawsuits states that an inmate may elect not to work. The department's position is that it cannot require inmates to work and there are not enough jobs to employ all inmates. About two-thirds of inmates in state prisons have work or other program assignments, such as basic education or vocational training; about one-third have no assignment.

Ms. Upton stated that KRS 197.150 requires the department to pay inmates or their dependents for each day worked outside the prison. The statute implies that inmate earnings from outside work assignments should be used for family support, but no statute or department policy requires the department to withhold money from inmate earnings for family support. KRS 197.047(5) requires the department to specify the amount of compensation an inmate will earn for a governmental services program, which, by definition, is performed outside the prison. No statute requires that inmates be paid for work or educational assignments inside correctional facilities. The department pays inmates who work inside correctional facilities and those who participate in program assignments. In FY 2009, inmates in state prisons, local jails, and halfway houses were paid about \$2.5 million for all assignments not associated with Kentucky Correctional Industries. Recommendation 3.1 is if it is the intent of the General Assembly that inmates be paid for working or participating in program assignments inside correctional facilities, the General Assembly may wish to consider specifying in statute whether, to

what extent, and for what purpose deductions should be made from inmate earnings.

She noted that all 50 states operate correctional industries, and most states compensate inmates for working in industries. Kentucky inmates earned more than \$802,000 from working in correctional industries in FY 2009. Nationally, about \$7 million was deducted from inmate earnings in correctional industries in FY 2008. Recommendation 3.2 is that if it is the intent of the General Assembly that inmates working in Kentucky Correctional Industries be paid, the General Assembly may wish to consider specifying in statute whether, to what extent, and for what purpose deductions should be made from inmate earnings.

She said that Kentucky's correctional industries are not keeping pace with those in other states. The requirement to be self-supporting can hinder expansion into new industries that are profitable in other states because no start-up funding is available from the state. Among 10 states with similar numbers of inmates, Kentucky's net sales from correctional industries in FY 2008 were the second lowest at \$12.1 million (the national average was \$34.9 million), and Kentucky was the only state among the 10 to report a decrease in net sales from correctional industries over the last decade. One reason for the decline in sales could be that state agencies purchase items from private vendors or other state agencies that are available from Kentucky Correctional Industries. One possible new industry could be created if prison canteens were operated by Kentucky Correctional Industries rather than being managed by prison wardens. Recommendation 3.3 is the Department of Corrections should conduct a cost-benefit analysis to determine the feasibility of operating prison canteens as a correctional industry. If the results of the analysis are favorable, the department should centralize the canteen operations under Kentucky Correctional Industries.

Ms. Upton said that in FY 2009, 80 inmates worked on Kentucky's prison farms. The farms had net sales of almost \$730,000. Aramark Correctional Services, the food vendor for state prisons, purchases some of the vegetables grown on the farms for inmate meals. Other state agencies do not purchase products from the farms. In Kentucky, inmates are served 3 hot meals a day, 7 days a week. Other states serve fewer meals on some days or do not serve hot food for every meal.

She said that the federal Prison Industry Enhancement Certification Program encourages governments to

develop meaningful employment opportunities for inmates by partnering with private industries that need labor. Among the requirements to be certified are legislative approval, payment of prevailing wages to inmates, and a guarantee that inmate employment will not displace private-sector workers. Kentucky is one of 13 states not certified. Of the 37 states that are certified, 28 reported that inmates earned \$40.3 million in gross wages in calendar year 2008, of which more than \$15.5 million was deducted to offset the incarceration cost, pay restitution, provide support to inmates' families, and pay taxes. Recommendation 3.4 is the General Assembly may wish to consider authorizing the Department of Corrections to participate in the federal Prison Industry Enhancement Certification Program.

She stated that state inmates can earn credits on their sentences for good conduct, educational accomplishment, meritorious service, and work on governmental services projects. KRS 197.045(1) requires the department to provide an educational credit of 60 days to an inmate who receives a GED, a 2-year or 4-year college degree, a 2-year or 4-year certification in applied sciences, or a technical education diploma. A bill in the 2009 regular session would have expanded the educational sentence credit to treatment programs. Recommendation 3.5 is the General Assembly may wish to consider amending KRS 197.045(1) to award sentence credits to inmates who successfully complete substance abuse programs or other treatment programs that require participation of 6 months or more.

Ms. Upton explained that the financial cost of incarceration should not be the sole measure of how well a prison system is managed. The department has begun using the Performance Based Measures System developed by the American Association of State Correctional Administrators. The system provides standard definitions so that data can be compared between states. But meaningful performance measures have to be developed with input from stakeholders, including Kentucky residents and members of the General Assembly, so the data can be used within the state. Better data on performance could provide critical information to managers of Kentucky's corrections system and to members of the General Assembly. Recommendation 4.1 is that the Department of Corrections should identify meaningful performance indicators, collect the needed data, and develop benchmarks for prisons and the system. The information should be publicly available.

Senator Schickel said that the report referred to a national correc-

tional policy for recreation. He asked what a national correction policy involves.

Ms. Upton replied that was an unfortunate choice of phrasing.

Senator Schickel said it is an unfortunate choice of phrasing but a common one. The court cases in the report were not from the 6th circuit. There is no national correctional policy and it is left up to the states. He asked if there is any incentive to get inmates to work.

Ms. Upton said the commissioner could better answer that question.

Senator Stine asked if there are estimates of reduction of costs for other public assistance programs if money was deducted from inmates' pay for family support.

Ms. Upton said specifics are unknown but there would be savings.

Senator Stine asked if there are any constitutional prohibitions on requiring deductions.

Ms. Upton said no.

Senator Seum asked how many inmates in the system are persistent felons.

Ms. Upton said she did not know.

Senator Seum asked about the time frame for a felon to be defined as a persistent felony offender.

Ms. Upton said it is a felony for which the person was incarcerated within the past 5 years.

Representative Palumbo asked how catastrophic medical costs are defined.

Ms. Upton said anything more than \$2,000 per inmate, as long as the treatment is necessary.

Representative Palumbo noted there were more grievances against staff in contracted facilities than in state prisons.

Ms. Upton deferred to the department for comment.

Representative Palumbo asked what "all other grievances" from the report meant.

Ms. Upton said it was anything not listed in the table such as food or living conditions.

Senator Stine noted that Northern Kentucky has a pilot mental health court program.

Commissioner Thompson responded to the report.

Commissioner Thompson commented on the recommendations from the report. She said several committees have been considering Recommendation 1.1. In regard to Recommendation 1.2, she said that the department has assisted in funding for projects for mental health initiatives, electronic monitoring projects, and drug courts. She said the department has funded 16 types of these programs.

Commenting on Recommen-

dation 3.1 and 3.2, Commissioner Thompson noted that wages for inmates are already low enough that deductions would reduce the incentive to work. Payments are tied to job performance and completing education and inmates spend their wages at the canteen, which provides money which the department uses for services to inmates. She said the department received a federal Second Chance Act grant to provide reentry assistance to inmates being released. She noted that wages would be higher under the Prison Industry Enhancement Certification Program, which is covered in Recommendation 3.4. She said that under the rules for the program, offenders would pay state and federal taxes and restitution to victims' families. She agreed with Recommendations 3.3 and 3.5. In regard to Recommendation 4.1, she said the department has been using the Performance Based Measures System developed by the American Association of State Correctional Administrators.

Senator Seum asked about prison industries contracting with outside companies.

Commissioner Thompson said that the state prisons are not able to contract outside.

Senator Seum asked if prisons in other states contract with outside companies and why Kentucky state prisons do not.

Commissioner Thompson said prisons in other states do contract with outside companies. Doing so in Kentucky would require a statutory change.

Representative Palumbo asked about assault at contracted prisons. She wanted to know how the department could intervene in cases of assault to stop them from happening.

Commissioner Thompson said they have state monitors on site at all contracted facilities. She said there has been a lot of staff turnover.

Representative Palumbo asked when the state monitor for Otter Creek was hired.

Commissioner Thompson said it had been within the past 2 months, but they have had an interim state person on site for the past 3-4 months.

Representative Palumbo asked what the state monitors do.

Commissioner Thompson said that they interact with inmates and staff and report back to the department's Contract Management Branch.

Representative Palumbo asked if the monitors have one-on-one private conversations with inmates and staff.

Commissioner Thompson said yes.

Representative Palumbo asked

how the Northpoint food issue is being resolved.

Commissioner Thompson said a report is expected on November 13 from a Critical Incident Review Team.

Representative Palumbo asked if the report could be provided to the committee.

Commissioner Thompson said yes.

Senator Schickel said that there is a difference between inmate work and employment. He said work should be compulsory for all but the disabled or elderly. Inmates should not have an entitlement state of mind. Work should be incentivized. He said he would like to get ideas, for legislation or otherwise, to ensure all inmates are helping to offset the cost of incarceration. He asked about the process and purpose of accreditation.

Commissioner Thompson said the American Correctional Association (ACA) standards are minimal, some are mandatory. They set a nationwide standard. They have been helpful in court cases and in maintaining facilities. The standards are voted on by a body of representatives from participating states.

Senator Schickel said that was a good explanation but he disagreed with the conclusion. He said the ACA can be vendor driven and has the incentive for more requirements. For example, ACA has interpreted the requirement for exercise to mean recreation. Facilities, as a result, are being designed around those standards.

Commissioner Thompson said that recreation is not a mandatory standard.

Representative Upchurch noted that the report said the inmate population has increased by 42 percent and the cost has increased by 53 percent. He wanted to know if the department has any projections over the next 10 years for those numbers.

Commissioner Thompson said she could provide information on the projections.

Representative Butler asked what local inmates pay for being in jail.

Rodney Ballard said that a booking fee was created by statute 3 years ago and all jails are charging the fees.

Representative Butler asked what the average fee is.

Mr. Ballard said he did not know but it has to be less than the per diem per day. He said in Kenton County, where he has worked, they collected \$5 a day.

Representative Butler asked about the accounts inmates have.

Mr. Ballard said that inmates can

use money in their canteen accounts to buy items from the canteen, and canteen profits benefit inmates.

Representative Butler asked if there are any limits on how much canteens may charge.

Mr. Ballard said no.

Representative Butler asked what inmates may bring into the jails and what they have to purchase in the jail.

Mr. Ballard said the trend is allowing them to bring nothing in.

Representative Butler asked if canteen fees are regulated and whether they should be.

Mr. Ballard said they are not regulated. The cost of hygiene and clothing items are typically low and are the least profitable items.

Representative Butler asked if there is any preliminary information on Northpoint.

Commissioner Thompson said no.

Representative Butler said there is a distinction between price and cost. Services can be provided at low cost but result in problems that are costly to address.

Representative Simpson asked how costs could be going up in Kentucky but they are a lower percentage of expenditures than for most other states.

Ms. Upton said that typically in other states more inmates are being put in prison for longer periods of time.

Representative Palumbo asked what activities inmates may participate in if they do not work.

Commissioner Thompson said they can use the canteen and participate in education and recreation.

Senator Schickel asked if inmates that refuse to work are allowed to watch television.

Commissioner Thompson said she believed so.

Senator Schickel said he had heard from employers that inmates do not have realistic expectations for appearance, courtesy, and dealing with the public. He wanted to know if there was any training to help with this.

Commissioner Thompson said they have re-entry coordinators to give life skills training approximately 6 months before inmates are released.

Senator Schickel asked if any of the correctional officers present wished to speak before the committee.

Victor Morris from the Northpoint Training Center read a prepared statement about the riot at the Northpoint Training Center in August 2009. He said that the Northpoint Training Center Corrections Emergency Response Team, which responded to the riot at the prison on

August 21, 2009, was not instructed to use breathing apparatuses. Some team members chose to wear them. Back-up staff who were not members of the response team assisted later. Mr. Morris said that no riot gear or breathing apparatuses were offered to back-up staff, and that not all back-up staff had radios. He said that cuffing of inmates was delayed at times because there were not enough plastic restraints available at the scene. He said that he and other staff have had persistent respiratory symptoms from smoke inhalation from the riot. He concluded by saying that no officials had contacted him after the riot as part of any investigation, and that he had heard from co-workers that this lack of contact was the norm.

Rick Graycarek presented the Highly Skilled Educator Program Follow-up Report. He said in 2006 the committee adopted a report about the Highly Skilled Educator (HSE) program and in November 2008 voted to initiate a follow-up to that 2006 study. He said HSEs are specially trained teachers and administrators whose primary purpose is to improve school accountability test scores.

He said the HSE program was created by the General Assembly in 1998 and is funded by the general revenue fund, the most recent annual cost being \$5 million. During the 2008-2009 school year the department had 42 contracts with HSEs. HSEs typically receive a 35 percent pay increase from their previous salary and the average HSE pay was \$85,427 in 2008-2009.

Representative Simpson asked about other types of assistance and asked if the report addressed whether the program was effective in increasing student skills.

Mr. Graycarek said other types of assistance are the Commonwealth School Improvement Fund Grant and the scholastic audit. He said in the 2006 report staff found that schools that received multiple types of assistance that included an HSE had improved accountability scores in some years and schools that received assistance from only an HSE fared no better or worse than schools without an HSE.

He said six of the nine recommendations made in the 2006 report have been implemented; one has been partially implemented in that administrators can provide feedback about HSEs but no mechanism is provided yet for parents, faculty, and others to provide feedback about HSEs. Two of the recommendations are no longer applicable because they are related to a grant program that is no longer available or has changed significantly.

Mr. Graycarek said there are no table changes to the HSE program

between 2006 and 2009. In 2006, HSEs mostly worked independently or with the principal. Now the HSE works with district staff including the superintendents as well as a team of education professionals at schools. In 2006, HSE assistance was mandatory for certain low-performing schools; it is now optional for all schools. The last notable change is the identification of schools that need assistance.

He said that the data from a statistical analysis for 2007 and 2008 showed that school receiving assistance from an HSE did no better or worse than schools that did not receive assistance from an HSE.

Senator Stine said that she had proposed a bill during the previous session of the General Assembly to provide HSE training to principals. She asked for a description of HSE training.

Mr. Graycarek said there is intensive training the summer before they start work as HSEs. There is follow-up training in the following summers. He said the department could provide more details.

Senator Schickel asked Kentucky Department of Education staff to discuss the report.

Representative Simpson asked if HSE training is advanced professional development beyond what other educators are required to take.

Ms. Lester said without HSEs there is no HSE training. A committee of HSEs creates the training and it changes over time. She said the goal is to build capacity at each school and district so that improvement may continue after HSEs leave.

Representative Simpson asked if the necessity of the HSE program was born of the failure of principals to lead.

Ms. Sugg said an HSE cannot change leadership skills of a principal but HSEs can be successfully used when the right leader is in place.

Ms. Lester noted that there were limits to the quantitative analysis in the report and that a qualitative report would have provided different results.

Representative Simpson asked them to respond to the finding from the report that an HSE alone has no effect but does in combination with other forms of assistance.

Ms. Lester said that in some schools covered by the report, HSEs were only in the schools part of the time. How HSEs divided their time between schools was up to them. In previous years, the Department of Education did not track where HSEs spent their time.

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

POVERTY TASK FORCE
Minutes of the 2nd Meeting
of the 2009 Interim
October 26, 2009

The 2nd meeting of the Poverty Task Force was held on Monday, October 26, 2009, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Brandon Smith, Co-Chair, called the meeting to order at 1:06 PM, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Dan “Malano” Seum, Robert Stivers II, Elizabeth Tori, and Johnny Ray Turner; Representatives Linda Belcher, Dwight D. Butler, Leslie Combs, C. B. Embry Jr., Jim Glenn, Keith Hall, Richard Henderson, Melvin B. Henley, Martha Jane King, Mary Lou Marzian, Reginald Meeks, Fred Nesler, Kevin Sinnette, Kent Stevens, Ken Upchurch, Alecia Webb-Edgington, and Addia Wuchner.

Guests: Steve Davis, MD, Senior Deputy State Health Office, Cabinet for Health and Family Services; Dr. James P. Ziliak, Director, Center for Poverty Research, Gatton Endowed Chair in Microeconomics, University of Kentucky; Annette Bridges, Office of Early Childhood Development; Department of Education, Education Cabinet; Brenda English, Department for Public Health, Cabinet for Health and Family Services; Anne Joseph, Covering Kentucky Kids and Families, and Melissa Fry Katy, MACED.

LRC Staff: DeeAnn Mansfield; Lou DiBiase, Amanda Dunn, Mustapha Jammeh, Gina Rigsby, and John Scott.

A motion to approve the minutes of the September 21, 2009 meeting was made by Representative Nesler, seconded by Representative Stumbo, and approved by voice vote.

Steve Davis, MD, Senior Deputy Health Office, Cabinet for Health and Family Services, discussed the Access for Babies and Children to Dentistry (ABCD) Initiative. Dr. Davis stated that untreated cavities can cause pain, dysfunction, absence from school, low weight, and poor appearance, which are all problems that can greatly reduce a child’s capacity to succeed in school and in life. Tooth decay affects one-fourth of the children in the United States between the ages of two and five, but in Kentucky it affects nearly half of the children in that age group. Barriers to oral health for children include an insufficient number of dentists, a reluctance of dentists to treat children, and a lack of dentists in rural areas. The three-year ABCD initiative received three federal grants totaling approximately \$2 million. One was from the Health Resources and Services Administration (HRSA) and

two were from the Appalachian Regional Commission. The initiative has a three step approach: (1) pediatric training for general dentists to foster more comfort in treating children; (2) local oral health coalitions in 40 counties to define gaps in treatment; and (3) portable equipment to bring access to Appalachia. The partners are the Department for Local Government, the Appalachian Regional Commission, the Cabinet for Health and Family Services, the University Dental Schools, the Kentucky Dental Association, and Kentucky’s local health departments.

Representative Wuchner said that even though there are an adequate number pediatric dentistry resources in the main areas of Northern Kentucky, a number of children are not accessing the resources because you find that a large number of children have not even had their first encounter with the dentist before they are 18 years of age. She asked if there is a way to improve the dental reimbursement structure in KCHIP and Medicaid so when there are dental providers available, people take advantage of these services. Dr. Davis said that within the past two years the Department for Medicaid Services has raised the reimbursement for practitioners who see children by approximately 30 percent. The new reimbursement rates and training programs should bring more practitioners into the Medicaid program allowing more children to be seen.

Representative Glenn asked if there are programs that could be put in place that are budget neutral or cost very little that would help the healthcare of children. Dr. Davis said that more can be done through the entire healthcare system to educate families about the importance of oral healthcare in their children. Representative Glenn asked if the dental schools still offer free or reduced cost visits so dental students could get practice in their trade. Dr. Davis said that the Department for Public Health has a partnership with the University of Kentucky Dental School where dental students are taken across eastern and western Kentucky in mobile vans to schools to get experience but also help the children.

Representative Stumbo asked Dr. Davis if funds were available, what would be his recommendations be on what it would cost to adequately address the problems to help these children. Dr. Davis said that he would get some information together and send it to the task force.

Senator Stivers asked about the mobile dental unit in Bell and Knox County. Dr. Davis said that the state dental director, Dr. Julie McKey, has

been in contact with them. The mobile dental unit will be involved in a dental workforce committee that will be formed.

Brenda English, Department for Public Health, Cabinet for Health and Family Services, discussed Kentucky’s Health Access Nurturing Development Services (HANDS) Program. Jessica Lopez and Nahibi Valazquez were present to testify about their experiences with the HANDS Program.

Ms. Lopez said she is from Franklin County and just gave birth to triplets who are four-months old now.

Ms. Valazquez said that she is from Mexico and has a three-year old who is in a literacy program at the Thornhill Learning Center in Frankfort called the Families Learning through Interaction Program (FLIP). FLIP is specifically designed for parents earning their GED.

Ms. English stated that HANDS is a voluntary, intensive home visitation program for first-time moms and dads regardless of income. The program is from prenatal to two years of age and is designed to improve both health and social outcomes. The HANDS program was created in House Bill 706, Early Childhood Development Act, of the 2000 Regular Session and regulated under 902 KAR 4:120. The goals of the program are positive pregnancy outcomes, optimal child growth and development, children living in health and safe homes, and family self-sufficiency. There are approximately 11,000 HANDS families served per year. Of the 11,000, 41 percent have less than a high school education, 34 percent have a high school education, 80 percent are female-headed, 10 percent are African Americans, 10 percent are Hispanic, and 88 percent receive Medicaid. Families are screened by a nationally proven tool that examines at-risk factors, then families are assessed by professionals in ten focus areas, and then they begin home visitation. Home visitations focus on medical homes, immunizations, well child checks, child safety checklists, and developmental screens. There is a parent-child interactive curriculum called Growing Great Kids that focuses on basic care, child development, nurturing parent-child relationships, and strengthens base support to families. As of June, 2009, the total number of counties with HANDS was 120; the number of families receiving services was 47,237; the number of assessments made was 48,318; the number of professional or paraprofessional home visits was 1,066,759, and the total number of services provided was 1,115,077. Over 35,000 referrals have been made to local agencies in

Fiscal Year 2009. Brain, cognitive, and behavioral development are linked to both educational and health outcomes later in life. Outcomes for the HANDS program include decreased child abuse, decreased emergency room visits, decreased hospital days, less special education requirements, fewer school dropouts, less risky behaviors in adolescence, fewer arrests as teens, higher rates of high school graduation, increased employment, and increased home ownership.

The rate of prematurity among HANDS mothers with six or more prenatal home visits was 30 percent less than the rate of prematurity among HANDS mothers with no prenatal visits. The rate of low birth weight births among HANDS mothers with six or more prenatal home visits was 33 percent less than the rate of low birth weight births among HANDS mothers with no prenatal visits. The rate of very low birth weight births among HANDS mothers with six or more prenatal home visits was 55 percent less than the rate of very low birth weight births among HANDS mothers with no prenatal visits. The infant mortality rates for families served by the HANDS program are 70 percent less, emergency room visits are 50 percent lower, child abuse and neglect is 29 to 40 percent lower, and there are fewer developmental delays than among non-HANDS families. HANDS families are showing progress in education and employment.

The HANDS program is making a difference in short-term goals and long-term outcomes are expected. In 2009, Kentucky received \$12 million federal Medicaid dollars under case management service. The state required match was \$5.2 million and \$3.3 million was needed to serve non-Medicaid families. If the program is expanded to serve families with multiple children in Fiscal Year 2011, approximately 13,541 additional Medicaid families could benefit from the HANDS program and Kentucky could receive an additional \$21 million in federal Medicaid dollars, an additional \$7 million state match would be required.

Senator Smith asked where the \$12 million was coming from to fund the program. Dr. Davis stated the \$12 million in federal Medicaid dollars is matched with tobacco settlement funds and these funds are used to leverage the 70/30 federal Medicaid match. Senator Smith asked about R.E.A.C.H. of Louisville, Inc. Ms. English stated that it is an independent evaluator selected through a Request for Proposal (RFP).

Representative Glenn asked what is being done to reduce child abuse. Ms. English stated that in weekly home visitations they help educate

parents on how to deal with stress, how to communicate with their children, and that they can and should seek other supports. Ms. English said that information is given that helps show how to raise a child and what to expect at different developmental stages in a child's life.

Representative Hall asked how someone would find out about the HANDS program. Ms. English said information is available in all the local health departments, department for community based services offices, from school counselors, and that any agency that deals with families should know about the program. He asked if 80 percent of the mothers were single, and she said yes. Representative Hall asked how long the program had been in existence. Ms. English stated the pilot program began in 1999.

Senator Smith asked Dr. Davis if there are things that need to be explored, actions taken, or legislation that may not cost money that the legislature can help tackle or push out of the way that can help. He asked if there is anything that can be done to help make a dent and help the cabinet move forward with programs already implemented. He asked that recommendations for legislation be sent so the task force could review them to see how it could possibly help the cabinet achieve its goal.

Representative King asked if information is made available to people with high risk pregnancies. Ms. English stated because of limited resources, information is provided only if they are in the HANDS program. She said that they work with the hospitals and obstetrician offices.

Representative Henderson stated that even if the \$21 million dollars is leveraged, you cannot put a number on the economical benefits for employees and the benefits for the future generations by knowledge, treatment, and prevention. Ms. English stated that the cabinet had received letters and calls from moms who are not first-time moms who want and need the services of the program.

Dr. James P. Ziliak, Director, Center for Poverty Research, Gatton Endowed Chair in Microeconomics, University of Kentucky discussed children in poverty and programs that work. Dr. Ziliak stated that there is a growing gap between high school graduates and dropouts, and between college graduates and high school graduates. Dropout rates are high, especially among African Americans and Hispanics in urban areas, but also high among whites in parts of rural American such as Appalachia. The rate of return to additional schooling beyond high school is nearly ten percent, and higher if you include so-

cial returns from better health, lower crime, and higher marital stability. The cost of intervention is lower for children and has a longer return on investment. GED recipient scores are comparable to high school graduates on cognitive tests, yet they earn 20 percent less on average in the labor market which points to a big role for noncognitive skills.

The Head Start program serves over 900,000 children nationwide with approximately 16,000 from Kentucky. The program provides comprehensive services including literacy, dental, vaccinations, and parent education. It has been shown to have positive effects on academic performance in the short run. Participants in Head Start acquire better non-cognitive skills than similarly situated non-participants and thus are less likely to drop out of school and less likely to be arrested. In 2008, there were about 285,000 children under age five living in Kentucky with 79,000 living in poverty. Approximately 40 percent or 31,600 of these children were ages three and four. This implies that Head Start in Kentucky serves only about half of the eligible population of children.

There is an ongoing debate whether pre-K type programs should be targeted to the disadvantaged or be universal. Many favor targeting the disadvantaged because of cost-effectiveness and evidence that children from low-income families face severe deficits in both cognitive and noncognitive skills. A recent National Association of Manufacturers study found that 69 percent of businesses cite inadequate basic employability skills such as attendance, timeliness, and work ethic as the most common reason for rejecting jobs applicants. This proves that these skills matter.

Representative Glenn said that the middle class is shrinking and the lower income population is increasing, and he asked if this had been factored in targeting low income people versus offering something universal to a group of people. Dr. Ziliak said that many states extend eligibility to people who are eligible for free or reduced school lunch. The main reason for starting here is for cost effectiveness reasons. In the short run, children from these families face the greatest risks throughout their lifetimes. If there are additional dollars to invest, you would see a higher return investing in families under 200 percent of the federal poverty level (FPL) than families at 400 percent of the FPL.

Representative Belcher asked why Head Start only serves half the eligible population. Dr. Ziliak stated that Head Start is not an entitlement program and has restricted resources. She asked the cost per child in Head

Start. Dr. Ziliak stated it differs across the nation based on services offered, but approximately \$7,000 to \$9,000 per child.

Representative Meeks asked how much of the proposed \$8 billion to \$9 billion in the Obama budget bill will come to Kentucky. Dr. Ziliak said that states would have to compete for the money. Representative Meeks asked if this is how it has normally been done in the past, and Dr. Ziliak said no. Representative Meeks asked how the federal government will spell out the terms of the competition. Dr. Ziliak stated that because it is still part of the budget bill, the terms have not been spelled out at the present time.

Representative Henley said universities get a lot of general fund money and a lot of bond money to build edifices and purchase equipment, conduct renovations, and they should be required to help first-generation college students with a poor background to face and overcome insurmountable fears and go on to finish college. Dr. Ziliak stated that the University of Kentucky knows that their economics depend on students remaining in school and have a number of initiatives to retain students.

Annette Bridges, Office of Early Childhood Development, Department of Education, Education Cabinet, discussed preschool and Head Start programs in Kentucky. Ms. Bridges stated that the Kentucky Invests in Developing Success (KIDS) NOW vision is that all young children in Kentucky are healthy and safe, possess the foundation that will enable school and personal success, and live in strong families that are supported and strengthened within their communities.

In response to the Kentucky Education Reform Act (KERA) of 1990, the Kentucky Preschool Program was established. All of the state's four-year olds and three-year olds with disabilities are eligible to participate in the program. Currently, 24,000 children are being served. Of these children, 55 percent have disabilities and 45 percent are at risk. Children who do not meet these eligibility requirements may also participate, but are funded by the district or tuition rather than the state. Eligibility was extended to additional children beginning with the 2006-2007 school year when income eligibility was raised from 130 percent of the federal poverty level (FPL) to 150 percent of the FPL. The Kentucky Student Intervention, the state's version of Response Intervention, which includes preschool, is a result of legislation passed by the 2009 General Assembly. The new administrative regulations require programs to implement relevant, research-based instruction

and interventions by qualified personnel. She said that Head Start is a federal program and does not fall under the Department of Education like the preschool program.

The University of Kentucky conducted a nine-year longitudinal study of the KERA preschool program, and there were some very good outcomes. Although the study ended in 1998, the outcomes are still relevant. The gains persisted through fifth grade. The National Institute for Early Education and Research (NIEER) Report looked at ten indicators of quality and ranks states, and Kentucky met eight of them. Kentucky did not have an on-site monitoring process or require teacher assistants in state-funded preschool programs to have a child development associate, so we did not rank as high as we could have.

Two pilot collaboration projects in Fayette County and Anderson County have received \$50,000 from the KIDS NOW Authority for two years, but they have to do a one-to-one match. The goal is to serve as many children as possible in a high quality environment. There is not enough space in the schools to serve all children, nor does the state want to put child care programs out of business. According to a study conducted by Hart and Risley in 1995, unless there are maternal health problems or health related issues, children begin development at the same rate. Some things do not matter such as race or ethnicity, gender, or if a child is the born first child, but economic advantage does matter. Virtually all children begin to acquire a vocabulary of words in the second year of life, usually soon after their first birthday.

Evaluations for child care programs began in 2002, and the results show the higher the level of Stars for KIDS NOW Child Care Quality Rating System Standards the child care program has, the higher the child scores and the higher the outcomes are for children. The Stars Quality Rating System Standards is voluntary and 25 percent of child care programs participate. The consistent message is that low income and minority children are in low quality programs, but some programs with a large number of children on subsidy are beating the odds. These state-funded programs are required to have learning centers such as science, math, art, computer, and literacy.

Representative Glenn said he read a report that said the size of the classroom did not matter, but that the teacher focus on making students more dependent on themselves and re-enforcing their self-esteem mattered. Ms. Bridges said that the research is mixed about smaller

class sizes. Some research shows that some students do better when the teacher to student ratio is lower, and for others there is no difference.

Representative Belcher said she realized that in order to improve day care centers, they would all need to be at level 4, and asked if it would be helpful to require them to do two levels and then give them some options to complete the others. Ms. Bridges said that her recommendation was that the licensing standards require the level of Star I and that would be an incentive for programs to go to the next level. This says that the state will not continue to give funds to low-quality programs.

Representative Meeks asked about the number of children served in state-funded preschools. Ms. Bridges said there are 24,000 eligible children and added with Head Start it is about 36,000. Representative Meeks asked if that is close to 100 percent of eligible children, and she said yes. Representative Meeks asked Ms. Bridges to provide the task force with copies of the documents "Building a Strong Foundation for School Success." She said that she would send the information and an overview. Representative Meeks asked what state the Hart and Risely study was conducted in. Ms. Bridges said she was not sure. Representative Meeks asked if a study had been conducted on Kentucky families. He asked what states have the highest licensing ratings. She said that she would get back to him with that information.

Representative Stevens said as a former principal, he had a Head Start unit in his building, and he saw the good things that came from the program and saw other children that would have benefited that could not get in the program. He said that he was pro-universal preschool.

Representative Wuchner asked about educating parents about choosing child care centers with higher levels of care and putting more pressure on centers to want to earn a higher rating. Ms. Bridges said the Stars Advisory Group advertises and promotes the Stars Quality Rating System Standards.

Senator Smith said there was a study conducted on fifth and sixth graders, and one question asked children what they wanted to be when they grew up. He said that the data showed there were a lot of geographical challenges for children in rural, heavy poverty areas that in their minds they dreamed to be less than what they could be. In a child's mind they should be able to be anything they want to be, and not limited. Unfortunately, because of their circumstances, these children did not even dare to dream.

Senator Smith said the next meeting would be November 16, 2009 at 1:00 p.m. There being no further business, the meeting was adjourned at 3:12 p.m.

SPECIAL ADVISORY COMMISSION OF SENIOR CITIZENS

Subcommittee on Taxation Minutes of the 1st Meeting of the 2009 Interim May 7, 2009

The 1st meeting of the Subcommittee on Taxation of the Special Advisory Commission of Senior Citizens was held on Thursday, May 7, 2009, at 2:30 PM, in the Kentucky Room I of the Capital Plaza Hotel. James Huff, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: James Huff, Chair; Cluster Belcher, Douglas Cole, Bertha Daniels, Carole Dunn, Rowena Emerson, Pete McNeill, Jerry Moser, Jack Niece, Elmer Olson, Kenneth Overhults, Dennis Shaw, Martha Shircliffe, Berton Sisk, Martha Smith, Donald Stethen, and Alban Wheeler.

Guests: Mr. Gayle Fields, Kentucky Department of Revenue; Mr. John Copeland and Ms. Natasha Railey, Dulworth, Breeding, and Karns, LLC; Ms. B.J. Wasson, Kentucky Department of Insurance.

LRC Staff: Charlotte Quarles and Sheri Mahan.

Mr. McNeill moved that the minutes from the previous meeting be approved as written. The motion was seconded by Mr. Shaw. The motion carried by voice vote.

Chairman Huff discussed the elder care credit bill draft proposal that he asked Representative Thompson to introduce during the last regular session. He stated that once a negative fiscal impact was established by the requested fiscal note, that most interest was lost in the bill.

Mr. Gayle Fields of the Kentucky Department of Revenue discussed changes to the 2009 individual income tax laws. He discussed new energy efficiency credits which affect residential and commercial purchasers. These credits will be available to individual taxpayers for efficiency upgrades made after December 31, 2008 through January 1, 2016. These credits apply to the tax year the installation is completed; they may be carried forward for one year, and are limited to 30% of the installation costs. Credit is allowed for upgraded insulation, energy efficient windows and other qualified energy properties, with a maximum credit of \$500. Credit is also allowed for installation of alternative energy systems, including active solar space-heating systems, solar water heating systems, and wind turbine energy

generation systems. These credits are allowed for dwellings owned and used by taxpayers and are limited to \$500 for single family dwellings and \$1,000 for multifamily or commercial properties.

Mr. Fields also discussed several other changes, including changes in the estimated payment laws. He also discussed the impact to Kentucky of recent federal stimulus legislation, including the withholding bonus and its effect on social security payments. He provided the members with information as to how to stay informed regarding Kentucky and federal tax law changes.

Next, Mr. John Copeland and Ms. Natasha Railey from the accounting firm of Dulworth, Breeding, and Karns discussed the American Recovery and Reinvestment Act of 2009. Mr. Copeland provided background for this legislation which was passed in the wake of the mortgage and credit crisis. The goal of the legislation is to provide a stimulus to the lagging United States economy. The act includes federal tax cuts and expansion of unemployment benefits. It also increases spending on education, healthcare, and infrastructure. He also discussed the potential positive and negative reactions to the legislation.

Ms. Railey outlined in what sectors the federal increases in spending will occur, which include tax relief, state and fiscal relief, protecting the vulnerable, and energy research. She provided specific dollar amounts where new money is being spent in the federal budget. She then discussed tax breaks for individuals provided in the legislation. These include higher education credits up to \$2,500, temporary tax credits of 6.2% of earned income up to \$400 for single and \$800 for joint filers. Included in the legislation are new car sales tax deductions, energy efficiency credits, and first time homebuyers' credits. There are also small business tax breaks which include 50% bonus depreciation, increased Section 179 expensing, carryback of small business losses, and work opportunity tax credits.

Finally, Ms. B.J. Wasson of the Kentucky Department of Insurance discussed the local insurance premium tax. Ms. Wasson defined the tax, stating that it is a tax imposed by local governments upon insurance companies for the privilege of engaging in business of insurance in that locality. These taxes are imposed through local ordinances, may be a flat amount or percentage of premium, may vary by category, and are effective July 1 each year on a prospective basis. She stated that local governments must notify the Department of Insurance at least 100 days prior to July 1 of

the enactment of an ordinance or any changes to existing tax. The Department must notify insurers 85 days prior to July 1 of the license fee or tax. She said that there are several exemptions to the tax liability including group health insurance for state employees, individual health insurance issued through Kentucky Access, Worker's compensation insurance, annuities, and federal flood insurance.

Ms. Wasson then discussed how the tax is determined; stating that taxes are imposed on risks located within the local governments corporate limits. She then discussed how the tax is reported, stating that KRS 91A.080 requires a breakdown of all collections by category. These categories include fire and allied perils, casualty liabilities, vehicle, inland marine, health, life and other risks. She then discussed how the tax is paid by the insurance complained to the localities. The tax is due 30 days after the end of the calendar quarter and payment is remitted separately to each local government by an insurer or surplus lines broker. She discussed credits for city tax against county tax, annual reconciliation, and refund of tax on unearned premiums. Finally, Ms. Wasson discussed the provisions of HB 524 and its effect on local insurance premium taxes.

Chairman Huff briefly outlined the recommendations put forth by the subcommittee during the November 2008 meeting and asked the members to reflect upon these in preparations for the following day's meeting.

Chairman Huff called the meeting to recess until Friday, May 8, at 8:30 a.m. Mr. Shaw seconded the motion. The motion carried by voice vote.

The Subcommittee on Taxation of the Special Advisory Commission of Senior Citizens was reconvened on Friday, May 8, 2009, at 8:30 a.m., in Kentucky Room I of the Capitol Plaza Hotel. James Huff, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: James Huff, Chair; Cluster Belcher, Bertha Daniels, Carole Dunn, Pete McNeill, Jerry Moser, Jack Niece, Elmer Olson, Kenneth Overhults, Dennis Shaw, Martha Shircliffe, Berton Sisk, Martha Smith, Donald Stethen, and Alban Wheeler.

Chairman Huff opened the floor for discussion of subcommittee issues and recommendations. Chairman Huff reminded the subcommittee of the November, 2008 recommendations.

Mr. Belcher moved that the first recommendation of the taxation subcommittee be that the General Assembly increase state funding for

Area Agencies on Aging to support senior programs by at least 20 percent by looking for additional funding sources. Mr. Moser seconded the motion. The motion carried by voice vote. The committee requested information concerning how much this percentage would represent in a dollar amount.

Mr. Olsen moved to delete the committee's November recommendation to increase the cigarette tax and earmark a percentage for senior services. The motion was seconded by Mr. Daniels. The motion carried by voice vote.

Mr. Shaw moved that the second recommendation be that the General Assembly enacts legislation to provide tax credits to an individual caregiver who cares for a chronically ill person in that person's home or in the caregiver's home. Ms. Dunn seconded the motion. The motion carried by voice vote.

Ms. Daniels moved that the third recommendation be that if the General Assembly imposes a sales tax on services or increases the general sales and use tax rate, a percentage of the increased tax receipts be earmarked for senior services. Ms. Dunn seconded the motion. The motion carried by voice vote.

Being no further business, the meeting was adjourned at 9:20 a.m.

**Special Advisory Commission
of Senior Citizens
Subcommittee on Transportation
Minutes of the Second Meeting
of the 2009 Interim
May 7-8, 2009**

The second meeting of the Subcommittee on Transportation of the Special Advisory Commission of Senior Citizens was held on Thursday, May 7, 2009, at 2:30 PM. Fred Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Fred Smith, Chair; Rufus Fugate, Margaret Gilland, Dell Hall, Bobby Hazen, Eleanor Holbrook, Gayle King, Gina Loxley, Norman Pallarito, Mary Lou Perry, Jean Phelps, John Schreiber, Ted Smith, Paul Steenbergen, Joe Wahlen, and Lillian Wheeler.

Guests Appearing Before the Subcommittee: David Sowder, Transportation Director, Kentucky River Foothills Development Council, Inc.; Gail Mayeux, Project Manager, Office of Transportation Delivery, Kentucky Transportation Cabinet; Kim Adair, Director, and Zana Renfro, Paducah Transit Authority; and Captain Tim Lucas, Kentucky State Police.

LRC Staff: Brandon White and Linda Hughes.

Mr. Hazen moved to approve the Subcommittee minutes from its November 2008 meeting, as submitted.

Ms. Phelps seconded the motion, which passed by voice vote.

The Subcommittee on Transportation heard testimony from representatives from the Kentucky Transportation Cabinet and the Paducah Transit Authority on grants for public transportation in the Paducah and Louisville areas.

Ms. Mayeux, Project Manager, Office of Transportation Delivery, Kentucky Transportation Cabinet, said that some 40 interested groups came together to develop a Regional Mobility Council in Louisville to begin a Coordinate Public Transit Plan. This broad based representation keeps stakeholders apprised of their activities and planning efforts. She said that federal government awarded 8 Phase I transit grants from a list of 37 applicants in the US. Kentucky received 2 of those 8 grants – one going to Louisville and the other to Paducah. The federal government later awarded 3 \$1 million Phase II grants, of which Paducah and Frankfort received one apiece.

Adding to what Ms. Mayeux stated, Ms. Kim Adair and Zana Renfro, Paducah Transit Authority from the Paducah Transit Authority informed the Subcommittee that the Paducah Transit Authority had over 700,000 rides in 2008 and that the local citizens can request transit assistance by telephone (either by speaking to a live person between the hours of 4AM to 11PM or by automation), through the internet, as walk-in traffic, or to walk up Kiosk sites.

Mr. David Sowder, Transportation Director for the Kentucky River Foothills Development Council discussed the transit programs in Berea and Winchester. He said that the KY River Foothills Transportation Services is a non-profit agency under Community Action operating to some degree in Madison, Powell, Clark, Estill, and Montgomery Counties. They receive no Medicaid assistance, however they do receive 50% funding from the state. The transit service was founded in 1986 and averages 7,500 trips per month with 78% of those trips taken by senior citizens. They offer door-to-door service, \$1.25 per mile express, handicapped accessible vehicles, and offer before and after school pick-up for children. They also offer unlimited travel to senior citizens for \$1.00 a day fee. This \$1 fee coordinates with all city bus routes, intercity bus routes, connector routes, and commuter routes.

On Friday the Subcommittee heard testimony on initiatives to promote highway safety from the Kentucky State Police. Captain Tim Lucas said several of those initiatives are: (1) prohibiting the use of non-prescription drugs while operating a

motor vehicle; (2) requiring the use of emission interlock devices in vehicles for DUI offenders; (3) prohibit the use of hand-held communication devices by teenagers; and (4) reinstate the motorcycle helmet law.

For the past several years, one of the Transportation Subcommittee recommendations was to register all-terrain vehicles to provide law enforcement and property owners the opportunity to identify ATVs being operated in violation of the law. Beginning on or after July 1, 2010, House Bill 53 requires the titling of all new ATVs or ones that has a security interest on the vehicle.

Lastly, the Subcommittee adopted three recommendations. They were:

Strongly endorses the future statement from the full commission opposing any reductions in state funding for Area Agencies on Aging that supports Senior Programs.

Strongly encourages the General Assembly to increase state funding for Area Agencies on Aging to support Senior Programs for each year of the 2008-10 biennium and beyond.

Prohibit the use of hand-held communication devices with the exclusion of emergency personnel.

Recommend that the General Assembly appropriate sufficient funds to ensure available federal matching funds for use in the state's public transportation programs.

With no further business before the Subcommittee, the meeting adjourned at 9:45 a.m.

**TOBACCO SETTLEMENT
AGREEMENT FUND
OVERSIGHT COMMITTEE
Minutes**

November 4, 2009

The 9th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, November 4, 2009, 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 Dottie Sims, Co-Chair; Senators David E. Boswell, Vernie McGaha, Joey Pendleton, and Damon Thayer; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, and Tom McKee.

Guests: Roger Thomas, Michael Judge, and Joel Neaveill, Governor's Office of Agriculture Policy; Bill McCloskey, Tim Hughes, and Cyndi Hall, Kentucky Agriculture Finance Corporation; Drew Graham, University of Kentucky College of Agriculture; Mac Stone, Kentucky Department of Agriculture.

LRC Staff: Lowell Atchley, Biff

Baker, Stefan Kasacavage, and Kelly Blevins.

The October 14, 2009 minutes were approved by voice vote and without objection on a motion made by Senator Boswell, seconded by Representative Hoffman.

The presiding co-chair, Senator Gibson, invited Mr. Roger Thomas, Executive Director, and Mr. Mike Judge, Director of Operations, Governor's Office of Agricultural Policy, to appear before the committee and report on the Agricultural Development Board's actions from the previous month. Before beginning his report, Mr. Thomas acknowledged the phone calls, e-mails, cards, and letters that he had received following his recent biking accident. Mr. Judge then briefly reviewed the funds approved under four programs – the County Agricultural Investment, the Deceased Farm Animal Disposal Assistance, Pilot Farm Management, and Shared-use Equipment programs.

As they reviewed the state projects approved for tobacco settlement funding, Co-chair Sims asked some questions about the University of Kentucky Food Systems Innovation Center project, which received a grant of \$358,904. In particular, she asked about the use of Agricultural Development Fund (ADF) moneys for administration.

Mr. Judge explained that the center assists producers in the state in marketing their food-based products. Assistance has included activities such as labeling, shelf-life, and consumer acceptance. The grant would help expand those services.

He explained to Co-chair Sims that UK had received some federal funding, but that funding could only be applied toward equipment, consequently some of the Agricultural Development Funds granted would be used for administration. Most of the grant funding would be used for purposes other than administration, according to the committee witness, who also indicated to Co-chair Gibson that the grant marked the first time UK had received such ADF funding.

As the projects review continued, two projects spurred several minutes of discussion among committee members – the Thoroughbred RC & D Council project to use \$15,000 in Woodford County funds to establish a land preservation board, and Fayette County Rural Land Management Board project to allow \$75,000 in county funds to buy conservation easements under the Fayette County Purchase of Development Rights (PDR) program.

Mr. Judge explained to Co-chair Sims that the approval of the Woodford County funds was in keeping with a similar previous approval for

Scott County.

The Fayette County project prompted several minutes of committee discussion after Co-chair Gibson asked about a \$15 million bond approved in 2001 that provided funds for the Fayette PDR.

According to Mr. Thomas, who was a member of the General Assembly at the time, the Legislature approved bond issuances totaling \$25 million (\$10 million went to the state Purchase of Agricultural Conservation Easements program) for land preservation. Tobacco settlement funds are used to make the annual bond repayment.

Representative McKee mentioned the positive aspects of farmland preservation and observed that the latest Fayette County fund contribution of \$75,000 did not seem significant. But the GOAP officials said Fayette County's local council had approved \$525,000 for land preservation in the last few years.

In subsequent discussion, Representative McKee said he and Representative Adams recalled that Fayette County had an existing farmland preservation program in existence in 2001 and could immediately use the funds. Senator Boswell later reiterated Representative McKee and added that the PACE program has had an impact in his area in terms of farmland preservation.

Responding to Co-chair Sims, who asked how tobacco settlement funds are divided among agencies, Mr. Thomas described to the committee how the state portion of the ADF has shrunk in recent years due to the use of tobacco settlement funds to pay off Kentucky Infrastructure Authority water and sewer bonds, and other types of bonds. For example, he cited the bonding approved during the 2008 legislative session for the Kentucky Agriculture Heritage Center, renovation of the four 4-H camps in the state, an FFA Leadership Training Center renovation, upgrades of the UK Livestock Disease Diagnostic Center, plus another round of KIA bonds.

As Mr. Thomas talked with the committee, a staff member distributed a budget chart that depicted tobacco settlement fund appropriations in the 2009 and 2010 fiscal years. Mr. Thomas told the committee that the debt service amounts taken from the ADF are substantial. All projects are worthwhile, but the amount available for statewide long-term projects to benefit agriculture have diminished, remarked Mr. Thomas, who told the committee that the situation "has almost reached a critical stage for the state portion of the fund."

Responding to Senator Pendleton and later to Senator McGaha, Mr. Thomas indicated the Agricultural

Heritage Center project is progressing; meetings have been conducted regarding conditions that must be following in accessing funds to build the center. Senator Pendleton said the project needs to advance before construction costs increase.

Referring back to the chart distributed to the committee, Co-chair Gibson said he could "see why our money is running out."

Responding to some additional questions from Co-chair Gibson, Mr. Thomas noted that only two counties, Pike and Knott, receive no county tobacco settlement funds because they had no significant tobacco production history. Counties that historically produced large amounts of tobacco currently receive settlement funds generally proportional to those historic production amounts.

The witnesses next responded to a series of questions from Co-chair Sims related to the bonding process. At one point in the discussion, Mr. Thomas indicated that it is his understanding that the state cannot draw interest from bond proceeds.

In subsequent discussion, Representative Adams mentioned that he was concerned about tying bonded indebtedness to Master Settlement Agreement payments, which will continue to decrease over time because of the decline in the consumption of cigarettes. In response, Mr. Thomas said an original agreement was to shift the bond payment obligations to the General Fund, but that has not occurred.

The speakers, joined at the table by Mr. Joel Neaveill, GOAP's Chief of Staff, responded to a series of questions from Senator McGaha regarding the funds with which they actually have access to for statewide projects. Mr. Thomas said they were "basically flat-lined in the 2008 budget for FY 2009 and FY 2010, with the FY 2010 ADF balance of just over \$6 million will hinge on that year's MSA payment. They also noted to the senator that some of the newest bond payments due for FY 2010 were half-year payments and would double afterward.

As the discussion on that topic ended, Mr. Thomas said legislators as policymakers should be proud of the way they have used the MSA funds compared to other states, which have securitized the funds or have used the money for non-agricultural endeavors.

Following the GOAP projects discussion, Co-chair Gibson called on the speakers for a status report on the Kentucky Agricultural Finance Corporation (KAFC) including Mr. Bill McCloskey, KAFC Director of Financial Services, and Mr. Tim Hughes, Senior Policy Analyst.

Preceding their remarks, Mr.

Thomas told the committee that the ADB initially set aside \$20 million for the loan program in 2003. Since that time, almost 300 loans have been approved for almost \$36 million. The speakers reviewed the status of KAFC programs – the Beginning Farmer Loan Program, the Agricultural Infrastructure Loan Program, the Coordinated Value-added Assistance Loan Program, the Agricultural Processing Loan Program, and the Large/Food Animal Veterinary Loan Program, which is relatively new. Mr. McCloskey described how the program works in tandem with several commercial lenders in the state.

During the presentation, they responded to Representative Comer that Beginning Farmer and Agricultural Infrastructure loans were generally set up for 15 years. Regarding the Beginning Farmer program, they told Senator Boswell that some agricultural production experience is required of those applying for loans.

During their presentation, they mentioned a loan made to Kentucky Bioprocessing of Daviess County to conduct research and development of plant-made pharmaceuticals. Elaborating on Kentucky Bioprocessing, Senator Boswell indicated the company collaborates with the University of Louisville and the University of Kentucky, plus the Owensboro Medical Health System in plant-made drug development.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. The meeting adjourned at approximately 11:30 a.m.

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2010 Prefiled Bills

BR 1 - Representative Jesse Crenshaw (05/12/09)

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).)

To: Interim Joint Committee on State Government

BR 2 - Representative Jim Wayne (06/15/09)

AN ACT relating to taxation and declaring an emergency.

Amend KRS 141.020 to increase the tax rate on income over \$75,000; amend KRS 141.066 to establish a refundable earned income tax credit at 15 percent of the federal credit; amend KRS 140.130 to decouple from the federal estate tax phase-out; amend KRS 139.010, 139.200, and 139.480 to make selected services subject to sales tax; amend KRS 141.0205 to recognize changes to income tax credits; make income tax provisions apply to tax years beginning on or after January 1, 2010, make estate tax provisions effective for deaths on or after August 1, 2010; make sales tax provisions effective July 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 10 - Senator Denise Harper Angel (07/09/09)

AN ACT relating to childhood hearing loss.

Amend KRS 211.645 to amend the definition of "Auditory screening report"; delete the definition of "Infant at high risk for late onset, progressive hearing loss, or both."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 11 - Senator Denise Harper Angel (07/09/09)

AN ACT relating to smoking cessation.

Amend KRS 205.560 to re-

quire smoking cessation programs or treatment interventions for pregnant smokers to be in accordance with protocols and guidelines recommended by the Centers for Disease Control and Prevention.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 12 - Senator Denise Harper Angel (07/09/09)

AN ACT relating to the Kentucky Board of Examiners of Psychology.

Amend KRS 319.010 to define "IPC"; amend definition of "practice of psychology"; amend KRS 319.015 to clarify restrictions on teachers of psychology, psychological researchers, provider of consultation services, or expert testimony and to clarify permitted usages of written or computerized interpretations of psychological testing by clinical social workers, marriage and family therapists, professional art therapists, advanced registered nurse practitioners, physicians, or occupational therapists, and to allow temporarily employed nonresidents to practice for a limited time; amend KRS 319.032 to increase continuing education hours for license renewal; amend KRS 319.050 to require applicants to pass national EPPP examination, require applicants to pass ethical examination, and empower board of psychology to assess acceptability of doctoral degrees in psychology before admittance to practice; modify responsibilities and requirements for "Health Service Providers"; amend KRS 319.053 to allow board of psychology to establish written test for applicants on psychological practice, ethical principles, and the law.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 15 - Representative Robert R. Damron (09/15/09)

AN ACT relating to mold remediation standards.

Create new sections of Subchapter 20 of KRS Chapter 224 to state the General Assembly's finding that reasonable standards for the remediation of mold in private and public settings should be maintained; define "customer," "department," "mold," "mold remediation," and "mold remediation company"; establish the basis for minimum mold remediation

standards; provide that the Cabinet for Health and Family Services shall adopt administrative regulations relating to mold remediation standards; require complaints about mold remediation companies to be directed to the Attorney General; establish that the Attorney General has jurisdiction to enforce the mold remediation provisions and the ability to recover litigation costs.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 16 - Representative Robert R. Damron (07/14/09)

AN ACT relating to fire protection subdistricts.

Create a new section of KRS Chapter 75 to allow for dissolution of fire subdistricts.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Local Government

BR 20 - Representative Jody Richards (10/06/09)

AN ACT relating to crimes and punishments.

Create a new section of KRS Chapter 531 to prohibit a person under 18 years of age from transmitting a nude image of himself or herself or another person under 18 years of age to another person by computer or electronic means as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction; prohibit requiring registration as sex offender; create new section of KRS Chapter 531 to prohibit possession of a nude image of a person under 18 years of age as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction for person under 18 at time of commission of offense and District Court jurisdiction for persons over 18; prohibit requiring registration as sex offender.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 23 - Representative Jeff Greer (06/10/09)

AN ACT relating to insurance licensing.

Amend KRS 304.3-180 to re-

duce the number of consecutive years from seven to five that an insurer may use the same lead or coordinating audit partner of an accountant firm for preparing the audited financial statement, effective beginning with the year 2010 statutory audits; amend KRS 304.9-020 to define "rental vehicle insurance," "rental vehicle agent" and "rental vehicle agent managing employee"; amend KRS 304.9-133 to delete the requirement that business entities file an annual report of all designated individuals who were not terminated on or prior to December 31; amend 304.9-150 to remove the requirement that a business entity applicant file with its application a certificate issued by the Kentucky Secretary of State demonstrating that it can do business in Kentucky and a copy of its assumed name certificate; provide that a business entity applicant or licensee shall not use a name which is the same or deceptively similar to another business entity licensee; amend KRS 304.9-230 to add rental vehicle as a limited line of authority subject to the general licensing requires for all general agents; amend KRS 304.9-505, 304.9-507, and 304.9-509 to conform; repeal KRS 304.9-485, 304.9-501, 304.9-503, and 304.9-513.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 24 - Representative Jeff Greer (06/10/09)

AN ACT relating to insurance loss run statements.

Create a new section of Subtitle 20 of KRS Chapter 304 to define terms; require an insurer to provide a loss run statement within ten days of a written request submitted an insured by or another insurer; provide that the loss run statement shall be for a five-year loss run history, or a complete history if less than five years; prohibit the receiving agent from divulging consumer information to a third party; prohibit an insurer from charging a fee for the first loss run statement; create a new section of Subtitle 99 of KRS Chapter 304 to provide that an insurer or insurer's agent that does not provide a loss run statement as requested shall be fined not less than \$100 nor more than \$250 for each day the loss run statement is not provided.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 31 - Representative Bill Farmer (10/27/09)

AN ACT relating to taxation and declaring an emergency.

Amend various sections of KRS Chapter 139 to expand the sales and use tax base to include certain services, rental of commercial real estate, and the sale, rental, or lease of shelf space or any other area to display a product; repeal certain exemptions and lower the sales and use tax rate from 6% to 5.5%; create a new section of KRS Chapter 141 to apply the provisions of that chapter to taxable years beginning before January 1, 2011; 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, 2011; amend KRS 138.358 and various sections of KRS Chapter 139 to conform; repeal KRS 139.486; EFFECTIVE July 1, 2010, EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 38 - Representative Tom Riner (06/25/09)

AN ACT relating to shock probation.

Amend KRS 439.265 to prohibit shock probation until either service of one year of imprisonment or completion of a comprehensive substance abuse treatment with supplemental character and education components; amend to allow victim's next-of-kin to consent in writing to granting shock probation to the defendant; provide for short title, "The Kentuckians against Drunk Driving Act."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 47 - Representative Jody Richards (07/30/09)

AN ACT relating to highway signs.

Amend KRS 177.078 to permit an applicant approved for a limited supplemental guide sign to have the option to reimburse the Transportation Cabinet in full for the sign and its installation or to amortize the reimbursement costs for a period not to exceed 10 years.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 48 - Representative Arnold Simpson (10/20/09)

AN ACT relating to the initial removal of dead human bodies.

Create new sections of KRS Chapter 316 to provide for who shall apply for a permit, and who shall be exempt from the permit requirements; establish conditions of eligibility for a permit; indicate permit fees and when a permit expires; establish guidelines relating to the use of a vehicle; require the board to promulgate administrative regulations relating to the application procedures and the initial removal of dead human bodies; authorize the board to punish permit holders for violations, and persons engaging in the initial removal without a permit; require permit holders to complete a course on blood borne diseases required by the board and approved by the Cabinet for Health and Family Services before functioning on behalf of an entity regulated by this chapter; amend KRS 316.010 to define "initial removal of dead human bodies"; amend KRS 316.125 to establish who may supervise and engage in the initial removal of dead human bodies including when supervision is required.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 49 - Representative Arnold Simpson (08/10/09)

AN ACT relating to criminal record expungement.

Create a new section of KRS Chapter 431 to allow a person convicted of one Class D felony or a series of Class D felonies arising out of a single event to petition to have the felony record expunged under specified circumstances; amend KRS 431.078, relating to misdemeanor expungements, to begin the five-year waiting period from the date of adjudication of the offense; amend KRS 527.040, relating to possession of a firearm by a felon, to exempt individuals who have had their felony records expunged; create a new section of KRS Chapter 431 to require the Administrative Office of the Courts to keep a confidential index of expungement orders for utilization in the preparation of presentence investigations.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 50 - Representative Ron Crimm (07/29/09)

A CONCURRENT RESOLUTION affirming the principles of the Ninth and Tenth Amendments to the United States Constitution and declaring that the United States Constitution will be nullified if the federal government assumes further powers that it

does not possess.

Reaffirm the principles of government expressed by Thomas Jefferson in a resolution written for the Kentucky legislature in 1798; declare that the nation represents a compact among the states, and that the federal government possesses only the powers delegated to it by the United States Constitution; describe the limits of federal power under the Ninth and Tenth Amendments to the United States Constitution; determine a method for communicating these principles to other states; declare that any act of the federal Congress, executive order of the President of the United States, or judicial order of the federal court that assumes a power not delegated to the United States government will constitute a nullification of the United States Constitution; declare that, upon such a nullification, all powers previously delegated to the United States will revert to the several states individually; list some federal actions that would bring about such a nullification; declare that any future government of the United States would require ratification by three-quarters of the states.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 54 - Representative Stan Lee, Representative Joseph M. Fischer, Representative Thomas Kerr (06/02/09)

A CONCURRENT RESOLUTION claiming sovereignty over powers not granted to the federal government by the United States Constitution; serving notice to the federal government to cease mandates beyond its authority; and stating Kentucky's position that federal legislation that requires states to comply under threat of loss of federal funding should be prohibited or repealed.

Declare state sovereignty over powers not given to the federal government by the U. S. Constitution; demand the federal government to cease mandates beyond constitutionally delegated powers; prohibit federal legislation requiring state passage of laws under threat of penalties or sanctions; direct the Clerk to distribute copies of the Resolution.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 57 - Senator Katie Kratz Stine (06/05/09)

A JOINT RESOLUTION designating Kentucky Route 8 in the city limits of Dayton, Kentucky in honor and memory of Staff Sergeant Nicholas R. Carnes.

Direct the Transportation

Cabinet to designate Kentucky Route 8 in the city limits of Dayton in honor and memory of Staff Sergeant Nicholas R. Carnes and to erect signs on Kentucky Route 8 that read, "Staff Sergeant Nicholas R. Carnes Memorial Highway."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 58 - Senator Katie Kratz Stine (06/05/09)

A JOINT RESOLUTION designating Kentucky Route 8 in the city limits of Bellevue, Kentucky in honor and memory of Sergeant Justin A. Scott.

Direct the Transportation Cabinet to designate Kentucky Route 8 in the city limits of Bellevue in honor and memory of Sergeant Justin A. Scott and to erect signs on Kentucky Route 8 that read, "Sergeant Justin A. Scott Memorial Highway."

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 60 - Representative Charles Siler (06/23/09)

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; 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, with each stay limited to a maximum of three days; require the exemption to be subject to space availability; limit reservations during peak months to Sunday through Thursday; require that administrative regulations shall be promulgated to define peak periods, establish a ten day reservation window, define applicable lodging, and regulations relating to the proof of eligibility for persons entitled to the exemption.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Economic Development and Tourism

BR 65 - Representative Ron Crimm (06/03/09)

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.

nance; 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 66 - Representative Ron Crimm (07/29/09)

AN ACT relating to the gross revenues and excise tax fund and declaring an emergency.

Amend KRS 136.650 to increase the "hold-harmless amount" for fiscal year 2010-2011 and every fiscal year thereafter; amend KRS 136.654 to require the Department of Revenue to determine if it is necessary for a participating political subdivision to certify its total tax receipts; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Appropriations and Revenue

BR 70 - Senator Gary Tapp (09/25/09)

AN ACT relating to motor vehicle repair claims.

Create a new section of Subtitle 9 of KRS Chapter 304 to define "claimant," "deceptive referral," "request or require," and "usual and customary rate"; set forth insurer notification requirements regarding the ability of a claimant to choose their own provider for vehicle repairs; set forth requirements for payment of vehicle accident claims; prohibit insurance companies requesting or requiring that claim work be performed at a particular shop; prohibit insurance companies from engaging in deceptive referral practices; amend KRS 304.99-110 to set penalties for violations.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Banking and Insurance

BR 73 - Representative Fitz Steele (07/16/09)

AN ACT relating to investment of the Local Government Economic Assistance Fund balances.

Amend KRS 42.450 to eliminate the requirement that balances in the Local Government Economic Assistance Fund be invested in United States Government Securities maturing not later than one year from the date of investment and require that

investment of the fund balances be governed by KRS 42.500.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Appropriations and Revenue

BR 75 - Representative Rick G. Nelson (07/09/09)

AN ACT relating to the Education Professional Standards Board.

Amend KRS 161.028 to add the chairpersons of the Interim Joint Committee on Education as ex officio members of the Education Professional Standards Board.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 79 - Representative Brad Montell (10/12/09)

AN ACT relating to public school academies.

Create new sections of KRS Chapter 160 to describe the intent of the General Assembly and the purposes of authorizing public school academies; define terms; outline the requirements and limitations on the establishment of public school academies including which agencies may sponsor an academy; describe a sponsor's roles and responsibilities; describe exemptions from law and required compliance areas for public school academies; describe the application, approval, and renewal processes; describe application process for existing schools to convert to public school academies; create new sections of KRS Chapter 156 to list the Kentucky Department of Education's and the Kentucky Board of Education's roles and responsibilities relating to public school academies; require the Kentucky Board of Education to establish a Kentucky Public School Academy Commission for reviewing and approving public school academy applications; identify the academy commission membership, members' terms of office, and payment for members' services; create a new section of KRS Chapter 157 to direct how state, local, and federal funds shall be used to support public school academies; amend KRS 157.370 to allow a public school academy to receive transportation funds; create a new section of KRS 160 to provide that professional negotiated contracts cannot override provisions for public school academies; amend KRS 156.704, 156.255, 156.265, and 156.480 to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 82 - Representative Brad

Montell (07/28/09)

AN ACT relating to school attendance.

Amend KRS 158.070 to allow students to be counted present at school when participating in school-sponsored regional or state sports competitions sanctioned by the Kentucky Board of Education or its designated agency if the competition occurs on a regularly scheduled school day; require students to make up any missed assignments; amend KRS 158.649 to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 86 - Representative Brad Montell (10/02/09)

AN ACT relating to retirement.

Amend KRS 6.505 to close the Legislators' Retirement Plan to legislators who have not previously participated in the plan and who begin their first term of office on or after July 1, 2011; create new sections of KRS Chapter 6 to establish the Legislators' Defined Contribution Plan for legislators who begin their first term of office on or after July 1, 2011; provide that the plan shall be administered by the Kentucky Deferred Compensation Authority; allow the authority to utilize plans already established or to establish new plans to administer the Legislators' Defined Contribution Plan; provide an employer match of up to 5 percent of the legislator's wages; provide that a legislator participating in the plan shall be vested for employer contributions on a sliding scale that fully vests the legislator for the employer contributions at five years; provide that the benefits provided by the Legislators' Defined Contribution Plan shall not constitute an inviolable contract of the Commonwealth; amend KRS 18A.245 to establish responsibilities of the board of the Kentucky Deferred Compensation Authority to administer the Legislators' Defined Contribution Plan; amend KRS 61.680 and 161.607, governing the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System, to clarify that a legislator who begin his or her first term of office on or after July 1, 2011, shall not participate in these plans as a result of service in the General Assembly; provide that the service earned in the Legislators' Defined Contribution Plan may be used for purposes of determining eligibility for retirement in the state-administered retirement systems, but not the amount of benefits; require the board of the Legislators' Defined Contribution Plan to provide an update on the development of the plan, including any state or federal

law issues that need to be resolved, to the Interim Joint Committee on State Government by October 31, 2010.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 87 - Representative Arnold Simpson (08/05/09)

AN ACT relating to open records.

Amend KRS 61.870 to include in the definition of public agency those bodies that participate in the state retirement systems.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 93 - Representative Mary Lou Marzian (07/08/09)

AN ACT proposing to repeal Section 233A of the Constitution of Kentucky relating to marriage.

Propose to amend the Constitution of Kentucky to repeal the definition of marriage; submit to voters for approval or disapproval.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 95 - Representative Darryl T. Owens (08/28/09)

AN ACT relating to crimes and punishments.

Amend KRS 532.356 to remove the provisions requiring the withdrawal of driving privileges for persons convicted of a theft offense who have not paid court ordered restitution; include non-codified transitional provisions for persons whose driving privileges had been previously removed.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 96 - Senator Julie Denton (10/15/09)

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).)
To: Interim Joint Committee on Banking and Insurance

BR 98 - Representative David Floyd, Representative Darryl T. Owens (07/02/09)

AN ACT relating to mental illness.

Amend KRS 532.130 to define severe mental illness; amend KRS 532.135 to include a severely mentally ill defendant; amend KRS 532.140 to include severely mentally ill offender and to establish effective date.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 107 - Representative Jim Glenn (10/05/09)

AN ACT relating to college student financial awareness.

Create a new section of KRS Chapter 164 to require public post-secondary institutions to provide new undergraduates with information regarding credit cards and debt management and encourage them to conduct informational sessions; encourage nonpublic postsecondary institutions to provide new undergraduates with information regarding credit cards and debt management and to conduct informational sessions; permit institutions to utilize existing debt education materials from nonprofit entities; and require the Kentucky Higher Education Assistance Authority to assist institutions in identifying appropriate materials and curricula.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 108 - Representative Jim Glenn (10/05/09)

AN ACT designating burgoo as the state dish.

Create a new section of KRS Chapter 2 naming and designating burgoo as the state dish.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 114 - Representative Brent Yonts (08/26/09)

AN ACT relating to the Department of Corrections.

Create a new section of KRS Chapter 197 to prohibit any privatized inmate food service in the state's prisons.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 115 - Representative Stan Lee (07/22/09)

AN ACT relating to charter schools.

Create new sections of KRS Chapter 160 to describe the intent of the General Assembly and the purposes of authorizing public charter schools; define terms; outline the requirements and limitations on the establishment of charter schools; describe local board of education's roles and responsibilities; describe exemptions from law and required compliance areas for charter schools; describe the application, approval, and renewal processes; describe process and application process for existing schools to convert to charter schools; create new sections of KRS Chapter 156 to list the Kentucky Department of Education's and the Kentucky Board of Education's roles and responsibilities relating to charter school; require the Kentucky Board of Education to establish a Kentucky Charter School Advisory Committee for reviewing charter school applications; create a new section of KRS Chapter 157 to direct how state, local, and federal funds shall be used to support charter schools; amend KRS 156.074, 156.255, 156.265, and 156.480 to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 118 - Representative Rick G. Nelson (08/05/09)

AN ACT relating to personal communication devices.

Create a new section of KRS Chapter 189 to prohibit the use of a personal communication device for any person under the age of 18 while operating a motor vehicle; provide for exclusions; create a new section of KRS Chapter 189 to prohibit text messaging while operating a motor vehicle; provide for certain exclusions; amend KRS 189.990 to set penalties for violations for this Act; provide for a probationary period ending November 1, 2010, where courtesy warnings will be issued; set a fine of \$50 for each offense after the probationary period; exempt fines from court costs.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee

on Transportation

BR 120 - Representative Jody Richards (09/25/09)

AN ACT relating to criminal gangs.

Create new sections of KRS Chapter 17 to permit law enforcement and prosecution agencies to share criminal gang information; create a new section of KRS Chapter 431 to permit an action for civil damages in criminal gang activity and criminal gang recruitment cases; create a new section of KRS Chapter 431 to permit courts to enjoin criminal gang activity and criminal gang recruitment activity; create a new section of KRS Chapter 506 to create definitions relating to criminal gangs; create new sections of KRS Chapter 506 to create the crimes of criminal gang recruitment in the first degree and second degree and permit seizure and forfeiture of criminal gang assets and property; amend KRS 506.150 relating to evidence necessary to establish criminal gang activity; repeal KRS 506.140 relating to criminal gang recruitment and definitions.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 121 - Senator Ray S. Jones II (08/03/09)

AN ACT relating to health insurance.

Create a new section of subtitle 17A of KRS Chapter 304 to define applied behavior analysis," "autism services provider," "autism spectrum disorder," "diagnosis of autism spectrum disorders," "habilitative or rehabilitative care," "medically necessary," "pharmacy care," "psychiatric care," "psychological care," "therapeutic care," and "treatment for autism spectrum disorders"; create new section of subtitle 17A of KRS 304 that requires health policies covered in this subtitle to provide coverage for the diagnosis and treatment of autism spectrum disorders and their related conditions; prohibit insurance policies from limiting the number of visits an insured may make for such services; allow services provided by this section to be subject to copayment, deductible, and coinsurance provisions; give insurers the right to request a review of treatment not more than once every 12 months unless the insured's physician or psychologist agrees that a more frequent review is necessary; amend KRS 18A.225 to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Banking and Insurance

BR 122 - Senator Ray S. Jones II (09/09/09)

AN ACT relating to personal identification cards.

Amend KRS 186.412 to allow holders of personal ID cards who have been diagnosed with autism to receive a sticker identifying that condition to place on the ID card.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Transportation

BR 123 - Representative Jody Richards (08/25/09)

AN ACT relating to the Kentucky educator award and recognition fund and making an appropriation therefor.

Create a new section of KRS chapter 156 to establish the Kentucky educator award and recognition fund to provide matching funds for schools that have state and national award winning educators who received cash awards or an equivalent benefit; require the Kentucky Department of Education to administer the fund.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 124 - Representative David Floyd, Representative Bill Farmer (08/04/09)

A CONCURRENT RESOLUTION urging support for the Second Amendment of the United States Constitution and urging Congress not to enact any law that would infringe on the right to bear arms under the Constitution of Kentucky.

Urge support for the Second Amendment of the United States Constitution; urge Congress not to enact any law that infringes on the right to bear arms under the Constitution of Kentucky.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 132 - Representative Jody Richards (07/30/09)

A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force to establish a strategy to provide home laptop computers for middle school students.

Direct the Legislative Research Commission to establish a legislative task force to establish a strategy to provide home laptop computers for middle school students; establish task force by August 1, 2010; report findings to appropriate committee or

committees no later than December 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 133 - Representative Jody Richards (07/30/09)

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).)

To: Interim Joint Committee on Judiciary

BR 135 - Representative Will Coursey (08/05/09)

AN ACT relating to water transportation and making an appropriation therefor.

Create new sections of KRS Chapter 174 to establish the Water Transportation Advisory Board as an advisory body to the executive and legislative branches of government; provide for members, terms, and administrative procedures; specify duties; create a riverport marketing assistance trust fund to be administered by the Cabinet for Economic Development; provide for grants of up to \$15,000 per project or \$30,000 per applicant annually for specified marketing activities; create a riverport financial assistance trust fund to be administered by the Transportation Cabinet; provide for financial assistance for new construction and major replacement or repair projects for Kentucky's riverports; provide for matching grants.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 139 - Senator Joey Pendleton (09/02/09)

AN ACT relating to industrial hemp.

Create new sections of KRS Chapter 260 to define "department," "industrial hemp," and "THC"; require persons wanting to grow or process industrial hemp to be licensed by the Department of Agriculture; require criminal history checks by local sheriff; require the Department of Agriculture to promulgate administrative regulations to carry out the provisions of the Act; require sheriff to monitor and randomly test industrial hemp fields; assess a fee of \$5 per acre for every acre of industrial hemp grown,

with a minimum fee of \$150, to be divided equally between the Department of Agriculture and the appropriate sheriff's department; require licensees to provide the Department of Agriculture with names and addresses of any grower or buyer of industrial hemp and copies of any contracts the licensee may have entered into relating to the industrial hemp; clarify that the Act does not authorize any person to violate federal law.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Agriculture

BR 142 - Representative Fitz Steele (09/17/09)

A JOINT RESOLUTION naming a portion of Kentucky Route 840 in Harlan County in honor of Jerry Chesnut.

Direct the Transportation Cabinet to designate the "Jerry Chesnut Highway" on Kentucky Route 840 in Harlan County and erect appropriate signs.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 145 - Representative Joni L. Jenkins (08/12/09)

AN ACT relating to dating violence.

Amend KRS 403.720 relating to domestic violence orders to include dating partners among the class of persons allowed to obtain domestic violence protective orders; amend KRS 431.005 relating to arrests by peace officers to reference the definition of "unmarried couple" including dating partners in KRS 403.720.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 150 - Representative Jim Gooch Jr. (11/20/09)

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, 2011.

(Prefiled by the sponsor(s).)

BR 159 - Representative Bill Farmer, Representative Jim DeCesare, Representative Alecia Webb-Edgington, Representative Addia Wuchner

(10/12/09)

AN ACT relating to sales tax on alcohol.

Amend KRS 139.470 to exempt gross receipts from the sale of distilled spirits, wine, and malt beverages, not consumed on the premises, from sales and use tax; effective August 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

(Prefiled by the sponsor(s).)

BR 164 - Representative Hubert Collins (09/02/09)

AN ACT relating to special license plates.

Amend KRS 186.164 to clarify procedures to follow when the Transportation Cabinet denies a group's application for a special license plate.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 165 - Senator John Schickel (10/09/09)

A RESOLUTION supporting Charles "Ed" Massey's candidacy for the post of secretary-treasurer of the National School Boards Association.

Support Charles "Ed" Massey's candidacy for the post of secretary-treasurer of the National School Boards Association.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 168 - Representative Rick G. Nelson (08/20/09)

AN ACT relating to public safety.

Create a new section of KRS Chapter 177 to require the department of highways to inspect all public railroad grade crossings with an average daily traffic count of 700 vehicles or more at least 2 times per year; require results of inspection to be kept on file for 5 years; require the department to promulgate administrative regulations to establish standards for railroad grade crossings; specify that within 30 days of being notified that a crossing is substandard that the railroad company submit plans for improvement; permit the department to issue an order to the railroad company to make improvement to a railroad grade crossing pursuant to the procedures set forth in KRS 177.150 through 177.210.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 169 - Representative Rick G. Nelson (09/21/09)

AN ACT relating to school district vehicles and declaring an emergency.

Create a new section of KRS 160 to prohibit local school boards from providing a district employee the use of a district-owned or leased vehicle, except for buses and maintenance vehicles; allow a district employee to be reimbursed for mileage when using a personal vehicle for school or district business outside the school district boundaries.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 172 - Representative Darryl T. Owens (08/28/09)

AN ACT proposing to amend Section 228 of the Constitution of Kentucky.

Propose to amend Section 228 of the Constitution of Kentucky to delete language regarding duels; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 174 - Representative Jimmy Higdon (09/01/09)

AN ACT relating to automated or recorded political telephone messages.

Amend KRS 367.46951 to define "prerecorded political message"; amend KRS 367.46955 to prohibit the delivery of prerecorded political messages to telephone numbers on the national Do Not Call Registry.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 176 - Representative Jimmy Higdon (09/01/09)

AN ACT relating to retirement.

Amend KRS 6.525, relating to legislative retirement, to prevent members of the General Assembly who first take office after the effective date of this Act from consolidating their accounts under various retirement systems for the purpose of determining benefits.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 178 - Representative Jim-

my Higdon (09/01/09)

AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

Propose an amendment to Sections 36 and 42 of the Kentucky Constitution to limit legislative sessions of the General Assembly to 30 days each year.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 180 - Representative Jody Richards (09/04/09)

AN ACT relating to personal communication devices.

Create a new section of KRS Chapter 189 to define “personal communication device”; prohibit text messaging while operating a motor vehicle; provide for specific exclusions; amend KRS 189.990 to set penalties; provide for a probationary period ending January 1, 2011, during which courtesy warnings will be issued; set fine for violation at \$20 to \$100 for each offense after the probationary period; exclude court costs.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 181 - Senator Bob Leeper (11/17/09)

AN ACT relating to nuclear power.

Amend KRS 278.600 to define “storage” and amend a definition to require that nuclear power facilities have a plan for the storage of nuclear waste rather than a means for permanent disposal; 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; prohibit construction of low-level waste disposal sites in the Commonwealth except as provided in KRS 211.852; require the Public Service Commission to determine whether the construction or operation of a nuclear power facility, including ones constructed by entities regulated under KRS Chapter 96, would create low-level nuclear waste or mixed wastes that would be required to be disposed of in low-level nuclear waste disposal sites in the Commonwealth; repeal KRS 278.605.

(Prefiled by the sponsor(s).)

BR 182 - Representative Jesse

Crenshaw (08/27/09)

AN ACT relating to inmates.
Amend KRS 196.180 to require wardens to expunge dismissed or voided inmate disciplinary reports.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 185 - Representative Tom Burch, Representative Jim Wayne (09/17/09)

AN ACT relating to the abolition of the death penalty.

Create a new section of KRS Chapter 532 to abolish the death penalty and require the court with jurisdiction over a person sentenced to death to sentence the person to imprisonment for life without benefit of probation or parole; amend KRS 24A.110, 27A.430, 431.060, 431.215, 431.510, 439.265, 506.010, 506.030, 506.040, 506.080, 507.020, 509.040, 520.120, 527.200, 532.030, 532.040, 532.050, 532.100, 532.140, 533.010, 610.265, 635.020, 635.090, 640.040, 17.176, 507A.020, and 422.285 to conform; repeal KRS 422.287, 431.213, 431.2135, 431.218, 431.220, 431.223, 431.224, 431.240, 431.250, 431.260, 431.270, 507A.060, 532.025, 532.075, 532.300, 532.305, and 532.309, relating to the death penalty.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 187 - Representative Fitz Steele, Representative Fred Nesler (09/18/09)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS chapter 139 to establish a 3 day sales and use tax holiday the first weekend in August each year to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 197 - Representative Rick G. Nelson (10/01/09)

A JOINT RESOLUTION commending the Ridgetop Shawnee Tribe of Indians for their efforts on behalf of preserving Native American heritage.

Commend the Ridgetop Tribe of Shawnee Indians for their efforts to help their elderly and their youth; recognize their work to preserve their

native language and heritage.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 199 - Representative John A. Arnold Jr. (10/27/09)

AN ACT relating to the operation of golf carts on public roads.

Amend KRS 189.286, relating to the ability of local governments to allow operation of golf cart on roads under their control, to expand the allowable distance from a golf course from five miles to seven miles.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 202 - Senator Julie Denton (09/28/09)

AN ACT relating to sexual abuse.

Amend KRS 510.110, relating to sexual abuse in the first degree, to prohibit certain persons employed by or associated with an agency or facility responsible for detention or treatment from having sexual contact with persons incarcerated, supervised, evaluated, or treated by those agencies; amend KRS 510.120 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 210 - Representative John Tilley (10/26/09)

AN ACT relating to encouraging health lifestyles.

Create new sections in KRS Chapter 141 to establish a wellness project credit; create a new section in KRS Chapter 131 to require the department to report data annually to the Legislative Research Commission; amend KRS 141.0205 to place the new credit within the credit-ordering statute; create a new section in KRS Chapter 194A to require the Cabinet for Health and Family Services to develop an employer wellness project model and require a certification process for all employer-provided programs.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 213 - Representative Larry Clark (09/02/09)

AN ACT relating to continuity of health care.

Amend KRS 304.17A-500 to define “acute-care hospital” for health

insurance purposes; amend KRS 304.17A-527 to require that an agreement between a managed care plan and an acute-care hospital shall include provisions for a term of not less than 3 years, a 6-month notice to the plan and the executive director of the department of insurance by the acute-care hospital prior to termination or nonrenewal, procedures to ensure continuity of care for covered persons not less than 30 days prior to termination, no less than 20 days notice prior to termination by the managed care plan to the covered person of the procedures to follow for continuity of care including an expedited internal appeal process and an expedited external appeal if necessary, and a provision requiring mediation or binding arbitration between the managed care plan and the acute-care hospital for any dispute regarding a covered person’s access to continuity of care in the event of termination or nonrenewal of the provider agreement; amend KRS 304.17B-001 to confirm.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 216 - Representative Tom Burch, Representative Bob M. DeWeese (10/21/09)

AN ACT relating to the Colon Cancer Screening Program, and making an appropriation therefor.

Amend KRS 214.542 to permit the Department for Public Health to adopt a schedule of income-based fees to be charged for colon cancer screenings; require that the fee schedule be such that the screenings are available to the largest number of people; create a new section of KRS 214.540 to 214.544 to create the Kentucky Colon Cancer Screening Program fund and establish the parameters of the fund; require moneys in the fund to be used by the department to administer KRS 214.540 to 214.544; provide that moneys remaining in the fund at the end of the fiscal year will carry forward into the succeeding fiscal year interest earned on moneys in the fund will accrue to the account; provide that moneys are appropriated for purposes set forth in KRS 214.540 to 214.544; appropriate \$1,000,000 in fiscal year 2010-2011 and \$2,000,000 in fiscal year 2011-2012 to the department for deposit in the Kentucky Colon Cancer Screening Program fund.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 218 - Representative Fitz Steele (11/05/09)

A RESOLUTION declaring Harlan County as the home of 2008 Kentucky State Festival Pageant Grand Supreme, Rylie Jo Makenzie Maggard.

Declare Harlan County the home of 2008 Kentucky State Festival Pageant Grand Supreme, Rylie Jo Makenzie Maggard.

(Prefiled by the sponsor(s).)

BR 222 - Representative Jimmy Higdon (09/03/09)

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 228 - Representative Linda Belcher (10/29/09)

AN ACT relating to the reporting of stolen items with vehicle identification numbers.

Create a new section of KRS Chapter 186 to require a law enforcement agency to enter a stolen item with a vehicle identification number into the NCIC database.

(Prefiled by the sponsor(s).)

BR 229 - Representative Linda Belcher (09/22/09)

AN ACT relating to the care of individuals with mental retardation or other developmental disorders.

Repeal and reenact KRS 202B.070, relating to the duty of individuals with direct care responsibility for residents of ICF/MR to meet specific needs, including supervision; name the statute "Deron's Law"; amend KRS 202B.070 to delete the word "intentionally" in reference to the failure to provide supervision of a resident by an individual who has direct care responsibility.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 230 - Representative Linda Belcher (09/22/09)

AN ACT relating to child custody.

Amend KRS 620.090 to provide that children who are in temporary custody for a period not exceeding 45 days from the date of the removal from his home may be in the custody of the Cabinet for Health and Family Services or with another appropriate person or agency.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 231 - Representative Linda Belcher (09/22/09)

AN ACT relating to digital citizenship.

Amend KRS 156.660 to define "digital citizenship" as a set of characteristics that conceptualize the rewards as well as risks facing all technology users; set forth the characteristics; amend KRS 156.675 to require the Kentucky Board of Education to promulgate an administrative regulation to require that each local school board shall implement an acceptable use policy that requires all school district employees who use technology to comply with the policy which shall include the characteristics of digital citizenship; amend KRS 156.095 to include technology and the characteristics of digital citizenship in the professional development activities which shall be provided for teachers; and amend KRS 158.148 to require local school districts to include in their student behavior codes behavior as it relates to being a good digital citizen.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 232 - Representative Linda Belcher (09/22/09)

AN ACT relating to suicide prevention training.

Amend KRS 156.095 to require the Cabinet for Health and Family Services to post suicide prevention awareness and training information on its Web page by August 1, 2010; require every public middle and high school administrator to disseminate suicide prevention awareness information to all middle and high school students by September 1, 2010, and September 1 of each year thereafter.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 237 - Representative Jody Richards (10/12/09)

AN ACT relating to criminal gangs.

Create a new section of KRS Chapter 17 to permit named agencies to operate a criminal gang database and share the information with named agencies; define which information may be included in a criminal gang database; specify which local, state, and federal agencies may access information in a criminal gang database on a need to know basis; create a new section of KRS Chapter 431 to permit crime victims to sue persons convicted of criminal gang activity for treble damages; permit a person who is the victim of criminal gang activity to bring court action to enjoin criminal gang activity; create a new section of KRS Chapter 506 to define what constitutes a criminal gang and other terms related to criminal gangs; create the crimes of criminal gang recruitment in the first degree and criminal gang recruitment in the second degree; provide for seizure of money or property used in or the proceeds of criminal gang related activity; amend KRS 506.150 relating to establishing the existence of a criminal gang to reduce from 5 to 3 the number of persons involved in the activity; repeal KRS 506.140 relating to definitions for the chapter.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 238 - Representative Myron Dossett (10/26/09)

AN ACT relating to motor vehicle license plates.

Amend KRS 186.041 to allow the purchase of an unlimited number of special military-related license plates; allow persons to purchase additional Gold Star Mothers or Gold Star Spouses special license plates beyond the two currently exempted from fees; amend KRS 186.162 to establish fees for additional Gold Star Mothers or Gold Star Spouses special license plates.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 239 - Representative Myron Dossett (10/16/09)

AN ACT relating to sales tax.
Create a new section of KRS Chapter 139 to establish a refund program for new small businesses; EFFECTIVE October 1, 2010.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 240 - Representative Myron Dossett (10/16/09)

AN ACT relating to the individual income tax.

Create a new section in KRS Chapter 141 to exclude from individual income tax for eight consecutive calendar quarters the amount of wages paid by a qualifying small business that has no more than five employees and registers with the department; amend KRS 141.010 and 141.310 to conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue

BR 250 - Representative Tom Burch (10/15/09)

AN ACT relating to acupuncture.

Amend various sections of KRS 311.671 to 311.686 to change acupuncture from a certified to a licensed profession; amend KRS 311.676 to increase penalty for practicing acupuncture without a license to a Class D felony; amend KRS 311.680 to clarify the definition of potentially serious disorders or conditions.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Licensing and Occupations

BR 251 - Representative Greg Stumbo, Representative Rocky Adkins, Representative Larry Clark, Representative Hubert Collins, Representative Will Coursey, Representative Robert R. Damron, Representative Mike Denham, Representative Tim Firkins, Representative Kelly Flood, Representative Keith Hall, Representative Sannie Overly, Representative Ruth Ann Palumbo, Representative Tom Riner, Representative John Will Stacy (09/24/09)

AN ACT relating to the use of global positioning monitoring systems including monitoring-related restrictions and sanctions in domestic violence cases.

Amend KRS 403.720 relating to domestic violence definitions to define "global positioning monitoring system"; amend KRS 403.740 relating to emergency protective orders to permit a court to restrain a respondent from going to or near specified locations; amend KRS 403.750 relating to domestic violence orders to permit court a to restrain a respondent from going to or near specified locations; create a new section of KRS Chapter 403 to permit the petitioner in a domestic violence order case to inform the court of places the petitioner does

not want the respondent to go into or near; create a new section of KRS Chapter 403 to require the court to assess the respondent's dangerousness; create a new section of KRS Chapter 403 to a permit court, as part of a domestic violence order, to order a respondent to wear or carry global monitoring system device and permit a petitioner to carry a device notifying the petitioner that the respondent is nearby; require the court to notify the petitioner of the operation and limitations of global positioning monitoring system devices, and provide a penalty for removing or tampering with the device; create a new section of KRS Chapter 403 to require the Department of Corrections to contract with entities providing global positioning system monitoring services to provide services meeting the requirements of the statutes; name act the Amanda Ross Domestic Violence Prevention Act.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 258 - Senator Damon Thayer (11/17/09)

AN ACT relating to campaign finance.

Create a new section of KRS Chapter 121 to define "political organization 527 committee"; require such a committee to register with and report to the Kentucky Registry of Election Finance if it spends more than \$5,000 to influence the selection of a candidate or slate of candidates for public office in Kentucky, other than in a federal election, or if it spends more than \$5,000 on a ballot question to amend the Constitution of Kentucky; state that this legislation shall be cited as the 527 Campaign Fund Disclosure and Transparency Act of 2010.

(Prefiled by the sponsor(s).)

BR 259 - Senator Damon Thayer (11/05/09)

AN ACT proposing to create a new section of the Constitution of Kentucky and amending a section of the Constitution of Kentucky relating to the Kentucky state lottery.

Propose to create a new section of the Constitution of Kentucky to permit the General Assembly to authorize by general law video lottery terminals in counties that have existing horse racing tracks upon voter approval in each of those counties; provide that the operation of video lottery terminals shall be part of the Kentucky State Lottery; create the equine excellence fund and the building Kentucky's future fund and provide that money generated by the revenue from and licensing of video lottery

terminals go to those funds; propose to amend Section 226 of the Constitution of Kentucky to conform; submit to voters; provide ballot language.

(Prefiled by the sponsor(s).)

BR 262 - Representative Mike Denham (10/22/09)

AN ACT relating to domestic violence.

Amend KRS 403.725 to prohibit joint mediation, conciliation, or counseling requirements within an emergency protective order or a domestic violence order; amend KRS 403.740 to allow an emergency protective order to remain in effect until the domestic violence hearing, with only the summons needing to be reissued in the event of a lack of service upon the adverse party; amend KRS 403.750 to require counseling in all cases for persons against whom a domestic violence order is entered; amend KRS 403.7505 to recognize batterer intervention services within the scope of certifies counseling services; amend KRS 403.763 to increase the penalty for a third or subsequent violation of an emergency protective order or a domestic violence order to a Class D felony; create a new section of KRS Chapter 511 to create the crime of domestic violence shelter trespass.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 263 - Senator John Schickel (10/27/09)

AN ACT relating to pharmacy technicians.

Amend KRS 315.136 to waive the application fee for pharmacy technicians who serve on a voluntary basis with a pharmacy operated by a charitable organization as defined in KRS 142.301(2).

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Health and Welfare

BR 265 - Representative Bill Farmer, Representative Jim DeCesare, Representative Alecia Webb-Edgington, Representative Addia Wuchner (10/12/09)

AN ACT relating to the alcoholic beverage wholesale sales tax and declaring an emergency.

Amend KRS 243.882 to make technical corrections to defined terms; amend KRS 243.884 to reduce the tax rate on gross receipts from wholesale sales of malt beverages, wine, and distilled spirits to 5.5% for sales made on

or after July 1, 2010, and to provide that the tax shall not apply to sales made on or after July 1, 2011; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Appropriations and Revenue
(Prefiled by the sponsor(s).)

BR 266 - Representative Melvin B. Henley (11/03/09)

A JOINT RESOLUTION designating the "Stevie McReynolds Way" in Calloway County.

Direct the Transportation Cabinet to designate a section of KY 94 in Calloway County in honor of Stevie McReynolds.

(Prefiled by the sponsor(s).)

BR 268 - Representative Mike Denham (10/26/09)

A RESOLUTION designating June 2010 as Kentucky Rabies Awareness Month.

Designate June 2010 as Kentucky Rabies Awareness Month.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 275 - Representative Dennis Keene (10/09/09)

AN ACT relating to driving under the influence.

Amend KRS 189A.005 to expand the definition of "ignition interlock device"; amend KRS 189A.010 to include driving the wrong way on a four-lane highway among the list of factors for triggering aggravated DUI penalties; amend KRS 189A.070 to provide that a reduction in the time period of a license revocation does not lessen the time required for ignition interlock usage; amend KRS 189A.085 to run the period of a license plate impoundment from the date of sentencing to the day the offender is authorized to resume driving; amend KRS 189A.340 to require ignition interlock usage beginning with the first DUI offense and to remove an offender's ability to drive a non-interlock-equipped work vehicle; amend KRS 189A.410 to require ignition interlock usage while an offender is driving on a hardship license.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 276 - Representative Dennis Keene (10/09/09)

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 are 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).)

To: Interim Joint Committee on Appropriations and Revenue

BR 277 - Representative Dennis Keene (10/09/09)

AN ACT relating to public safety.

Create a new section of KRS Chapter 17 to provide a registration system for persons convicted of murder, define "registrant," and "murder," establish period of registration, and establish penalties for failure to register.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 281 - Representative Larry Clark (10/30/09)

AN ACT relating to the limited sale of alcoholic beverages by the drink at designated state parks.

Create new sections of KRS Chapter 242 and 243 to permit the limited sale of distilled spirits, wine, and malt beverages at state resort parks, and qualified state recreational parks; allow a local option election for state resort parks and qualified state recreational parks in dry territory; establish the conditions under which the election will be held; set forth what a state resort park license or qualified state recreational park license entitles the holder to do; amend KRS 243.030 to establish the licensing fee; amend KRS 243.050 to permit the office to establish the hours and days when a supplemental licensee shall be open; amend KRS 243.115 to permit patrons in a dining room in a state resort park to remove one container of partially consumed wine; amend KRS 243.117 to conform.

(Prefiled by the sponsor(s).)

BR 283 - Senator Denise Harper Angel (11/12/09)

AN ACT relating to personal communication devices.

Create a new section of KRS

Chapter 189 to prohibit text messaging, instant messaging, and e-mailing while operating a motor vehicle; define “personal communication device”; provide for specific exclusions; amend KRS 189.990 to set penalties; provide for a probationary period ending November 1, 2010, during which courtesy warnings will be issued; set fine for violation at \$100 for the first offense and not less than \$100 nor more than \$300 for each subsequent offense after the probationary period; set fine at not less than \$200 nor more than \$600 if the violation caused a motor vehicle accident.

(Prefiled by the sponsor(s).)

BR 295 - Representative Mary Lou Marzian (11/03/09)

AN ACT relating to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Create new sections of KRS Chapter 387 to enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, as recommended to the states by the National Conference of Commissioners on Uniform State laws, to govern jurisdictional questions and disputes between states in regard to cases concerning guardians and conservators; amend KRS 387.520 to conform.

(Prefiled by the sponsor(s).)

BR 297 - Representative Linda Belcher (10/29/09)

AN ACT relating to tuition for foster children.

Amend KRS 164.2847 to permit tuition and fee waivers for foster children taking dual credit or dual enrollment courses in high school.

(Prefiled by the sponsor(s).)

BR 298 - Representative Wilson Stone (10/27/09)

AN ACT relating to the Kentucky Licensed Practical Nurses Organization.

Amend KRS 314.121 to change the licensed practical nurse organization with the authority to nominate Board of Nursing members to the current LPN organization in Kentucky.

(Prefiled by the sponsor(s).)

BR 300 - Representative Tom Burch (10/15/09)

AN ACT relating to administrative regulations and declaring an emergency.

Amend KRS 13A.338 to de-

clare any administrative regulation found deficient since March 27, 2009, to be null, void, and unenforceable; prohibit the administrative agencies from promulgating administrative regulations identical to or substantially the same as that administrative regulation for a specified period of time; EMERGENCY.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 308 - Senator John Schickel (11/04/09)

AN ACT relating to public records.

Create a new section of KRS 65.750 to 65.760 to restrict the availability of recordings of 911 communications to releases by court order; permit release of written transcripts of 911 communications; permit the person who made communication and person who is the subject of communication to permit release of the communication without a court order; permit acquisition of recorded copy in criminal, civil, or administrative proceedings; provide that any person may listen to, but shall not make any recordings of, 911 communications; allow written notes of the contents of the communication; prohibit making any audio recording of actual communication when authorized to make notes about the communication; establish penalty.

(Prefiled by the sponsor(s).)

BR 315 - Senator Denise Harper Angel (11/12/09)

AN ACT relating to the limited sale of alcoholic beverages by the drink at designated state parks.

Create new sections of KRS Chapter 242 and 243 to permit the limited sale of distilled spirits, wine, and malt beverages at state resort parks, and qualified state recreational parks; allow a local option election for state resort parks and qualified state recreational parks in dry territory; establish the conditions under which the election will be held; set forth what a state resort park license or qualified state recreational park license entitles the holder to do; amend KRS 243.030 to establish the licensing fee; amend KRS 243.050 to permit the office to establish the hours and days when a supplemental licensee shall be open; amend KRS 243.115 to permit patrons in a dining room in a state resort park to remove one container of partially consumed wine; amend KRS 243.117 to conform.

(Prefiled by the sponsor(s).)

BR 318 - Representative Reginald Meeks (11/10/09)

AN ACT relating to the definition of “American Indian.”

Amend KRS 446.010 to define “American Indian” to mean a person having origins in any of the original peoples of North and South America and who maintains tribal affiliation or community attachment to the tribe of origin; make conforming amendments.

(Prefiled by the sponsor(s).)

BR 319 - Representative Reginald Meeks (11/10/09)

AN ACT relating to recognition of American Indian tribes.

Create a new section of KRS Chapter 171 to allow a group desiring to be formally recognized as an American Indian tribe to submit a petition to the Kentucky Native American Heritage Commission; provide criteria that must be met to be recognized as an American Indian tribe; authorize the Kentucky Native American Heritage Commission to approve petitions submitted for recognition, provide approved petitions to the Governor and, if the Governor accepts the recommendation, provide for issuance of an executive order recognizing the approved group; require the Kentucky Native American Heritage Commission to promulgate administrative regulations identifying the procedures to be followed in submitting a petition and appealing a decision of the commission.

(Prefiled by the sponsor(s).)

BR 320 - Representative Reginald Meeks (11/10/09)

AN ACT relating to human remains and burial objects.

Create new sections of KRS Chapter 171 to require persons excavating archaeological sites on private property to obtain a permit from the Kentucky Heritage Council; establish a process by which the landowner shall provide reasonable access to the cemeteries to the descendants and relatives of those buried within; place responsibility on the landowner to maintain the cemetery’s integrity; make denial of access to the cemetery a violation; set out a process by which the state shall dispose of human remains within its custody and control; permit a legally recognized tribal government to conduct reinterment ceremonies for Native Americans; require a person who encounters or accidentally disturbs human remains to immediately cease disturbing the ground in the area of the human remains; place responsibility

of encountered or accidentally discovered human remains on the cemetery owner or the state and require responsible party to dispose of; require persons wishing to possess human remains or burial objects to obtain a permit from the Vital Statistics Branch of the Department for Public Health and limit possession to teaching, medical, scientific, or training purposes; make unlawful possession of human remains or burial objects a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; require a person who unlawfully possesses human remains or burial objects to reimburse the state for the cost of properly disposing of the remains and objects; prohibit the excavation of human remains and burial objects; amend KRS 525.105 to delete the requirement that desecration of a venerated object is shown only when one’s purpose is commercial gain or exploitation; require that the tools, implements, or vehicles used in desecrating human objects be seized and sold with profits from such sale going to the council; require a violator to reimburse the Commonwealth for its costs in properly disposing of the human remains and the landowner for damage to the property; amend KRS 525.120 to increase penalty for abuse of a corpse from a Class A misdemeanor to a Class D felony; require human remains possessed or so used to be seized and forfeited to the state; require the violator to reimburse the Commonwealth for the cost of properly disposing of the human remains.

(Prefiled by the sponsor(s).)

BR 321 - Representative Reginald Meeks (11/10/09)

AN ACT relating to historic preservation.

Create new sections of KRS Chapter 381 relating to the disposition of historic or prehistoric human remains; declare public policy of the Commonwealth regarding historic or prehistoric human remains; define terms relating to the disposition of historic or prehistoric human remains; establish property confirmation process by which property owners or developers verify whether property contains known human remains; authorize the Kentucky Heritage Council to promulgate administrative regulations related to the disposition of historic and prehistoric human remains; prohibit the issuance of building permits under KRS Chapter 198B until the property owner or developer has completed the preconditions relating to human remains; formulate the procedures and requirements for a human remains outcome review; prescribe the procedures and requirements for an adverse

effects determination; list prohibited actions subject to the penalties prescribed in KRS 381.990 regarding the disposition of human remains; establish the procedures and requirements for a human remains disposition agreement between the Kentucky Heritage Council and a property owner or developer; authorize the Kentucky Heritage Council to establish a plan for the disposition of human remains if a human remains disposition agreement cannot be reached; create an emergency inspection process for unforeseen human remains or unforeseen adverse effects on human remains; allow property owners or developers to appeal in specified ways when aggrieved by decisions of the Kentucky Heritage Council; exempt from human remains disposition process actions taken under KRS 381.755 or KRS Chapter 72, surface coal mining conducted in accordance with a permit issued under KRS Chapter 350, archaeological investigations and data recovery projects conducted under relevant portions of the federal National Historic Preservation Act of 1966, and archaeological surveys; amend KRS 381.990 to create the offense of intentional desecration of human remains; levy fines of not less than \$1,000 and not more than \$2,000 for each act of intentional desecration of human remains; declare that intentional desecration of human remains is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; amend KRS 164.715 to state that no person shall willfully injure, destroy, or deface any human remains found on any property when protected under this Act; make technical corrections to conform; amend KRS 171.313 to require the Kentucky Historical Society to cooperate in the processes established under this Act; make technical corrections to conform; amend KRS 171.381 to require the Kentucky Heritage Council to develop and control the system for the disposition of human remains under this Act; make technical corrections; require the state historic preservation officer to coordinate and administer the system for the disposition of historic and prehistoric human remains established under this Act; make technical corrections to conform.

(Prefiled by the sponsor(s).)

BR 322 - Representative Reginald Meeks (11/10/09)

AN ACT relating to recycling.

Amend KRS 224.10-650 to require agencies of the executive, legislative, and judicial branches of state government and all state-supported institutions of higher education to report

estimated waste recycled during the prior fiscal year; delete requirement to report recycled aluminum; allow state agencies in Franklin County that participate in the State Office Paper Recycling Program to utilize an alternative to reporting quantities in pounds.

(Prefiled by the sponsor(s).)

BR 323 - Representative Reginald Meeks (10/29/09)

AN ACT relating to charitable gaming.

Amend KRS 238.540 to require that charitable gaming be conducted only by officers, members, and employees of the licensed charitable organization; require mandatory training for chief executive officers, chief financial officers, and chairpersons of charitable organizations before being issued a license and at other times prescribed by administrative regulation and other times prescribed by administrative regulation.

(Prefiled by the sponsor(s).)

BR 324 - Representative Reginald Meeks (11/10/09)

A CONCURRENT RESOLUTION directing the Legislative Research Commission to study whether counties should be offered the option of conducting elections in centralized voting centers, rather than in voting precincts, and whether counties should offer voters the opportunity to vote early or to vote during extended periods of time.

Direct the Legislative Research Commission to study whether counties should be offered the option of conducting elections in centralized voting centers rather than in voting precincts.

(Prefiled by the sponsor(s).)

BR 327 - Representative Bill Farmer (11/09/09)

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 334 - Representative Ted Edmonds (10/20/09)

AN ACT relating to county

consolidation.

Create new sections of KRS Chapter 67 to establish a new procedure for the optional consolidation of counties; exclude consolidated local governments, charter county governments, urban-county governments, and unified local governments from the procedures; permit two or more counties to consolidate with such action initiated by public petition or local ordinance; require signatures of 20% or more of the number of persons voting in last presidential election for initiation petition; provide for the contents and certification of petitions as prescribed; require the county judge/executive in the initiating county within 10 days to notify the other local governments and their citizens of the proposal as prescribed; require responding action in adjoining counties within 120 days or initial action becomes void; require a special election within 90 days if adjoining counties enter the process; require approval in each county for consolidation to become effective; prescribe the language for the ballot, other election procedures, and advertisement of the election by the sheriff; require a simple majority of those voting in each county for approval; require all election costs to be paid for by the state, and prohibit any organizational changes in a newly consolidated county for 10 years; prohibit any new county from becoming effective until the end of terms of current officeholders and require new officers to be elected in the same manner and at same time as other county officials; require the county judge/executive in each county to appoint 6 citizens to a transition committee as prescribed; require transition committee to divide county into 3-8 magisterial districts and to select 2-5 names for the new county to be decided by the voters; require final report of the transition committee as prescribed; provide for a gubernatorial appointee to break tie vote on questions relating the name of the new county, the formation of magisterial districts, or other issues on ballot; require all taxes from immediate year to remain in effect until changed by the new county; require the creation of a special taxing district for repayment of prior financial obligations in previously existing counties as prescribed; require surplus funds to be spent in the areas where funds were raised as prescribed; permit voters to determine the location of new county seat from previously existing locations; require county seat to remain at that location for not less than 10 years; require other remaining county buildings to be maintained as branch offices for 10 years as prescribed; provide for federal and state election districts as prescribed; require the Governor's Office for Local Development to promulgate administrative regulations

awarding preference points on community development block grant applications and provide technical and advisory assistance to consolidated counties; require, upon consolidation, all appointments to boards of special districts to remain in effect until the expiration of the term, at which point the appropriate appointing authority shall make new appointments; and repeal KRS 67.190, 67.200, 67.210, 67.220, 67.230, 67.240, 67.250, 67.260, 67.270, 67.280, 67.290, and 67.310.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Local Government

BR 336 - Representative Reginald Meeks (11/10/09)

AN ACT relating to compulsory school age.

Amend KRS 159.010 to provide that effective July 1, 2011, compulsory school attendance shall be between the ages of six and seventeen; provide that effective July 1, 2012, compulsory school attendance shall be between the ages of six and eighteen; permit parents to withdraw a child older than the required age after a counseling session with a school counselor; amend KRS 159.020 to conform.

(Prefiled by the sponsor(s).)

BR 338 - Representative Reginald Meeks (11/10/09)

AN ACT relating to the lottery.

Amend KRS 154A.020 to allow government programs and services to be mentioned in advertising or promoting a lottery; amend KRS 154A.050 to allow the Lottery Board, in its advertising and promoting of the lottery, to describe government programs and services that benefit from and are supported by lottery proceeds.

(Prefiled by the sponsor(s).)

BR 341 - Representative Mike Denham (10/26/09)

AN ACT relating to crimes and punishments.

Amend KRS 500.080 to include loss of consciousness within the definition of physical injury; amend KRS 508.020 to include intentionally or wantonly causing physical injury by means of strangulation within the offense of assault in the second degree.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 348 - Representative Stan Lee (11/06/09)

AN ACT relating to firearms, including ammunition and accessories for firearms.

Create new sections of KRS Chapter 237, relating to firearms, firearm accessories and ammunition that are made in Kentucky, marked made in Kentucky, and used in Kentucky, to specify that these items are exempt from federal law; provide that the exemption does not include machine guns, silencers, exploding ammunition, or firearms with a bore over one and one-half inches name the new sections the "Kentucky Firearms Freedom Act."

(Prefiled by the sponsor(s).)

BR 355 - Representative Dennis Horlander (10/29/09)

AN ACT relating to crimes and punishments.

Amend KRS 508.025 relating to third degree assault to include an assault on an operator or passenger of a taxi, bus, or other passenger vehicle for hire within that offense; amend KRS 508.050 and 525.060 relating to menacing and disorderly conduct to increase the penalty for those offenses where the offense is committed against an operator or passenger of a taxi, bus, or other passenger vehicle for hire.

(Prefiled by the sponsor(s).)

BR 367 - Representative Mike Cherry (10/26/09)

AN ACT relating to honoring military service.

Amend KRS 18A.150 to require that an employing state agency offer an interview to all finalists entitled to preference points if there are fewer than five finalists, and to no fewer than five if there are five or more; amend to clarify veteran eligibility.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Veterans, Military Affairs and Public Protection

BR 371 - Senator David E. Boswell (11/03/09)

A RESOLUTION urging awareness and education for Spinal Muscular Atrophy.

Urge public health and health-care professionals and entities to take an active role in raising awareness and educating Kentucky citizens about Spinal Muscular Atrophy.

(Prefiled by the sponsor(s).)

BR 372 - Senator Walter Blevins Jr. (11/09/09)

AN ACT relating to denture identification.

Create new section of KRS Chapter 313 to require a removable prosthetic denture constructed, altered, repaired, or duplicated by a licensed dentist or under a written laboratory procedure work order to be marked with the name of the patient for whom the denture is intended.

(Prefiled by the sponsor(s).)

BR 377 - Representative Mike Cherry (11/12/09)

AN ACT relating to special license plates.

Amend KRS 186.041 to permit the surviving spouse of a Purple Heart recipient to keep special license plate assigned to that recipient.

(Prefiled by the sponsor(s).)

BR 380 - Representative Kent Stevens (11/17/09)

AN ACT relating to Personnel Board elections and declaring an emergency.

Amend KRS 18A.0551 to change the Personnel Board election dates and related deadlines; substitute a unique personal identification number for social security numbers; delete requirements for mailing ballots and double envelopes and substitute notification requirement; provide for delivery of ballots to board by any means; allow state employees to use state materials or equipment except for state-paid first class postage to vote; allow the board to promulgate administrative regulations to set out methods and procedures for notifying merit employees of the candidates and instructions for voting; and declare an emergency.

(Prefiled by the sponsor(s).)

BR 390 - Representative Kent Stevens (11/17/09)

A CONCURRENT RESOLUTION designating March as Kidney Cancer Awareness Month in Kentucky.

Designate March 2010 as Kidney Cancer Awareness Month in Kentucky.

(Prefiled by the sponsor(s).)

BR 394 - Representative Darryl T. Owens (11/13/09)

AN ACT relating to elections.

Amend KRS 118.176 to add candidates for special elections to current definitions; amend KRS 118.315, 118.365, 118.367, and 118.770 to include political organization or political group candidates as candidates required to file nomination papers for a regular election; amend KRS 118.375 to change from 106 days to three months as the minimum amount of time that certain candidates may file petitions for a vacant elective office; amend KRS 118.760 to state the procedures to be followed for the nomination of independent, political organization, or political group candidates for a special election; amend KRS 118A.100 to establish petition standards for candidates for an unexpired term of a judicial office; amend KRS 118A.190 to establish for the board of elections of each county a certification deadline to the Secretary of State following primary or regular election.

(Prefiled by the sponsor(s).)

BR 398 - Senator David L. Williams, Senator Ken Winters (10/29/09)

A JOINT RESOLUTION relating to school funding.

Allow school districts to calculate the average daily attendance for the 2009-2010 school year by using the higher of the average daily attendance rate for the 2007-2008 school year or the 2008-2009 school year, multiplied by the average daily membership for the 2009-2010 school year.

(Prefiled by the sponsor(s).)

BR 424 - Representative Charles Miller (11/13/09)

AN ACT relating to inspections of manufactured homes.

Amend KRS 227.570 to establish a fee not to exceed \$150 for inspection of new manufactured home installations; allow the Manufactured Home Certification and Licensure Board to set the fee through administrative regulation; allow the board to increase the fee by no more than ten percent year, with the limit still set at \$150 total after any increases; deposit fee proceeds in the trust and agency fund.

(Prefiled by the sponsor(s).)

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* - denotes primary sponsorship of BRs

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