2010 Interim
LEGISLATIVE RECORD
Volume 23, No. 6
November 2010
* Read on-line at www.lrc.ky.gov/legislation.htm*

Hyland receives 2010 Vic Hellard Jr. Award

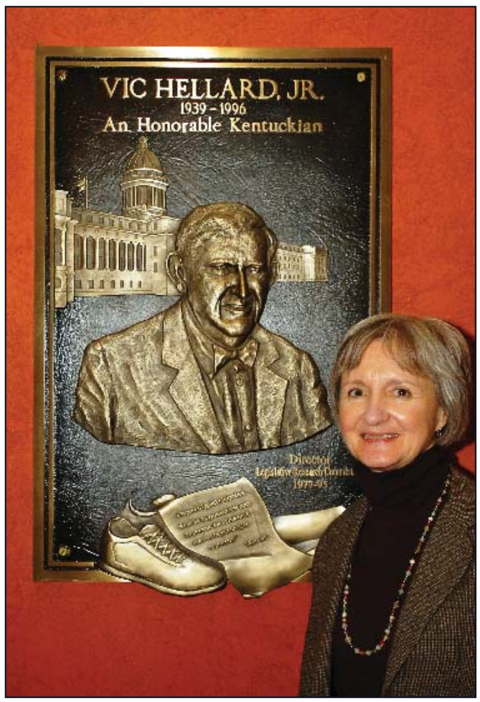
by Scott Payton
LRC Public Information

Peggy Hyland, who served the Kentucky General Assembly in increasingly responsible roles over a distinguished 26-year career with the Legislative Research Commission staff, has been named recipient of the 2010 Vic Hellard Jr. Award for excellence in public service.

The Hellard Award has been given annually since 1997. Hyland, of Louisville, was selected for this year's honor by the 16-member legislative leadership that comprises the LRC. The LRC assumed responsibility for the award this year. *(See sidebar for past Hellard Award recipients)*.

Hellard himself was the executive director of the LRC staff for 19 years, a period covering most of Hyland's service.

In announcing the award, LRC co-chairs David L.Williams, President of the Senate, and Greg Stumbo, Speaker of the House, said Hyland's selection was especially well-deserved, given the crucial but behind-the-scenes nature of her work on behalf of millions of Kentuckians who'd never heard her name.



Peggy Hyland was selected to receive the 2010 Vic Hellard Jr. Award for her dedicated service during a 26-year career with the Legislative Research Commission. She retired from the LRC in 2002.

Hyland earned a reputation for professionalism, nonpartisanship, fairness and good humor.

"In her 26 years here, Peggy was an unsung hero who embodied the best in legislative staffing," Williams said. "She developed a well-earned reputation for professionalism, even-handed nonpartisanship, fairness and good humor. And she devoted her whole career to serving the people of Kentucky without seeking or expecting public credit or applause. If for her selfless dedication alone, this public recognition of her invaluable contribution is long-overdue."

After joining the LRC staff in 1976, Hyland's career arc with the agency saw her rise steadily from committee staff to assistant director, deputy director and —during a challenging hiatus between appointed directors in the late '90s—acting interim director. Her focus was committee and staff coordination, seeing that the Legislature's all-important committee system ran smoothly.

But Hyland's career was not limited to committee and staff work. In fact, she was in some ways most noted for her advocacy of a concept considered innovative among legislative service agencies at the time: The use of committee staff and agency resources to identify emerging issues and trends, and to brief lawmakers in advance on problems—and solutions—before a cloud on the horizon became a full-blown storm.

"Peggy virtually invented the concept of long-term

Continued on page 2

Vic Hellard Jr. Award past winners

2009
Congressman Romano Mazzoli

2008
Sally Brown

2007
John R. Hall

2006
Sylvia L. Lovely

2005
William H. Hintze

2004
Robert M. "Mike" Duncan

2003
Walter A. Baker

2002
Virginia G. Fox

2001
Thomas D. Clark

2000
Albert P. (Al) Smith

1999
Mary Helen Miller

1998
Joseph W. Kelly

1997
Anthony M. Wilhoit

Peggy Hyland,
from page 1

issues identification within legislatures," Stumbo said. "She saw clearly that too often, a legislature is simply a reactive body, careening from problem to problem and crisis to crisis. Her ideas were visionary. She advocated them tirelessly, with Vic Hellard's enthusiastic support. And she taught them to others on the LRC committee staff and got them involved. She was a champion of legislative independence, and saw that a strong Legislature is built on a solid base of knowledge."

She retired from the agency in 2002.

Hyland herself expressed "surprise and deep gratitude" upon learning of the award.

"To be recognized by the LRC, which I devoted most of my professional life to serving, is an honor beyond expression," she said. "That the award bears the name of my great friend and mentor Vic Hellard only deepens my sense of being humbled and truly honored.

"But most especially, I realize I share it with the hundreds of legislative staffers who have worked long hours in virtual anonymity, far from any limelight, to serve the people of Kentucky and the branch of government closest to them, what Vic always called The People's Branch. Their names should be on this award along with mine."

The Hellard Award is named for Vic Hellard Jr., longtime LRC director who retired in 1995, a year before his death. Sometimes called 'The Shepherd of Legislative Independence,' Hellard was a strong believer in democracy and its institutions, and that an independent legislative branch was a cornerstone of democracy's success.

After becoming LRC director in 1976, he built it into a highly professional organization capable of supporting and sustaining the Legislature's drive to achieve co-equal status with the governor. He was a true believer in that cause, and mentored many of the idealistic young staff—including Hyland— who sought him out to work for him and the emerging Legislature over the years.

The award bearing his name requires the recipient to embody certain specific qualities that Hellard himself brought to public service: Vision, seeking innovation while cherishing history, championing the equality and dignity of all citizens, enhancing the civic processes of a democratic society, and approaching that work with commitment, caring, generosity and humor.

Current LRC Director Robert Sherman, a close colleague of Hyland's for 23 years, said throughout her career, she embodied the traits that Hellard most admired in public servants.

Peggy Hyland with late Legislative Research Commission Executive Director Vic Hellard Jr. during Hellard's 19-year tenure at the helm of the agency. Hyland is the 2010 recipient of the Vic Hellard Jr. Award named for Hellard.

"Vic taught Peggy from early in her career here, and came to rely on her for her steadiness and solid counsel," Sherman said. "He always had absolute faith in Peggy as an exemplary legislative staffer. I'm sure he'd be pleased that a member of his legislative family was chosen the first year the award is being given by the LRC itself. And I know he'd be especially pleased it was Peggy."

Lawmakers updated on health reform as session nears

by Chuck Truesdell
LRC Public Information

LOUISVILLE — The state's Department of Insurance is working at breakneck pace to prepare for federally required changes in health care regulations and will present an omnibus bill to codify the consumer protection portions, the department's commissioner told a panel of lawmakers on Nov. 12.

Commissioner Sharon Clark updated the Interim Joint Committee on Banking and Insurance on the state's progress since August 24, when she last presented the group with information about Kentucky's efforts to implement federal requirements.

Many of the items taking effect early impact consumers' access to insurance products, she said, with anti-rescission language and the elimination of annual and lifetime limits among them. Although the state has many similar regulations in place, the exact text may not match federal law, so the department will present the General Assembly with a proposal in 2011 to create matching language.

Without revising state law, Clark said, officials in Kentucky may not be able to help consumers on their own when they encounter problems. "I don't want to have to send them to Washington," she said. Although there is sentiment at the federal level to repeal some aspects of the legislation, she said the portions dealing with consumer protections will likely survive.

The other possible legislation lawmakers could face next year involves health insurance exchanges, which Clark likened to a shopping mall. The centralized marketplace would allow individuals and small groups to more easily compare plans and prices. To have such an exchange up and running by 2014 would probably require some sort of basic framework in place this year, she said.

The concern about the exchange, she noted, is whether Kentucky will offer its own exchange or work with other states to create a multi-state exchange. Because of Kentucky's size and demographics, she said, Kentucky might be overwhelmed by larger states in such an arrangement.

Rep. Bob Damron, D-Nicholasville, suggested that any legislative framework allow the Department of Insurance wide latitude to develop the basics of a state exchange while collaborating with other states. Because a large portion of Kentucky citizens live near the state line, he said, being able to access health care in surrounding states will be essential to effective coverage.

Clark said the state has received a $1 million federal grant to plan an exchange, with the bulk of the money going to research. "I can tell you we have 600,000 uninsured in Kentucky, but I can't tell you who they are. I can't tell you where they are," she said. The reason for the lack of coverage will play a large role in how the exchange is designed, she added, with town forums held to gather information.

Local government panel reviews stimulus funds

by Rebecca Mullins Hanchett
LRC Public Information

The $3.47 billion that Kentucky has received in federal stimulus funds has led to more than 10,800 Kentucky jobs and billions of dollars for state Medicaid, education, water, transportation and other projects in Kentucky communities, state Finance officials said Nov. 17.

Greg Haskamp with the Finance and Administration Cabinet told the Interim Joint Committee on Local Government that the $3.4 billion is "significantly more" than the state expected to receive under the 2009 American Recovery and Reinvestment Act. The amount also makes Kentucky the 25th largest stimulus award recipient among all 50 states, he said.

> Kentucky's federal stimulus funds are expected to peak in 2011, although key areas will receive funding for years to come.

"We've had more need for services and benefits because of the severity of the recession," Haskamp told committee members.

Haskamp said federal stimulus funding will peak next year, but that key areas—including certain research initiatives—will continue to be infused with stimulus dollars over the next five years.

Locally, Kentuckians are benefiting or will benefit from more than $1.3 billion in stimulus funds set aside for health and human services including over $940 million for Medicaid, $49 million for family assistance, $34 million in child care assistance, $33 million for Head Start and other programs, said Haskamp. Education is the second largest recipient of stimulus funds in the state, he explained, receiving at least $924 million for fiscal relief, school improvement, technology and other programs statewide.

Infrastructure stimulus funds totaling more than $882 million are also benefiting local communities, explained Haskamp. Over 200 individual transportation projects and dozens of drinking water projects, among other needs, have been made possible by the funds, which has also brought an additional $118 million for corrections and public safety and over $200 million for energy projects to Kentucky.

Drawing considerable attention from some lawmakers was Haskamp's report that stimulus funds have created or retained 10,885 Kentucky jobs—each equivalent to a 40-hour full-time position, he said.

Rep. Stan Lee, R-Lexington, asked Haskamp if he credits the stimulus bill for the job gains quoted in Haskamp's report. Haskamp replied that the jobs were hours worked because of the stimulus funding and "would not have been worked without them."

"It is a combination of either gaining or retaining those hours," he told Lee.

Bill Riggs with the Finance Cabinet reaffirmed that stimulus package created payroll for the state. "These were a mixture of new jobs that didn't exist before, and jobs that are supported because the stimulus dollars were there," he told the committee.

Committee House Co-Chair Rep. Steve Riggs, D-Jeffersontown, said the information provided by the Finance Cabinet will be helpful if or when more questions arise concerning the stimulus package and its cost.

"I think it will come in very handy as we go out and meet with our citizens and (answer) some of the questions they may have for us dealing with stimulus spending and how it affects local government," said Rep. Riggs.

Stating the stimulus money is taxpayer money, the committee's Senate Co-Chair Sen. Damon Thayer, R-Georgetown, said he suspects that the debate on whether the package was a good idea will continue.

"When we talk about stimulus dollars, we need to remember that these dollars come from one place and that's the taxpayer...," he said.

2011 Session Calendar

2011 REGULAR SESSION CALENDAR
(Approved by LRC Co-Chairs 9/1/10)

JANUARY – PART I

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

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

FEBRUARY – PART II

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

( ) Denotes Legislative Day

MARCH

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

2010
KENTUCKY
General Assembly

Senate

Walter Blevins, Jr.
115 Hill N Dale Morehead 40351
Work 606-743-1212
Home 606-743-1200
FAX 606-743-1214

David E. Boswell
5591 Panther Creek Park Drive
Owensboro 42301
Home 270-771-4921
Fax 270-926-9047

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

Julian M. Carroll
Room 229 Capitol Annex
Frankfort 40601
Work 502-564-8100

Perry B. Clark
5716 New Cut Road Louisville 40214
Home 502-366-1247

Julie C. Denton
1708 Golden Leaf Way
Louisville 40245
Home 502-489-9058

Carroll Gibson
PO Box 506 Leitchfield 42755
Work 502-564-8100
Home 270-230-5866

David P. Givens
PO Box 12 Greensburg 42743
Work 502-564-8100

Denise Harper Angel
2521 Ransdell Ave. Louisville 40204
Home 502-452-9130

Ernie Harris
PO Box 1073 Crestwood 40014
Home 502-241-8307

Jimmy Higdon
507 West Main Street Lebanon 40033
Work 270-692-3881
Work FAX 270-692-1111

Tom Jensen
303 S. Main Street London 40741
Home 606-878-8845

Ray S. Jones II
PO Drawer 3850 Pikeville 41502
Work 606-432-5777
FAX 606-432-5154

Alice Forgy Kerr
3274 Gondola Dr. Lexington 40513
Home 859-223-3274

Robert J. "Bob" Leeper
229 South Friendship Paducah 42003
Work 270-554-9637
Home 270-554-2771
FAX 270-554-5337

Vernie McGaha
4787 W. Hwy. 76
Russell Springs 42642
Home 270-866-3068

Gerald A. Neal
Suite 2150 Meidinger Twr
462 S. 4th Street
Louisville 40202
Work 502-584-8500
Home 502-776-1222
FAX 502-584-1119

R.J. Palmer II
1391 McClure Road Winchester 40391
Home 859-737-2945

Joey Pendleton
905 Hurst Dr. Hopkinsville 42240
Home 270-885-1639
FAX 270-885-0640

Mike Reynolds
PO Box 4000 Bowling Green 42102
Work 502-564-8100

Jerry P. Rhoads
9 East Center Street
Madisonville 42431
Home 270-825-2949

Dorsey Ridley
4030 Hidden Creek
Henderson 42420
Home 270-826-5402
Work 270-869-0505

John Schickel
PO Box 991 Union 41091
Home 859-384-7506
Work 502-564-8100

Dan "Malano" Seum
1107 Holly Ave. Fairdale 40118
Work 502-564-2450
Home 502-749-2859

Tim Shaughnessy
9712 Southern Breeze Lane
Louisville 40229
Work 502-584-1920

Brandon Smith
350 Kentucky Blvd.
Hazard 41701
Home 606-436-4526
Home FAX 606-436-2398

Kathy W. Stein
364 Transylvania Park Lexington 40508
Work 859-225-4269
Home 859-252-1500

Katie Kratz Stine
21 Fairway Drive Southgate 41071
Home 859-781-5311

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

Gary Tapp
308 Fishermen Circle Shelbyville 40065
Home 502-633-2304

Damon Thayer
102 Grayson Way Georgetown 40324
Home 859-621-6956
FAX 502-868-6086

Elizabeth Tori
2851 S. Wilson Rd. Radcliff 40160
Home 270-351-1829
FAX 270-351-1829

Johnny Ray Turner
85 Kentucky Route 1101 Drift 41619
Home 606-377-6962

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

Jack Westwood
209 Graves Ave. Erlanger 41018
Home 859-344-6154

David L. Williams
PO Box 666
Burkesville 42717
Work 270-864-5636
Home 270-433-7777

Ken Winters
1500 Glendale Road Murray 42075
Home 270-759-5751

Ed Worley
PO Box 659 Richmond 40476
Home 859-625-5536
FAX 859-623-6557

House of Representatives

Royce W. Adams
580 Bannister Rd. Dry Ridge 41035
Work 859-824-3387
Home 859-428-1039

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

John A. Arnold, Jr.
PO Box 124 Sturgis 42459
Work 270-333-4641

Eddie Ballard
PO Box 1735 Madisonville 42431
Work 270-821-4767
Home 270-821-6255

Linda Belcher
4804 Hickory Hollow Lane
Shepherdsville 40165
Home 502-957-2793

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

Kevin D. Bratcher
10215 Landwood Drive
Louisville 40291
Home 502-231-3311

Scott W. Brinkman
6001 Two Springs Lane
Louisville 40207
Home 502-893-8769
FAX 502-894-0210

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

Dwight D. Butler
PO Box 9 Harned 40144
Work 270-756-5931
Home 270-756-0100

John "Bam" Carney
341 Pembroke Way Campbellsville
42718
Home 270-465-5400

Mike Cherry
803 S. Jefferson Princeton 42445
Home 270-365-7801

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

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

Leslie Combs
245 E. Cedar Drive Pikeville 41501
Home 606-477-6672

James R. Comer, Jr.
PO Box 338 Tompkinsville 42167
Home 270-487-5585

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

Will Coursey
PO Box 467 Benton 42025-0467
Home 270-527-4610
Work 270-527-4610

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

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

Robert R. Damron
231 Fairway West Nicholasville 40356
Home 859-887-1744

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

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

Bob M. DeWeese
6206 Glen Hill Rd. Louisville 40222
Home 502-426-5565

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

Ted Edmonds
1257 Beattyville Road Jackson 41339
Home 606-666-4823

C.B. Embry, Jr.
PO 1215 Morgantown 42261
Work 270-526-6237
Home 270-791-1879

Bill Farmer
3361 Squire Oak Dr. Lexington 40515
Work 859-272-1425
Home 859-272-8675
FAX 859-272-1579

Tim Firkins
212 E. Esplanade Louisville 40214
Home/FAX 502-367-2981

Joseph M. Fischer
126 Dixie Place Fort Thomas 41075
Work 513-794-6442
Home 859-781-6965

Kelly Flood
121 Arcadia Park Lexington 40503
Home 859-221-3107

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

Danny Ford
PO Box 1245 Mt. Vernon 40456
Work 606-678-0051
Home 606-256-4446

Jim Glenn
PO Box 21562 Owensboro 42304
Home 270-686-8760

Jim Gooch, Jr.
714 North Broadway B2
Providence 42450
Work 270-635-7855
Home 270-667-7327
FAX 270-667-5111

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

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

Keith Hall
PO Box 466 Phelps 41553
Work 606-456-3432 Ext. 25
Home 606-456-8666

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

Richard Henderson
60 Myers Cemetery Rd. Jeffersonville 40337
Home 859-585-0886

Melvin B. Henley
1305 S. 16th Street Murray 42071
Home 270-753-3855

Charlie Hoffman
406 Bourbon St. Georgetown 40324
Work 502-863-4807
Home 502-863-9796

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

Dennis Horlander
1806 Farnsley Rd. Shively 40216
Work 502-447-2498
Home 502-447-4715

Brent Housman
2307 Jefferson Street Paducah 42001
Home 270-366-6611
Home/FAX 270-442-6394

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

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

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

Martha Jane King
633 Little Cliff Estate Lewisburg 42256
Home 270-657-2707
FAX 270-657-2755

Adam Koenig
3346 Canterbury Ct. Erlanger 41018
Home 859-578-9258

Jimmie Lee
901 Dogwood Drive Elizabethtown 42701
Work 270-765-6222
Home 270-737-8889

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

Mary Lou Marzian
2007 Tyler Ln. Louisville 40205
Home 502-451-5032

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

Reginald Meeks
PO Box 757 Louisville 40201
Work 502-772-1095

Charles Miller
3608 Gateview Circle Louisville 40272
Home 502-937-7788

Terry Mills
695 McElroy Pike Lebanon 40033
Home 270-692-2757

Harry Moberly, Jr.
PO Box 721 Richmond 40475
Work 859-622-4997
Home 859-624-2781

Brad Montell
543 Main Street Shelbyville 40066
Work 502-633-7017
Home 502-633-7533

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

Lonnie Napier
302 Danville St., Lancaster 40444
Work 859-792-2535
Home 859-792-4860

Rick G. Nelson
Rt. 3, Box 686 Middlesboro 40965
Home/FAX 606-248-8828

Fred Nesler
PO Box 308 Mayfield 42066
Work 270-623-6184
Home 270-247-8557
FAX 270-623-6431

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

Sannie Overly
340 Main Street Paris 40361
Home 859-987-9879

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

Ruth Ann Palumbo
10 Deepwood Dr. Lexington 40505
Home 859-299-2597

Don Pasley
5805 Ecton Road Winchester 40391
Home 859-842-3337

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

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

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

Jody Richards
817 Culpeper St. Bowling Green 42103
Work 270-781-9946
Home 270-842-6731
FAX 270-781-9963

Steve Riggs
8108 Thornwood Road Louisville 40220
LRC 502-564-8100
FAX 502-564-6543

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

Carl Rollins II
PO Box 424 Midway 40347
Home 859-846-4407
Work 502-696-7474

Steven Rudy
3430 Blueridge Dr. W. Paducah 42086
Home 270-744-8137

Sal Santoro
596 Walterlot Ct. Florence 41042
Home 859-371-8840
FAX 859-371-4060

Charles Siler
3570 Tackett Creek Rd.
Williamsburg 40769
Work 606-549-0900

Arnold Simpson
112 W. 11th Street Covington 41011
Work 859-261-6577
Home 859-581-6521

Dottie Sims
459 Violet Ave. Horse Cave 42749
Home 270-786-3948

Kevin Sinnette
PO Box 1358 Ashland 41105
Home 606-324-5711
Home FAX 606-329-1430

Ancel Smith
1812 Wiley Fork Road Leburn 41831
Work 502-564-8100, ext. 668
Home 606-785-3844

John Will Stacy
PO Box 135 West Liberty 41472
Home/FAX 606-743-1516

Fitz Steele
176 Woodland Ave. Hazard 41701
Home/FAX 606-439-0556

Kent Stevens
PO Box 481 Lawrenceburg 40342
Home 502-839-5462

Jim Stewart III
545 KY 223 Flat Lick 40935
Home 606-542-5210

Wilson Stone
1481 Jefferson School Road
Scottsville 42164
Home 270-622-5054

Greg Stumbo
Box 1473 108 Kassidy Drive
Prestonsburg 41653
Home 606-886-9953

Tommy Thompson
PO Box 458 Owensboro 42302
Home 270-926-1740
FAX 270-685-3242

John Tilley
PO Box 1065 Hopkinsville 42241
Home 270-881-4717
Work 270-886-6800
FAX 270-885-7127

Tommy Turner
175 Clifty Grove Church Road
Somerset 42501
Home 606-274-5175

Ken Upchurch
PO Box 969 Monticello 42633
Work 606-340-8490

David Watkins
5600 Timberlane Dr. Henderson 42420
Home 270-826-0952
FAX 270-826-3338

Jim Wayne
1280 Royal Ave. Louisville 40204
Work 502-451-8262

Alecia Webb-Edgington
1650 Chestnut Ct. Fort Wright 41011
Home 859-426-7322

Ron Weston
423 Chieftain Drive Fairdale 40118
502-564-8100

Susan Westrom
PO Box 22778 Lexington 40522-2778
Work 859-266-7581

Addia Wuchner
PO Box 911 Burlington 41005
Work 859-525-6698

Brent Yonts
232 Norman Circle Greenville 42345
Work 270-338-0816
Home 270-338-6790
FAX 270-338-1639

Jill York
PO Box 591 Grayson 41143
Work 606-474-7263
Work FAX 606-474-7638

Committee Meetings

Index

LEGISLATIVE RESEARCH COMMISSION

Minutes of the 532nd Meeting
October 6, 2010

Call to Order and Roll Call

The 532nd meeting of the Legislative Research Commission was held on Wednesday, October 6, 2010, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

LRC Staff: Bobby Sherman and Christy Glass.

Representative Stumbo called the meeting to order and the secretary called the roll. There being a quorum present, Representative Stumbo called for a motion to approve the minutes of July 28, 2010, meeting; 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 P. under New Business; and accept and refer as indicated items 1. through 25. under Communications. A motion was made by Representative Damon and seconded by Senator Turner. A roll call vote was taken and the motion passed unanimously. The following items were approved, accepted, or referred:

The minutes of the July 28, 2010, meeting were approved.

STAFF AND COMMITTEE REPORTS

Information requests for July through September 2010.

Committee Activity Report for July through September 2010.

Reports of the Administrative Regulation Review Subcommittee meetings of July 13, August 10, and September 14, 2010.

From Bobby Sherman: Memorandum regarding mistaken referral of BR 49.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meetings of July 21, August 18, and September 15, 2010.

Committee review of Executive Reorganization Order 2010-431 by the Interim Joint Committee on Health and Welfare during its meeting of July 21, 2010.

Committee review of Executive Reorganization Order 2010-428 by the Interim Joint Committee on State Government during its meeting of July 21, 2010.

Committee review of Executive Reorganization Order 2010-436 by the Interim Joint Committee on State Government during its meeting of July 21, 2010.

NEW BUSINESS

Referral of prefiled bills to the following committees: BR 52 (relating to pawnbrokers), BR 54 (relating to the exclusion of abortion coverage for health insurance exchanges), and BR 68 (relating the continuity of health care) to Banking and Insurance; BR 70 (authorizing and directing a comprehensive study of the effectiveness of the economic development initiatives and incentives of the Commonwealth) to Economic Development and Tourism; BR 21 (relating to digital citizenship), BR 32 (relating to career and technical education, making an appropriation therefor, and declaring an emergency), BR 111 (relating to school attendance), BR 123 (relating to university undergraduate completion), BR 136 (relating to school funding), BR 162 (relating to school funding), and BR 163 (relating to fees in public universities and colleges) to Education; BR 17 (relating to the care of individuals with mental retardation or other developmental disorders), and BR 121 (relating to out-of-state durable medical equipment providers) to Health and Welfare; BR 33 (relating to driving under the influence), BR 92 (relating to firearms, including ammunition and accessories for firearms), BR 97 (relating to crimes and punishments), BR 131 (relating to domestic violence), and BR 161 (relating to firearms, including ammunition and accessories for firearms) to Judiciary; BR 19 (relating to wastewater) and BR 46 (relating to underground petroleum storage tank contractors) to Natural Resources and Environment; BR 43 (relating to public records), BR 55 (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), BR 61 (proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote), BR 62 (relating to public financing for judicial campaigns), BR 69 (relating to campaign finance), BR 71 (proposing to amend the Constitution of Kentucky relating to hunting, fishing, and harvesting wildlife), BR 75 (relating to public records), BR 130 (relating to publications of state agencies), BR 132 (relating to state employee health insurance), BR 153 (proposing an amendment to Section 42 of the Constitution of Kentucky), and BR 154 (relating to the General Assembly) to State Government; BR 98 (relating to emergency vehicles) and BR 143 (relating to coroners) to Transportation.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): 302 KAR 20:020 (General requirements for interstate and intrastate movement of animals), 302 KAR 20:050 (Carcasses), 302 KAR 20:115 & E (Vesicular stomatitis), and 302 KAR 21:005 & E (Animal disease to be reported) to Agriculture; 103 KAR 31:102 (Rebate for a governmental public facility), 907 KAR 1:014 & E (Outpatient hospital services), and 907 KAR 5:005 & E (Health insurance premium payment (HIPP) program) to Appropriations and Revenue; 40 KAR 2:350 (Debt adjusters), 806 KAR 9:001 (Prelicensing courses of study; instructors), 806 KAR 9:060 (Identification cards), 806 KAR 9:070 (Examinations), 806 KAR 9:121 (Repeal of 806 KAR 9:120, 9:130, 9:250 and 9:280), 806 KAR 17:180 (Standard health benefit plan), 806 KAR 17:540 (ICARE Program high-cost conditions), 806 KAR 17:545 (ICARE Program employer eligibility, application process, and requirements), 806 KAR 17:555 (ICARE Program requirements), and 806 KAR 46:050 (Liability self-insurance group rate, underwriting and evidence of coverage fillings) to Banking and Insurance; 300 KAR 2:040 (Kentucky Film Industry Incentives Application and Fees) and 307 KAR 1:060 (Kentucky small business investment credit program) to Economic Development and Tourism; 702 KAR 7:130 & E (Approval of innovative alternative school calendars) and 725 KAR 1:061 (Records retention schedules; authorized schedules) to Education; 201 KAR 2:330 (Emergency pharmacy powers), 201 KAR 20:057 (Scope and standards of practice of advanced practice registered nurses), 201 KAR 20:070 (Licensure by examination), 201 KAR 20:110 (Licensure by endorsement), 201 KAR 20:162 (Procedures for disciplinary hearings pursuant to KRS 314.091), 201 KAR 20:225 (Reinstatement of licensure), 201 KAR 20:230 (Renewal of licenses), 201 KAR 20:240 (Fees for applications and for services), 201 KAR 20:370 (Applications for licensure), 201 KAR 20:411 (Sexual assault nurse examiner program standards and credential requirements), and 201 KAR 20:470 (Dialysis technician credentialing requirements and training program standards) to Health and Welfare; 500 KAR 2:020 (Filing and processing SLEO commissions), 500 KAR 3:020 (Filing and processing SLPO commissions), and 502 KAR 32:010 (Centralized database for DNA identification records) to Judiciary; 201 KAR 34:020 (Fees), 201 KAR 39:050 & E (Renewal of licenses and extension of temporary licenses), 811 KAR 2:020 & E (Licensing quarter horse, appaloosa or Arabian racing), and 811 KAR 2:140 & E (Licensing of racing associations) to Licensing and Occupations; 301 KAR 1:010 (Commercial boat docks, concession stands, and boat rental facilities), 301 KAR 1:410 (Taking of fish by nontraditional fishing methods), and 401 KAR 59:015 (New indirect heat exchangers) to Natural Resources and Environment; 105 KAR 1:190 & E (Qualified domestic relations orders) to State Government; 601 KAR 9:015 (Registration of motor vehicles and manufacturing) and 601 KAR 14:030 (Bicycle and bikeway program) to Transportation.

From Senator Brandon Smith and Representative Keith Hall, Co-Chairs, Special Subcommittee on Energy: Memorandum requesting approval to meet in Lexington on October 22, rather than the regularly scheduled meeting date of October 15. There are no apparent conflicts. (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum appointing members to the Local Superintendents Advisory Council. (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Senator Elizabeth Tori and Representative Tanya Pullin, Co-Chairs, Interim Joint Committee on Veterans, Military Affairs, and Public Protection: Memorandum requesting approval to meet on Monday, November 22, rather than the regularly scheduled meeting date of November 11, which falls on Veterans' Day. There are 11 potential conflicts. (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Senator Elizabeth Tori and Representative Tanya Pullin, Co-Chairs, Interim Joint Committee on Veterans, Military Affairs, and Public Protection: Memorandum requesting approval to meet on December 9 (beyond the statutory interim period). (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum regarding LRC website for public access to agency records. (LRC Co-Chairs have jointly approved, LRC ratification pending.)

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

From Senator Tom Buford and Representative Jeff Greer, Co-Chairs, Interim Joint Committee on Banking and Insurance: Memorandum requesting approval to meet on November 12, rather than the regularly scheduled meeting date of November 11, which is Veterans' Day. (Conflicts appear to be avoided due to a

change of meeting plans by the Interim Joint Committee on Licensing and Occupations.) (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Senator Jack Westwood and Representative Kent Stevens, Co-Chairs, Education Assessment and Accountability Review: Memorandum recommending reappointments to the National Technical Advisory Panel on Assessment and Accountability. (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Senate President David L. Williams and House Speaker Gregory D. Stumbo: Memorandum approving the 2011 Regular Session Calendar. (LRC Co-Chairs have jointly approved, LRC ratification pending.)

From Bobby Sherman: Memorandum requesting approval of prefiling deadlines for the 2011 Regular Session.

From Senator David Givens and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture: Memorandum requesting approval to meet on December 8 (beyond the statutory interim period). There are no apparent conflicts.

From Senator David Givens and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture: Memorandum requesting authorization of and appointments to the Subcommittee on Horse Farming and Subcommittee on Rural Issues.

From Senator Tom Jensen and Representative John Tilley, Co-Chairs of the Interim Joint Committee on Judiciary: Memorandum requesting approval to meet on December 15 (beyond the statutory interim period) and approval to meet on January 19, 2011, to allow the committee to review and approve any proposed legislation produced by the Task Force on the Penal Code and Controlled Substances Act. There are no apparent conflicts.

From Senator Tom Jensen and Representative John Tilley, Co-Chairs of the Task Force on the Penal Code and Controlled Substances Act: Memorandum requesting approval of the following: extension of the deadline for the Task Force's final bill draft and accompanying report to January 26, 2011; a two-day meeting on October 19 and 20; authorization for travel and expenses for any member of the Task Force (and per diem for legislative members) attending the Media Seminar on October 22 in Lexington; a two-day meeting on November 16 and 17; a two-day meeting on December 14 and 15; and a two-day meeting on January 18 and 19, 2011.

COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Reports for the months of June and July 2010.

From the Finance and Administration Cabinet: Report on the number of individuals working on a full-time equivalent and recurring bases, listed by contract and cabinet, FY 2010, pursuant to 2010 HB 387.

From the Cabinet for Health and Family Services, Department for Aging and Independent Living: FY 2010 Assisted Living Revenues and Expenditures Report.

From the Finance and Administration Cabinet: Permanently Assigned Vehicle Requests by Agency pursuant to HB 406.

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 month of June 2010 and year-to-date activity for FY 2010; and for the months of July and August 2010 and year-to-date activity for FY 2011.

From the Finance and Administration Cabinet, Office of the Controller: FY 2010 Final Report of the Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs.

From Kentucky Employers' Mutual Insurance: Quarterly Statement for the period ending June 30, 2010.

From the Labor Cabinet, Division of Workers' Compensation Funds: Report for Kentucky Coal Workers' Pneumoconiosis Fund, Quarter Ending June 30, 2010.

From Kentucky Employers' Mutual Insurance: Second Quarter 2010 Financial Statements; Statement of Assets, Liabilities, and Policyholder Surplus; Statement of Income; Statement of Solvency as of June 30, 2010.

From the Tourism, Arts and Heritage Cabinet: 1% Transient Room (Lodging) Tax Progress Report for FY 2010.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of July and August 2010.

From Adjutant General Edward W. Tonini: Military Family Assistance Trust Fund, FY 2010 Annual Report.

From Kentucky Employers' Mutual Insurance: Letter advising of availability of 2009 Annual Report.

From the Cabinet for Health and Family Services: SWIFT Adoption Report for the second quarter of 2010.

From the Cabinet for Health and Family Services, Department for Public Health, Kentucky HIV/AIDS Planning and Advisory Council: September 2010 Year End Report.

From the Cabinet for Economic Development, Commission on Small Business Advocacy: FY 2010 Annual Report.

From the Cabinet for Economic Development: Annual Report for the Kentucky Investment Capital Network for FY 2010.

From the Cabinet for Economic Development: Linked Deposit Loan Investment Program FY 2010 Annual Report.

From the Cabinet for Economic Development: Agricultural Warehousing Sites Cleanup Fund Annual Report for FY 2010.

From the Cabinet for Economic Development: Kentucky Investment Fund Act Annual Report for FY 2009.

From the Energy and Environment Cabinet: Center for Renewable Energy Research and Environmental Stewardship Annual Report for FY 2010.

From the Personnel Cabinet: Statewide Turnover Report for the Second Quarter 2010.

From the Cabinet for Health and Family Services: 2010 Charitable Health Providers Report.

From the Tourism, Arts and Heritage Cabinet: Kentucky Production Industry Incentives, Annual Report for FY 2010.

From the Tourism, Arts and Heritage Cabinet: FY 2010 Annual Report of Incentives Provided Under the Kentucky Tourism Development Act.

ADJOURNMENT

There being no further business, the meeting was thereby adjourned at 2:00 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 4th Meeting of the 2010 Interim

October 13, 2010

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, October 13, 2010, at 10:00 AM, at the Mill Springs Battlefield Visitor Center and Museum in Nancy, Kentucky. 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 Vernie McGaha, Joey Pendleton, and Kathy W. Stein; Representatives Royce W. Adams, John "Bam" Carney, James R. Comer Jr., C. B. Embry Jr., Charlie Hoffman, Terry Mills, Brad Montell, Fred Nesler, Don Pasley, Tom Riner, Steven Rudy, Kent Stevens, Wilson Stone, Tommy Turner, Ken Upchurch, and Susan Westrom.

Guests: Mark Haney, President, Kentucky Farm Bureau and Don Haney, Haney's Appledale Farm; Ms. Susie Tanner, Director of Commodity Division, Kentucky Farm Bureau; Ms. Kara Keeton, Certified Roadside Farm Market Coordinator, Kentucky Farm Bureau, Ms. Whitney Meadows, Director of Agritourism, Kentucky Department of Agriculture; Mr. Gilbert Wilson, Director, Mill Springs Battlefield Association.

LRC Staff: Biff Baker, Lowell Atchley, and Susan Spoonamore, Committee Assistant.

The August 26, 2010 and September 8, 2010 minutes were approved, without objection, upon motion made by Rep. Carney and seconded by Rep. Pasley.

Welcome and Opening Remarks:

Mr. Mark Haney, President of Kentucky Farm Bureau and Co-owner of Haney's Appledale Farm, welcomed committee members and introduced special guests. Mr. Haney explained that his family had been growing apples for 140 years. In the last few years, he has seen tremendous growth in agritourism. Educating the consumer, good public relations, accurate information, and promoting wholesome products have boosted the awareness of buying locally.

Diversification in Kentucky Agriculture:

Ms. Susie Tanner, Director of Commodity Division, Kentucky Farm Bureau, Ms. Kara Keeton, Certified Roadside Farm Market Coordinator, Kentucky Farm Bureau, and Ms. Whitney Meadows, Director of Agritourism, Kentucky Department of Agriculture, discussed the impact of diversification in Kentucky agriculture. Ms. Tanner and Ms. Keeton explained that the Kentucky Farm Bureau's Certified Roadside Farm Market Program began in 1996 with approximately 25 members, and it now has an estimated 109 members. The program is designed to help producers increase their sales, expand market areas, enhance market identity, and establish a network for the exchange of ideas. The program started with fruits and vegetables, but has expanded to include greenhouses, nurseries, Christmas tree farms, vineyards/wineries, and meat/cheese farm markets. The requirements needed to become a KFB Certified Roadside Farm Market include having a permanent structure, quality products, a safe environment, and a majority of the products being locally produced. Forty thousand directories are printed each year and distributed to all of the Kentucky State Parks and Welcome Centers. The directories and other free advertising are benefits enjoyed by members. In addition, they and others work to educate farmers by touring other farm markets throughout Kentucky and other states.

Ms. Whitney Meadows gave a brief update regarding 2009 Senate Bill 1 as it relates to agritourism. Starting in the 2011-2012 school year, every elementary, middle, and high school in the state will be required to complete a Practical Living Career Studies Program Review. This program can implement agricultural education in the classroom.

Ms. Meadows said that there are over 300 agritourism operators in Kentucky. In addition, a Farm-to-School curriculum is being developed by the Kentucky Department of Agriculture and the University of Kentucky Extension Service. The goal of farm-to-school is to raise awareness of where food comes from and the importance of our Kentucky farmers. Last May, the United States Department of Agriculture Farm-to-School Task Force committee visited two Kentucky schools actively participating in the Farm-to-School Program and will report their findings later in the year.

Ms. Meadows stated that 37 schools have received funds from the Fresh Fruit and Vegetables Grant through the National School Lunch Program. There are also 45 Food Service Directors participating in the Kentucky Proud program.

In response to questions, the presenters agreed that the one mistake made most often by people wanting to participate in the Certified Roadside Farm Market Program is taking on too much too soon. They also stated that, in order for the Practical Living Career Studies Program to succeed, it is important to assist teachers by providing uncomplicated education and lesson plans. Ms. Tanner explained that there are 8 regional workshops for teachers introducing them to the program and providing them with information to help guide them through the process. She agreed that incorporating the workshops for teachers through a school in-service day and/or a professional development day would be beneficial.

Mr. Gilbert Wilson, Director, Mills Springs Battlefield Association, gave a brief presentation on the history of the Mill Springs Battlefield. The Association's mission statement is preserving, protecting, maintaining, and interpreting the Mill Springs Battlefield. The Association was formed in 1992 and has since acquired 500 acres of battlefield property, restored two historic houses, and constructed a visitor's center which includes a community room, gift shop, museum, offices, and a board room. Mr. Wilson said that the visitor center and museum averages 10,000 visitors a year.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Subcommittee on Horse Farming
Minutes of the 1st Meeting of the 2010 Interim

November 10, 2010

Call to Order and Roll Call

The 1st meeting of the Subcommittee on Horse Farming of the Interim Joint Committee on Agriculture was held on Wednesday, November 10, 2010, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Susan Westrom, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Susan Westrom, Co-Chair; Representatives Royce W. Adams, Brad Montell, David Osborne, Sannie Overly, Don Pasley, and Wilson Stone.

Guests: Jamie Eads and Marc Guilfoil, Kentucky Horse Racing Commission; Richard Wilcke and Norm Luba, Kentucky Quarter Horse Association; David Switzer, Kentucky Thoroughbred Association; Robert Feenick, PBI Bank, Lexington.

LRC Staff: Lowell Atchley, and Kelly Blevins.

Thoroughbred Industry Discussion

The presiding co-chair, Representative Westrom, called on the first speakers, Mr. David Switzer, Executive Director of the Kentucky Thoroughbred Association-Kentucky Thoroughbred Owners and Breeders, and Mr. Robert A. Feenick, Senior Vice President, PBI Bank, Lexington, for a discussion on the impact of the current economic downturn on Thoroughbred breeding operations.

Beginning first, Mr. Switzer described the current downturn in the Thoroughbred industry beginning in the 2007 sales year and continuing to the present time. He characterized the recession as worldwide in scope and one that has severely impacted the industry. Mr. Switzer noted that in 2007, banks in the region had an estimated billion dollar loan portfolio; this year, the portfolio has dropped to the $300-$400 million range.

According to Mr. Switzer's testimony, banks have markedly curtailed their lending to Thoroughbred operations. There is no encouragement for banks to lend to a risk-based business such as equine operations, according to his testimony. Banks also are requiring horse operations to have a second source of cash flow in addition to the horse business.

Mr. Switzer indicated they needed to find ways to encourage banks to lend money to horse farm operations.

Speaking next, Mr. Feenick described to the subcommittee how he had tracked the Thoroughbred industry for several years. He indicated the industry has experienced its ups and downs throughout the years, with a downturn seen in the mid 1980s and the current economic difficulties.

Mr. Feenick described how the industry works, pointing out that, central to the industry are the stallion stud services available at central Kentucky breeding farms. Most of the industry is driven by "mom and pop people." Using a chart to amplify his remarks, he showed the subcommittee how the return on stud fees has ebbed and flowed through the years. The return peaked in 1998 and has been declining gradually since.

Turning to the role of banks in the industry, he said his customers go through elongated cycles of profit and loss, but banks look at profit and loss in terms of 12-month periods. The $300-$400 million in outstanding loans in the central Kentucky area represent a "drop in the bucket" for "trillion dollar banks."

Given the current economic climate, Mr. Feenick indicated he is attempting to work his customers down to shorter lines of credit.

Responding to Representative Montell, Mr. Feenick said his bank has committed $50 million in loans to the industry at this time and currently stands at $30 million. Answering a question later from Representative Adams, Mr. Feenick said some of the business is new, while another part involves customers moving their business from other banks.

Mr. Switzer responded to another question, noting that smaller banks are being urged to take on the business, but most are taking a conservative approach at this time.

Responding to Co-chair Westrom, who asked about the status of the business in other states, Mr. Feenick said Kentucky is blessed that it has an established presence in the business, although there is considerable competition from states with "casino-driven purses."

Asked about foreclosure procedures on horse farms, both speakers described how banks try to delay foreclosures. Mr. Switzer cited the costs of keeping a horse farm operating throughout foreclosure and dispersing horses and other assets, a costly and time-consuming effort.

Responding to Senator Thayer about the industry "squeezing itself out," Mr. Feenick pointed out margins of profitability for horse farms were declining even before the current economic downturn. Good markets resulted in over-production, according to his testimony.

As discussion continued about the horse market generally, Mr. Switzer responded to Senator Thayer that supply and demand "will take care of itself" and that mares that should not go to the market will not be bred.

Commenting further, Mr. Switzer agreed with Senator Thayer that the world market for Kentucky-bred horses remains active.

Asked about scenarios in which banks cease doing business with horse farms that have made their payments, Mr. Feenick indicated those instances do occur now as they did in the late 1980s. They do not want to force people out of the business; they want to help them.

Breeder's Incentive Fund Report

The subcommittee received a report from Ms. Jamie Eads, Director of Incentives and Development for the Kentucky Horse Racing Commission, who reported on the Kentucky Breeders Incentive Program, including the Thoroughbred fund, the standardbred fund, and the horse breeders (non-race) fund.

According to Ms. Eads' Thoroughbred report, total funds awarded in 2007 and 2008 respectively totaled $15,487,262 and $15,253,911, but in 2009, the amount declined to $13,409,571. She suggested the fund will continue the decline this year. The number of registered stallions is down about 10 percent, a loss of about 32 stallions. Revenues for the fund come from sales and use taxes on the fees paid for breeding a stallion to a mare in Kentucky.

Ms. Eads told the subcommittee that her office has formed a committee to look at breeding trends in Kentucky and will be doing some outreach to determine what breeders want from the program. She said they distribute materials at sales events in an attempt to reach out to horse farms.

Turning to the standardbred fund, she noted that the number of pacing stallions standing in the state was down 46 percent in 2010 compared to 2009 and the number of trotting stallions was down 14 percent. All the moneys coming into the standardbred fund are awarded in the Kentucky Sire Stakes races at the Red Mile in September.

Finally, Ms. Eads discussed the horse breeders (non-race) fund. Two new breeding groups are participating in that fund – the Kentucky Miniature Horse Breeders Club and the Kentucky Arabian and Half Arabian Breeders Alliance.

Finishing her report, Ms. Eads responded to Representative Overly that standardbred stallions are being moved from Kentucky to other states. According to Ms. Eads, some Thoroughbred stallions have been moved to Indiana and Pennsylvania because of the additional revenues being put into those states' breeders' incentive funds.

The presiding co-chair, Senator Thayer, pointed out that the standardbred industry in Kentucky has been in decline for several years. He also mentioned a "compelling statistic" that a large percentage of the thoroughbreds win in non-Kentucky races.

Co-chair Thayer also complimented Ms. Eads on this work that her office is doing in administering the program.

Quarter Horse Industry Update

The subcommittee received a report from Mr. Norm Luba, Chair, Kentucky Quarter Horse Association Breeders Incentive Fund, and Mr. Richard Wilcke, President, KQHA, with the Kentucky Quarter Horse Association.

Mr. Luba opened the discussion, telling the subcommittee that there are 37,590 registered quarter horses in Kentucky, more than any other breed. The KQHA is the official quarter horse affiliate in the state.

Mr. Luba said the goals of the KQHA's breeders incentive fund is to promote economic activity in Kentucky, avoid any hint of "welfare checks" for horse owners, and seek to improve the market for Kentucky-breds. According to his testimony, they have encouraged demand for the breed, which, in turn, would enhance market prices and induce supply responses. He indicated that, while number of quarter horse stallions standing in Kentucky is down to 142 in 2010 compared to 2009, nevertheless, the number is up from 98 standing in the base year of 2006.

Mr. Wilcke discussed the status of quarter horse racing. He noted that quarter horse racing is a significant sport in other parts of the United States. But the sport ceased in Kentucky, mainly because there is no opportunities for the sport to accumulate a purse account via simulcasting. Also, quarter horse racing in Kentucky does not share in watering on the TVG Network, even on wagers made by Kentucky viewers.

Following Mr. Wilcke's discussion, Co-chair Thayer mentioned the possibility of legislation to establish a purse system for money bet on simulcast races and on TVG. Mr. Wilcke agreed there should be a way to accomplish that goal. Senator Thayer pointed out that if the purses are available, quarter horse races would once again be run in Kentucky.

Responding to Representative Adams, Mr. Luba indicated that attendance at the American Quarter Horse Congress this year in Ohio was stable.

Representative Osborne commended the association in its use of the breeders incentive funds, noting its work is a good example of creating benefits with the funds. He said there is another non-race breed that has utilized its funds in a poor manner.

Mr. Luba responded to Co-chair Thayer that the Kentucky Futurity was moved from the Kentucky Horse Park to the city of Liberty this year because the Horse Park had limited dates and facilities to use. Senator Thayer encouraged a move back to the Horse Park in the future.

Documents distributed during the subcommittee meeting are available with meeting materials in the LRC Library.

The meeting adjourned at approximately noon.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 3rd Meeting of the 2010 Interim

October 28, 2010

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 28, 2010, 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 Tom Buford, Denise Harper Angel, Ernie Harris, Ray S. Jones II, Alice Forgy Kerr, Vernie McGaha, R.J. Palmer II, Joey Pendleton, Robert Stivers II, and Jack Westwood; Representatives Royce W. Adams, John A. Arnold Jr., Dwight D. Butler, Jesse Crenshaw, Mike Denham, Bob M. DeWeese, Danny Ford, Derrick Graham, Keith Hall, Jimmie Lee, Reginald Meeks, Harry Moberly Jr., Lonnie Napier, Fred Nesler, Sannie Overly, Don Pasley, Marie Rader, Jody Richards, Charles Siler, Arnold Simpson, Tommy Thompson, Tommy Turner, Jim Wayne, Alecia Webb-Edgington, Ron Weston, and Brent Yonts.

Guests: Mary Lassiter, Secretary of the Governor's Executive Cabinet and State Budget Director; John Hicks, Deputy State Budget Director; and Greg Harkenrider, Deputy Executive Director for Financial Analysis; Edward Monahan, Department of Public Advocacy; and Van Ingram, Executive Director for the Kentucky Office of Drug Control Policy, Justice and Public Safety Cabinet.

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

Representative Lee moved to adopt the minutes from the previous meeting as written. The motion was seconded by Representative Simpson. The motion carried by voice vote.

The agenda included testimony from the Office of the State Budget Director regarding first quarter receipts and contract expenditure reductions. Also, the Department of Public Advocacy discussed the alternative sentencing social worker program.

First Quarter Receipts and Contract Expenditure Reductions

Secretary Lassiter provided an overview of state revenues. She said that the state has posted two quarters of revenue growth after five consecutive quarterly declines. General Fund revenue growth of 4.2 percent is budgeted for FY 2011. Although the state income and sales taxes have been slow to recover, corporate and coal severance continue to show strength. Also, the Road Fund has shown modest gains.

Mr. Greg Harkenrider stated that the first quarter showed a 4.4 percent growth in the General Fund as compared with the first quarter of FY 2010. Most tax revenues are improving, most notably corporate income tax which was up 44.1 percent and coal severance which was up 3.6 percent. The first quarter receipts are on target, with budgeted revenue of $2,055.1 million, which represents a budgeted growth of 4.2 percent for the year. He then discussed the Road Fund, stating that increased revenue from fuels taxes and the end of the Motor Vehicle Usage Tax credit is leading the fund's recovery. Improvements in the weight distance tax signal increased shipment of goods, showing a rebound in the manufactured goods sector. The Road Fund shows 11.9 percent growth for the first quarter of FY 2011, and increases were seen in the third and fourth quarters of FY 2010.

Mr. Harkenrider provided a brief overview of the current national economic status, stating that Kentucky is showing a slight recovery. Although employment in the state is increasing, previous peak employment is not projected to occur during this biennium. The employment outlook is consistent with the Consensus Forecasting Groups' assumptions during the last forecast. Personal income, however, is recovering more robustly.

In response to a question from Representative Rand, Mr. Harkenrider stated the state is in the early stages of recovery, and it is hoped that General Fund growth will continue at the same rate.

In response to a question from Senator Westwood, Mr. Harkenrider replied that the decline in cigarette tax represents the end of the cigarette floor stock tax. This decline in general is due to softer demand, mostly due to increases in state and federal taxes.

In response to a question from Representative Lee, Mr. Harkenrider stated there is no definitive way to review the motor vehicle usage tax data to conclusively prove that the car trade in allowance was the major contributor to increases in that tax's revenues.

In response to a question from Senator Stivers, Secretary Lassiter discussed net operating loss carry forwards. Conceptually, during the period of recession, companies have been using up their loss carry forwards, and it is believed the increase in corporate tax revenues is reflecting the end of future loss carry forwards for businesses.

Secretary Lassiter updated the committee concerning the state's current budget balancing measures. She stated that the FY 2011 budget requires $193 million in spending reductions. $62 million represents enacted appropriation reductions, and $131 million is mandated expenditure reductions. The mandated $131 million is being realized through debt restructuring, state employee furloughs, non-merit personnel reductions, asset sales and rebates, and operational cost reductions. Operational cost reductions have come in the form of contract reductions, fleet management, leases, and other efficiencies. These have included a $22 million reduction in General Fund Contracts and $70 million in other agency cost reduction measures.

In response to a question from Senator Leeper, Secretary Lassiter stated that the $67 million in debt restructuring is in addition to the budgeted debt restructuring, for a total of $139 million. She then provided a brief overview of how debt restructuring is achieved.

In response to questions from Representative Adams and Representative Graham, Secretary Lassiter stated that there will be an opportunity to review the furlough plan during the next legislative session.

In response to a question from Senator Harper Angel, Secretary Lassiter explained the executive branch expenditure approval process, in which expenditure requests over $1,000 must be approved by the Finance and Administration Cabinet.

Alternative Sentencing Social Worker Program

Mr. Edward Monahan of the Department of Public Advocacy discussed the alternative sentencing social worker program. He provided basic information regarding the scope of the department's involvement in Kentucky's criminal justice system. The department has a presence in all 120 counties, with 30 trial offices statewide. The department represents 147,000 cases annually. He stated that the department is uniquely positioned to move clients towards probation and treatment rather than incarceration.

Mr. Monahan discussed the services Department of Public Advocacy social workers provide clients. There are currently 9 social workers in this program, 4 which are provided for in the budget. The remaining 5 are funded through stimulus funds provided to the department by the Justice Cabinet. These social workers conduct pre-sentencing assessments, obtain records, and indentify treatment resources. During sentencing, the social worker helps to prepare alternative sentencing plans for the attorney to present to the judge, develop a re-entry support plan, and provides any assistance necessary to all parties involved in the court case. And after sentencing, social workers arrange for the clients treatment and provide support and follow up after treatment has begun.

Mr. Monahan then outlined the potential savings to the state that expanding the program could accomplish. He stated that 10,000 days of incarceration is saved by each social worker and that the program's net annual savings to the state totaled $290,508. For every $1.00 invested in alternative sentencing social workers, the state saves $3.25 in incarceration costs. Projected savings for statewide implementation is estimated to be $3.1 million per year.

The meeting was adjourned at 3:05 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on General Government, Finance, and Public Protection
Minutes of the 1st Meeting of the 2010 Interim

October 28, 2010

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on General Government, Finance, and Public Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 28, 2010, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Royce W. Adams, Co-Chair; Representatives Dwight D. Butler, Adam Koenig, Tom McKee, Brad Montell, Charles Siler, and Wilson Stone.

Guests: Greg Haskamp, Executive Director of the Office of Policy and Audit within the Finance and Administration Cabinet; Kenneth Lucas, Commissioner of the Kentucky Department of Veterans' Affairs; Margaret Plattner, Deputy Commissioner of the Kentucky Department of Veterans' Affairs; Jeff Acob, Cemeteries Branch Manager of the Kentucky Department of Veterans' Affairs; Shaun McKiernan, Fiscal Manager of the Kentucky Department of Veterans' Affairs; and John Hicks, Deputy State Budget Director.

LRC Staff: Debra Gabbard, Tom Willis, Perry Papka, Melissa Lueker, Kelly Dudley, Katherine Halloran, Frank Willey, and Christina Williams.

Update on American Recovery and Reinvestment Act (ARRA) Funding

Director Haskamp updated the committee on the status of ARRA funding for the Commonwealth. He provided the committee with a multi-page document that included all programs funded by ARRA, the amount of the award, and the activity to date.

In Response to a question by Representative Adams, Director Haskamp stated the weatherization assistance funds for low income families are separate from the Low Income Home Energy Assistance Program (LIHEAP). The awarded money for the weatherization program comes into the Finance Cabinet, is transferred laterally to the Kentucky Housing Corporation, and is then disseminated through the Community Action councils.

Representative Adams inquired why only $21 million had been expended for the weatherization program. Director Haskamp stated all federal guidelines and programmatic schedules must be delivered to the recipient before the funds are released which has caused a delay. He further stated each of the federal agencies have different thresholds that must be met with each of the different programs. The programs have established schedules and the Cabinet is on track to make the necessary expenditures with the programs. The state is conditionally awarded a certain amount of money and then as the programmatic thresholds are met, the remainder of that money is released. Sometimes the money is expended beforehand and the state is reimbursed for that.

Representative Adams asked how long the state has before the $50 million is no longer available. Bill Riggs, Chief of Staff of the Finance and Administration Cabinet stated the reason that more than $21 million has not been expended is because there was a tremendous preparation period for the weatherization program. He stated the decision was made early to go through Community Action of Kentucky for the delivery of the weatherization program. The issue lies in understanding that the ARRA funding is a onetime resource and the state will return to previous allotted amounts after the program is over. The goal is to get the program running successfully and to be able to maintain the program with the ongoing allotted monies after this one time resource has been depleted.

In response to a question asked by Representative Montell, Deputy Budget Director John Hicks stated that Title I is the primary federal education program for the disadvantaged. He stated Title I has a strong relationship to lower socioeconomic income indicators in terms of allocation of funds across the school districts.

Representative Montell stated that, when the stimulus funds were passed, he recalled discussion about "shovel ready" projects. He does not see many "shovel ready" projects listed. He stated it will be interesting to see where the money was spent when the program concludes.

Representative Koenig asked if the effectiveness of the money that is being spent for child support enforcement is being reported or if the report is only showing that the money has been spent to enforce child support payments.

Deputy Director Hicks stated most of the stimulus funds are going through programs that already exist and because of this the programmatic reporting requirements associated with the regular federal grants are also associated with the additional stimulus funds. The recipients of the funds must report to their respective federal entities the routine programmatic elements that they have been reporting on the performance and use of these funds every year.

Representative Koenig asked whether a report will be made, saying that the state had spent $37 million for child support enforcement and a certain amount of money was generated as a result. Deputy Director Hicks stated that was correct. Representative Koenig stated he would like to see that report after it is generated.

Chairman Westwood asked if there is a chance that a portion of the award money that has not been expended will not be received. Director Haskamp stated that would only occur if there were a material breach where the state did not report on something as it should have or if there was a substantial justification not to receive it. Most cases the grants are awarded by formula. In some instances, the funds are competitive grants where Kentucky was selected to receive those grants.

Representative Stone asked whether, when evaluating the sum of the federal investment in Kentucky in comparison to the 2010-2012 Biennial Budget that was passed, there is any significant deviation between what money was included in the state's budget and what money will actually flow through Kentucky over the length of the Biennial Budget. Deputy Director Hicks stated the only area where there is a deviation between the two is Medicaid. There is deviation from the $138 million stimulus funds congress passed for Medicaid and Kentucky's 2010-2012 Biennial Budget allotted for $238 million in Medicaid funds leaving a $100 million deviation.

Representative Stone asked whether there is any reason to expect Kentucky would be able to make up for that $100 million by using other resources that did not use all of the funds that were given to them. Deputy Director Hicks stated he is unaware of any other places that would have leftover funds to deal with the deviance.

Representative Adams requested the Finance and Administration Cabinet return for the next meeting so he and the committee could have time to evaluate the material given to them by the Cabinet. Chairman Westwood concurred and said that the Cabinet would be on the agenda for the next meeting.

In response to a question asked by Representative Adams, Deputy Director Hicks stated the $4 million the Underground Storage Tank Fund will be receiving will not negate the need for bond money to make up for the shortfall which was a result of money being borrowed from the fund. Deputy Director Hicks stated he is unsure if the $4 million has the exact same usage in terms of the eligible recipients as the state program that Representative Adams referred to, but the Energy and Environment Cabinet would know the answer to that.

Representative Adams stated he would like to know if the money will be allowed the same usage because there is an obligation to the people of the state of Kentucky to replenish the Underground Storage Tank Fund. Deputy Director Hicks stated he would find that information out and report back to the committee.

Chairman Westwood asked what the process was for the weatherization program, who is defined as low income in order to qualify for the program, and what exactly the program entails. Director Haskamp stated that, in order to qualify for the weatherization program, a family has to be at 200 percent below poverty rate. He stated there are applications taken by each Community Action agency which has a list of qualified applicants. Each agency rates those applications then the grant supplies the money to complete as many of those applications as possible. Up to $6,500 per household can be spent for weatherization purposes. The full amount of the $6,500 allotment is usually not spent.

Chairman Westwood stated he wanted to make sure the people that are eligible for the weatherization program are aware of its existence and how they can apply for the program.

Chairman Westwood stated he had received calls from constituents stating in order to receive their meals from meals on wheels, they must sign for them. Chairman Westwood asked if that policy was local, or if that was a requirement from the grant itself. Deputy Director Hicks stated he is unable to answer the question at that time, but he would get that information to the committee.

In response to a question asked by Representative Adams, Deputy Director Hicks stated the money shown in the Community Development Block Grants with the Department of Local Government is money that is in addition to what has already been allotted for that purpose.

Representative McKee stated he would like to discuss at the next meeting what categories got priority and what was left out in grants. He stated he has several questions and would agree with having the Cabinet back at the next meeting.

Update on Department of Veterans Affairs Budget

Shaun McKiernan, Fiscal Manager for the Department of Veterans Affairs utilized a PowerPoint presentation to update the committee on the Department of Veterans Affairs Budget.

Jeff Acob, Cemeteries Branch Manager of the Kentucky Department of Veterans' Affairs updated the committee on the Veterans' Burial Honors Program.

Representative Montell thanked the Department for its service to veterans.

Representative Montell asked if veterans that do not stay in the nursing homes receive funds to help support themselves. Mr. Mckiernan stated 70 percent of service connected disabled veterans can receive full cost of care at nearly any nursing home. He further stated the other 30 percent of veterans would not receive any assistance to enter just any available nursing home. Thirty percent would have to stay at one of the three veterans' nursing homes or not receive any assistance from the Department.

In response to a question asked by Representative Montell, Mr. McKiernan stated the average cost per day to stay in one of the three veterans' nursing homes is $220. Mr. McKiernan also stated that cost may be a little higher than the cost of long term care in the state, however the quality of care in the veterans' nursing homes is fantastic therefore he believes it is of great value.

Representative Adams thanked the veterans' affairs staff for what they do. He encouraged the committee to visit a veterans' nursing home. He stated he recently visited a veterans' nursing home facility and was impressed by the cleanliness of the facility and the amount of care the veterans were receiving.

Representative Adams stated in the previous conference committee funds were taken from the Burial Honors Program and given to the Department of Military Affairs. He asked if the Department of Veterans' Affairs were able to access those funds. Mr. McKiernan stated a few years ago the Department received $20,000 for the Burial Honors Program from the Department of Military Affairs. He stated normally the Department does not have access to those funds.

Representative Adams asked if the Department had contacted the Governor's Office to request a furlough exemption for the Department of Veterans affairs because of issues with the veterans' nursing homes being able to maintain the level of care needed due to employees being furloughed.

Commissioner Lucas stated there is a concern about furloughs and Chairwoman Pullin, Co-Chair of the Interim Joint Committee on Veterans, Military Affairs and Public Protection is planning to address that situation.

In response to a question asked by Representative Adams, Mr. McKiernan stated there were approximately 40 veterans paying 100 percent of the funds to stay in the nursing homes themselves.

Representative McKee asked if the state has a sufficient number of beds at the veterans' nursing homes to meet the needs of veterans. He asked if there were a waiting list to get in the nursing homes and if so, how large the list is. He also asked if the state would need to build an additional nursing home when the funds become available to meet the needs of veterans' in Kentucky. Commissioner Lucas stated the special needs veterans, such as veterans with Alzheimer's and dementia, are where more assistance is needed. There is a waiting list for veterans in those categories, however in terms of ordinary care veterans, the state is doing great.

In response to a question asked by Chairman Westwood, Commissioner Lucas stated there are a few vacancies in the veterans' nursing homes, but not many. He stated one wing of a facility had been recently remodeled and because of the process to enroll a veteran in a nursing home, it is taking a while to fill the rooms back up.

Representative Adams asked what percentage of the veterans' nursing home residents are in wheelchairs. Margaret Plattner, Deputy Commissioner of the Kentucky Department of Veterans' Affairs, stated she is unaware of what percentages are in wheelchairs at this time; however 75 percent of the veterans have Alzheimer's or dementia.

Representative Adams stated he has been informed that Kentucky is one of the leading states in relation to how the state cares for its veterans.

Chairman Westwood thanked guests and members for attending the meeting and adjourned the meeting at 11:12 A.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education
Minutes of the 3rd Meeting
of the 2010 Interim

October 28, 2010

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 28, 2010, at 10:00 AM, in Room 154 of the Capitol Annex. This was a joint meeting with the Budget Review Subcommittee on Primary and Secondary Education. Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair, and Representative Arnold Simpson, Co-Chair; Representatives Ted Edmonds, Carl Rollins II, and Kent Stevens.

Guests: Dennis Taulbee and Sarah Levy, Council on Postsecondary Education; Clyde Caudill and Wayne Young, Kentucky Association of School Administrators; Jim Thompson, Education and Workforce Development Cabinet; Tracy Goff-Herman, Kentucky Department of Education; and Marcie Lowe, Education Professional Standards Board.

LRC Staff: Greg Rush, Linda Ellis, and Marlene Rutherford.

Approval of September 23, 2010 Minutes

A motion was made by Representative Meeks to approve the minutes of the September 23, 2010 meeting. It was seconded by Representative Flood, and the minutes were approved without objection.

College Completion – Council on Postsecondary Education

Mr. King said that the most significant outcome of education is employability. National data from the Bureau of Labor Statistics indicates that the levels of unemployment correspond in inverse proportion to levels of education. The more people that are highly educated, the more likely they can enjoy full employment through their lives. Other benefits include higher income; employability means higher tax revenues, greater rates of voting and volunteering in communities, better health, lower poverty, and lower costs for government assistance programs. There is a new emphasis to encourage more Americans to become more highly educated. President Obama's leadership is stimulating an array of activities and programs now underway. Some are being driven by the National Governor's Association, national foundations, and associations. Kentucky is participating in several of these activities. In the development of the Council on Postsecondary Education's new strategic plan, college completion and student success are at the core of the work campuses will be focused going forward.

The total degrees and credentials awarded in both public and private independent institutions have increased 100 percent from 1999 to present. This is due substantially to the reform legislation of 1997 and House Bill 1, the implementation of important legislation affecting financial aid, and a growing understanding of the importance of postsecondary education.

The completion rate for a bachelor's degree of full-time, first-time baccalaureate students who entered a public or independent university in 2003 and who began at a four-year campus and completed the degree at a four-year campus, although it could be a different four-year campus than the student started in, is twenty-nine percent of those who are college-ready at their entrance. The graduation rate for a college-ready student completing a bachelor's degree in five years is at fifty-three percent, and the completion rate for students completing the degree in six years is sixty-one percent. College-ready students were ready to begin taking credit generating courses immediately. Many students enter college under-prepared and need some developmental or remediation courses before taking credit generating courses. He said that the graduation rate for students who enter college prepared is about twice as high as those entering under-prepared. Sixty-eight percent of first-time, full-time students had completed or were still working at obtaining a bachelor's degree in year seven. This indicates that although students have had to stop taking classes or drop out of college entirely due to family or financial reasons, they are still working to achieve the degree which is a very positive sign.

The numbers are similar for students entering the Community and Technical College System (KCTCS). Completion rates are lower because many students will stop or drop out of college but many students will go to a community college and then transfer out to a four-year campus. Mr. King pointed out that the completion rates discussed above at a four-year school do not include those students who have transferred from a two-year campus to a four-year campus.

In response to a question by Chair Simpson concerning whether students obtaining two- and three-year technical college certificates were included in the statistics. Mr. King stated that the statistical information provided include only associate degree student completion rates.

The average six-year graduation rate of public universities in Kentucky increased from thirty-six percent in 1997 to forty-six percent in 2009. The national average increase is forty-eight percent in 1997 to fifty-six percent in 2009. These percentages included only first-time, full-time students seeking a bachelor's degree who start and finish at the same university and do not include transfers within the system. He pointed out that the gap of those students in Kentucky graduating in 1997 compared to the national graduation rate has narrowed in 2009 by two percentage points which indicates Kentucky is making progress, although slowly.

In response to a question by Chair Simpson as to when or why the goal for a degree changed from four to six years, Mr. King said that eligibility for federal assistance under PELL describes a full-time student as a student that takes twelve credits rather than fifteen which is the number of hours required to complete a degree in four years. The average number of credit hours on an annual basis is about twenty-five and needs to be thirty hours. Also, as access to college has expanded, people with lower incomes who never thought they could go to college are now able to attend. The financial pressures are significantly higher and students are working their way through college and taking fewer credit hours.

Chair Simpson also asked whether any state has embarked upon a course that would attempt to address the issue of encouraging students who are able to complete their postsecondary education in four years. Mr. King said that students need to select a major as soon as possible. The longer students avoid selecting a major costs them a semester or two to take the necessary prerequisites. Campuses are encouraging students to select a major early in their college career. Students are also being encouraged to take more credit hours and all campuses have reduced the required number of hours to earn a bachelor's degree down to 120 hours, with a couple of exceptions for appropriate programs that require more hours. He said there had been some discussion of tying financial aid or larger state subsidy to the number of hours a student takes to create disincentives for students to be taking 130 or more hours before graduation. There is also an issue when students change majors. All campuses recognize the importance of encouraging students to finish sooner.

In response to a question by Chair Simpson as to what percentage of students are impacted by the availability of necessary courses, Mr. King said that because of the availability of online courses the argument that a student cannot finish in the required time because they cannot get access to a needed course is greatly diminished. The fact that a student may not be able to get into a class on campus does not mean a student cannot get that particular course, because of the proliferation of online programs.

Mr. King stated that degree and credential production has increased from 22,059 in 1999 to 46,053 in 2009. Net total public funding per full-time equivalent for operating aid and the gross tuition and fees revenue per full-time equivalent constitutes the cost of educating a student on an annual basis. In 1999 it was $14,976 and in 2009, after adjustment for inflation, it had decreased slightly to $14,732. The general fund appropriations since 1999 have decreased while the tuition and fees revenues have increased. Campuses are operating more efficiently, and since 1999 have doubled the degree and credential output while funding has decreased by approximately $200 less per student.

Mr. King noted that state support for financial aid prior to education reform had increased from $38 million in 1999 to $189 million today. Kentucky per capita is one of the more generous states for student financial aid, which does not include federal financial aid or institutional aid supported at each campus by philanthropy and tuition revenue.

In response to an inquiry by Representative Flood regarding Kentucky Educational Excellence Scholarships (KEES), the Kentucky Tuition Grant (KTG), and the College Access Program (CAP), Mr. King said the disbursements for KEES, KTG, and CAP, do not elevate the cost per full-time equivalent from the net general fund appropriation and gross tuition and fees revenue but would offset a portion of the tuition on a per full-time equivalent basis. He also noted that not all aid goes to tuition and students are able to use it for other purposes. Representative Flood also asked if one of the contributing factors for the doubling of degree and credential output is due to financial aid, and Mr. King replied that financial aid was a major factor. He also said there had been steady growth from 2006 to 2010 although due to a sizable increase in enrollment particularly at the community colleges, the amount of aid available is essentially gone. In fiscal year 2010 the available resources for the CAP program were used to provide assistance to over 40,000 students but there were 74,000 students who qualified for assistance that could not be funded due to the lack of resources.

Representative Richards asked how much more students are having to work or parents having to pay and Mr. King stated there was a steady increase in the amount of debt that students were incurring. Some students use access to student loans for other things. In the data where students are stopping or dropping out the most frequently cited issue is financing. Mr. King said that recently a survey was conducted by the Gates Foundation of college dropout students and that a very high proportion of those students dropped out because the students had jobs that obligated them to more than twenty hours per week and the competing pressures of job versus higher education overwhelmed them. Representative Richards also asked whether there is an adequate program for savings for college where parents and grandparents can contribute. Mr. King indicated that the recent problem is that the current program has been tied into the stock market. Mr. King indicated that the amount of money budgeted for KEES and the various programs is a function of an estimate from the lottery each year, which is normally underestimated. In the past, if the amount of money the lottery took in exceeded the estimate, that excess went into the General Fund.

Representative Rollins indicated that he believed that both last year and this year KEES was fully funded and that CAP and KTG did not receive full funding and that not all lottery proceeds went to scholarships. Greg Rush, LRC staff, stated that the CAP and KTG were frozen at fiscal 2010 levels and KEES was funded at the projected requirement from Kentucky Education Association and that there is language in the budget that indicates that any other money is used to support higher education in the state but not specifically for scholarships. He said he would check on the 2008-2010 budget, but that he believed similar language was contained in that budget as well.

Mr. King stated that the recommendation of the task force as it pertained to funding for scholarships was to capture the difference between the estimate from lottery proceeds and the actual amount, and apply that amount in the following year as additional available funds, which averaged approximately $10 million per year. He also said that the larger numbers on financial aid reflects close to 85 percent of students who do not pay "sticker price" for that aid and are benefitting from the combination of federal assistance and all the state and institutional support. For students in the lowest income quartile, regardless of what type of campus they are attending, will receive more aid than what the costs are on average. Students in the second quartile are out-of-pocket about $800 to $1200 per year to attend college or a community college. The third and fourth income quartiles pay about $2500 to $2800, and students in the highest income quartile pay out-of-pocket about $3000. These amounts do not include room and board.

Representative Rollins stated that in the past higher education was seen as the ticket to the middle class, but because students now have so much debt upon graduation and are not able to obtain a job upon graduation to pay off the debt, that is no longer true. There needs to be a program developed so that students do not have to work so much in college but at the same time not incur so much debt.

Mr. King said that institutions could be more diligent in explaining what the long- term responsibilities will be on the back end when taking on debt and possibly be more stringent on what the money can be loaned for.

Chair Simpson asked if it would be practical to have as a component of the orientation process that students can complete a degree in four years and if so there are certain financial advantages and that you can secure loans but understand that the money will have to be paid upon graduation and will ultimately affect the student's quality of life upon leaving college because of the debt.

Representative Stevens asked if another term for "not college ready" could be developed and stated his opinion that every student is ready for some class. Mr. King indicated that he would look into another description to relate to students.

Representative Henley asked Mr. King to look into a current movement of "education for profit." He referred to a lecture by Dino Curris on for-profit education and the role the federal government has played in fostering that movement. He said closer attention needs to be given to vocational schools in elementary and secondary education.

Accreditation and Licensing – Council on Postsecondary Education

Prior to the presentation on the accreditation and licensing of the Council on Postsecondary Education (CPE), Representative Richards asked Mr. King if the CPE would look into the savings program for students planning for college to determine if the program is adequate. He said he was aware that the savings program was not publicized to parents and students properly, and that many parents and grandparents are not aware that there is such a program. Mr. King indicated he would look into the matter.

Ms. Levy said that the purpose of licensure is to protect the citizens of Kentucky against colleges that engage in fraudulent practices, unfair competition, or substandard educational programs. The Council has licensure authority of all colleges except in-state public colleges which are established in other statutes and for-profit colleges offering below bachelor degrees which are licensed by the Kentucky State Board for Proprietary Education. The licensure activities include licensing new colleges; changes to existing licenses if a college wants to add a new academic program; data collection, collecting enrollments and degrees granted data; colleges go through an annual maintenance and renewal process with the Council; and, they facilitate consumer complaints against licensed colleges. The Council has experienced an increase in the number of colleges since educational reform, from 39 colleges in 1991 to 64 in 2010, both in-state and out-of-state. There are three times as many out-of-state institutions now operating in Kentucky since reform. There are 2,298 academic programs, 1,178 in-state and 1,120 out-of-state, and thirty-five percent or $66.5 million of state financial aid goes to the licensed colleges.

Ms. Levy stated that there is a greater need for consumer protection due to degree and diploma mills and counterfeit operations as well as technology and internationalization causing an increased risk of fraud. This has been addressed by revising regulations to address online operations by defining operating or soliciting in those regulations; for example, an online operation that comes into Kentucky to solicit Kentucky students to attend online which triggers licensure, and that operation would have to be licensed by the Council in order to recruit those students. The revised regulations have allowed the Council to administer cease and desist orders to institutions that are recruiting students but not going through the proper licensure process.

Industry oversight is revealing more complex applications and programs particularly with the online operations. The Council is performing site visits with consultants as well as coordinating licensure with other state agencies such as the Education Professional Standards Board and the Board of Nursing. Out-of-state programs are required to go through those agencies in order to become licensed by the Council.

Ms. Levy said there was a new law in 2008 that changed the way institutions were eligible for students to participate in the Kentucky tuition grant program. Currently licensed out-of-state colleges who are not able to obtain Southern Association of Colleges and Schools (SACS) accreditation because they are not primarily located in Kentucky or are outside the SACS region, in order to be eligible for Kentucky tuition grants they have to undergo a Council on Postsecondary Education review based on accreditation criteria that mirrors SACS which begin in 2011.

In response to a question by Representative Flood concerning the University of Phoenix, Ms. Levy pointed out that the Council does not accredit but license the institution. The University of Phoenix is licensed to offer certain programs online. They are not allowed to offer their education programs in Kentucky because they are not approved by the Education Professional Standards Board. The University of Phoenix is regionally accredited, although not by the SACS, because they are located in Arizona they are accredited by their regional Higher Learning Commission.

In response to a question from Chair Simpson of whether Kentucky can mandate accreditation in order for these institutions to educate Kentucky students, Ms. Levy stated that Kentucky does mandate accreditation because you cannot discriminate by requiring accreditation from certain regions. Currently accrediting agencies are recognized by the U. S. Department of Education. There are two accreditation agency categories, one being regional and the other national. The SACS is a regional accrediting agency. Of the sixty-four institutions currently licensed in Kentucky, thirty-one are SACS accredited and forty-seven are regionally accredited. The national accrediting agencies are more specialized, such as the American Bar Association, if a law school. She pointed out that under the Council's licensing program it is not established for interstate commerce purposes but that the Kentucky tuition grant program statute is limited to regional accreditation, and if the institution is not in the SACS region under the new law the institution would need to undergo a Council on Postsecondary Education review based on accreditation criteria that mirrors SACS.

In regard to the Kentucky tuition grant, Chair Simpson asked if students enrolled in for-profit colleges or universities such as the University of Phoenix participate in the program. Ms. Levy stated that there are only three institutions of the sixty-four licensed that are applying under the tuition grant statute which are all non-profit. Chair Simpson asked Ms. Levy to look into whether students at for-profit universities are barred from participation.

Chair Simpson asked if Kentucky students can be protected by out-of-state degree mills. Ms. Levy stated that the regulation contains a provision for truth in advertising, in the event a student has been misled by a licensed institution, who would file a written complaint with the Council on Postsecondary Education which would be reviewed and a response requested from the institution in writing. Typically, the institution would indicate how the complaint had been resolved with the student, or it would submit evidence that contradicts what had been alleged by the student in the complaint. Ms. Levy also said that there had been no situation in which a complaint was proven; but, in the event it did occur, there is a licensure standard that would result in a need to review the institution, and the President has the ability to suspend or revoke a license. Within the last ten years there have been no suspensions or revocations that Ms. Levy was aware of; however, there was a situation where the institution voluntarily closed before its license was revoked.

Ms. Levy said that the Kentucky Board of Proprietary Education licenses for-profit institutions only offering below bachelor degrees, such as institutions offering associate degrees. If, in the future, the institution wanted to begin offering a bachelor's degree it would no longer be licensed by the Board of Proprietary Education, which reports to the Governor, but would then come under the Council's licensure provisions and every program offered would be licensed.

In response to a question from Representative Rollins concerning the Kentucky Tuition Grant for schools not SACS accredited, Ms. Levy said that students will be affected next year but the Council is currently doing site reviews.

President King said many of the recent issues have arisen surrounding the for-profits and the apparent abuse of some of the advertising and practices used to lure students largely to get access to federal financial aid, which is an issue of concern to many in higher education. The Council on Postsecondary Education is becoming more vigorous in management of these responsibilities.

Representative Rollins stated that many private colleges have become entrepreneurial in offering classes when it is convenient for students, and degree completion programs in different formats.

In response to a question by Chair Simpson concerning the transfer of credits between community colleges, whether regional or research universities would not accept transfer of credits from for-profit institutions, and whether there are any requirements on the for-profits to disclose that there may be a situation where the credits may not be accepted by public universities, Mr. King said that it would depend on the university, and in some instances they would. It is quite variable based on whether or not there are existing articulation agreements between the private institutions, whether for-profit or non-profit, and the public four-year campuses, and an assessment of the quality of their programs. He said that there is no obligation for the for-profit schools to disclose that credits may not be transferred, and that is part of the underlying problem. These institutions commit to students that the credits or degrees they earn are fully transferrable, when in fact they may not be, or that the degrees such as a two-year nursing degree will be accepted in the workplace, when in fact they are not recognized as adequate training. He said many of the schools involved in this activity are not licensed by the Council on Postsecondary Education but are within the jurisdiction of the Board of Proprietary Education. He did not know if complaints are addressed or resolved at that level. The Council on Postsecondary Education is concerned that a portion of the Board of Proprietary Education is made of up of the presidents of the colleges that are being regulated and that was a concern of the students that would not result in a fair and impartial airing of their concerns.

Chair Simpson asked how other states treat these types of schools and if they have separate governance structure. Ms. Levy responded that it varies among states.

There being no further business, Chair Simpson called for a motion for adjournment. Representative Richards made the motion, which was seconded by Representative Henley, and the meeting was adjourned at 11:35 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education
Minutes of the 3rd Meeting of the 2010 Interim

October 28, 2010

Call to Order and Roll Call

The third 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 28, 2010, at 10:00 AM, in Room 154 of the Capitol Annex. This was a joint meeting with the Budget Review Subcommittee on Postsecondary Education. Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representatives Ted Edmonds, Carl Rollins II, and Kent Stevens.

Guests: Dennis Taulbee and Sarah Levy, Council on Postsecondary Education; Clyde Caudill and Wayne Young, Kentucky Association of School Administrators; Jim Thompson, Education and Workforce Development Cabinet; Tracy Goff-Herman, Kentucky Department of Education; and Marcie Lowe, Education Professional Standards Board.

LRC Staff: Greg Rush, Linda Ellis, and Marlene Rutherford.

Approval of September 23, 2010 Minutes

A motion was made by Representative Meeks to approve the minutes of the September 23, 2010 meeting. It was seconded by Representative Flood, and the minutes were approved without objection.

College Completion – Council on Postsecondary Education

Mr. King said that the most significant outcome of education is employability. National data from the Bureau of Labor Statistics indicates that the levels of unemployment correspond in inverse proportion to levels of education. The more people that are highly educated, the more likely they can enjoy full employment through their lives. Other benefits include higher income; employability means higher tax revenues, greater rates of voting and volunteering in communities, better health, lower poverty, and lower costs for government assistance programs. There is a new emphasis to encourage more Americans to become more highly educated. President Obama's leadership is stimulating an array of activities and programs now underway. Some are being driven by the National Governor's Association, national foundations, and associations. Kentucky is participating in several of these activities. In the development of the Council on Postsecondary Education's new strategic plan, college completion and student success are at the core of the work campuses will be focused going forward.

The total degrees and credentials awarded in both public and private independent institutions have increased 100 percent from 1999 to present. This is due substantially to the reform legislation of 1997 and House Bill 1, the implementation of important legislation affecting financial aid, and a growing understanding of the importance of postsecondary education.

The completion rate for a bachelor's degree of full-time, first-time baccalaureate students who entered a public or independent university in 2003 and who began at a four-year campus and completed the degree at a four-year campus, although it could be a different four-year campus than the student started in, is twenty-nine percent of those who are college-ready at their entrance. The graduation rate for a college-ready student completing a bachelor's degree in five years is at fifty-three percent, and the completion rate for students completing the degree in six years is sixty-one percent. College-ready students were ready to begin taking credit generating courses immediately. Many students enter college under-prepared and need some developmental or remediation courses before taking credit generating courses. He said that the graduation rate for students who enter college prepared is about twice as high as those entering under-prepared. Sixty-eight percent of first-time, full-time students had completed or were still working at obtaining a bachelor's degree in year seven. This indicates that although students have had to stop taking classes or drop out of college entirely due to family or financial reasons, they are still working to achieve the degree which is a very positive sign.

The numbers are similar for students entering the Community and Technical College System (KCTCS). Completion rates are lower because many students will stop or drop out of college but many students will go to a community college and then transfer out to a four-year campus. Mr. King pointed out that the completion rates discussed above at a four-year school do not include those students who have transferred from a two-year campus to a four-year campus.

In response to a question by Chair Simpson concerning whether students obtaining two- and three-year technical college certificates were included in the statistics. Mr. King stated that the statistical information provided include only associate degree student completion rates.

The average six-year graduation rate of public universities in Kentucky increased from thirty-six percent in 1997 to forty-six percent in 2009. The national average increase is forty-eight percent in 1997 to fifty-six percent in 2009. These percentages included only first-time, full-time students seeking a bachelor's degree who start and finish at the same university and do not include transfers within the system. He pointed out that the gap of those students in Kentucky graduating in 1997 compared to the national graduation rate has narrowed in 2009 by two percentage points which indicates Kentucky is making progress, although slowly.

In response to a question by Chair Simpson as to when or why the goal for a degree changed from four to six years, Mr. King said that eligibility for federal assistance under PELL describes a full-time student as a student that takes twelve credits rather than fifteen which is the number of hours required to complete a degree in four years. The average number of credit hours on an annual basis is about twenty-five and needs to be thirty hours. Also, as access to college has expanded, people with lower incomes who never thought they could go to college are now able to attend. The financial pressures are significantly higher and students are working their way through college and taking fewer credit hours.

Chair Simpson also asked whether any state has embarked upon a course that would attempt to address the issue of encouraging students who are able to complete their postsecondary education in four years. Mr. King said that students need to select a major as soon as possible. The longer students avoid selecting a major costs them a semester or two to take the necessary prerequisites. Campuses are encouraging students to select a major early in their college career. Students are also being encouraged to take more credit hours and all campuses have reduced the required number of hours to earn a bachelor's degree down to 120 hours, with a couple of exceptions for appropriate programs that require more hours. He said there had been some discussion of tying financial aid or larger state subsidy to the number of hours a student takes to create disincentives for students to be taking 130 or more hours before graduation. There is also an issue when students change majors. All campuses recognize the importance of encouraging students to finish sooner.

In response to a question by Chair Simpson as to what percentage of students are impacted by the availability of necessary courses, Mr. King said that because of the availability of online courses the argument that a student cannot finish in the required time because they cannot get access to a needed course is greatly diminished. The fact that a student may not be able to get into a class on campus does not mean a student cannot get that particular course, because of the proliferation of online programs.

Mr. King stated that degree and credential production has increased from 22,059 in 1999 to 46,053 in 2009. Net total public funding per full-time equivalent for operating aid and the gross tuition and fees revenue per full-time equivalent constitutes the cost of educating a student on an annual basis. In 1999 it was $14,976 and in 2009, after adjustment for inflation, it had decreased slightly to $14,732. The general fund appropriations since 1999 have decreased while the tuition and fees revenues have increased. Campuses are operating more efficiently, and since 1999 have doubled the degree and credential output while funding has decreased by approximately $200 less per student.

Mr. King noted that state support for financial aid prior to education reform had increased from $38 million in 1999 to $189 million today. Kentucky per capita is one of the more generous states for student financial aid, which does not include federal financial aid or institutional aid supported at each campus by philanthropy and tuition revenue.

In response to an inquiry by Representative Flood regarding Kentucky Educational Excellence Scholarships (KEES), the Kentucky Tuition Grant (KTG), and the College Access Program (CAP), Mr. King said the disbursements for KEES, KTG, and CAP, do not elevate the cost per full-time equivalent from the net general fund appropriation and gross tuition and fees revenue but would offset a portion of the tuition on a per full-time equivalent basis. He also noted that not all aid goes to tuition and students are able to use it for other purposes. Representative Flood also asked if one of the contributing factors for the doubling of degree and credential output is due to financial aid, and Mr. King replied that financial aid was a major factor. He also said there had been steady growth from 2006 to 2010 although due to a sizable increase in enrollment particularly at the community colleges, the amount of aid available is essentially gone. In fiscal year 2010 the available resources for the CAP program were used to provide assistance to over 40,000 students but there were 74,000 students who qualified for assistance that could not be funded due to the lack of resources.

Representative Richards asked how much more students are having to work or parents having to pay and Mr. King stated there was a steady increase in the amount of debt that students were incurring. Some students use access to student loans for other things. In the data where students are stopping or dropping out the most frequently cited issue is financing. Mr. King said that recently a survey was conducted by the Gates Foundation of college dropout students and that a very high proportion of those students dropped out because the students had jobs that obligated them to more than twenty hours per week and the competing pressures of job versus higher education overwhelmed them. Representative Richards also asked whether there is an adequate program for savings for college where parents and grandparents can contribute. Mr. King indicated that the recent problem is that the current program has been tied into the stock market. Mr. King indicated that the amount of money budgeted for KEES and the various programs is a function of an estimate from the lottery each year, which is normally underestimated. In the past, if the amount of money the lottery took in exceeded the estimate, that excess went into the General Fund.

Representative Rollins indicated that he believed that both last year and this year KEES was fully funded and that CAP and KTG did not receive full funding and that not all lottery proceeds went to scholarships. Greg Rush, LRC staff, stated that the CAP and KTG were frozen at fiscal 2010 levels and KEES was funded at the projected requirement from Kentucky Education Association and that there is language in the budget that indicates that any other money is used to support higher education in the state but not specifically for scholarships. He said he would check on the 2008-2010 budget, but that he believed similar language was contained in that budget as well.

Mr. King stated that the recommendation of the task force as it pertained to funding for scholarships was to capture the difference between the estimate from lottery proceeds and the actual amount, and apply that amount in the following year as additional available funds, which averaged approximately $10 million per year. He also said that the larger numbers on financial aid reflects close to 85 percent of students who do not pay "sticker price" for that aid and are benefitting from the combination of federal assistance and all the state and institutional support. For students in the lowest income quartile, regardless of what type of campus they are attending, will receive more aid than what the costs are on average. Students in the second quartile are out-of-pocket about $800 to $1200 per year to attend college or a community college. The third and fourth income quartiles pay about $2500 to $2800, and students in the highest income quartile pay out-of-pocket about $3000. These amounts do not include room and board.

Representative Rollins stated that in the past higher education was seen as the ticket to the middle class, but because students now have so much debt upon graduation and are not able to obtain a job upon graduation to pay off the debt, that is no longer true. There needs to be a program developed so that students do not have to work so much in college but at the same time not incur so much debt.

Mr. King said that institutions could be more diligent in explaining what the long- term responsibilities will be on the back end when taking on debt and possibly be more stringent on what the money can be loaned for.

Chair Simpson asked if it would be practical to have as a component of the orientation process that students can complete a degree in four years and if so there are certain financial advantages and that you can secure loans but understand that the money will have to be paid upon graduation and will ultimately affect the student's quality of life upon leaving college because of the debt.

Representative Stevens asked if another term for "not college ready" could be developed and stated his opinion that every student is ready for some class. Mr. King indicated that he would look into another description to relate to students.

Representative Henley asked Mr. King to look into a current movement of "education for profit." He referred to a lecture by Dino Curris on for-profit education and the role the federal government has played in fostering that movement. He said closer attention needs to be given to vocational schools in elementary and secondary education.

Accreditation and Licensing – Council on Postsecondary Education

Prior to the presentation on the accreditation and licensing of the Council on Postsecondary Education (CPE), Representative Richards asked Mr. King if the CPE would look into the savings program for students planning for college to determine if the program is adequate. He said he was aware that the savings program was not publicized to parents and students properly, and that many parents and grandparents are not aware that there is such a program. Mr. King indicated he would look into the matter.

Ms. Levy said that the purpose of licensure is to protect the citizens of Kentucky against colleges that engage in fraudulent practices, unfair competition, or substandard educational programs. The Council has licensure authority of all colleges except in-state public colleges which are established in other statutes and for-profit colleges offering below bachelor degrees which are licensed by the Kentucky State Board for Proprietary Education. The licensure activities include licensing new colleges; changes to existing licenses if a college wants to add a new academic program; data collection, collecting enrollments and degrees granted data; colleges go through an annual maintenance and renewal process with the Council; and, they facilitate consumer complaints against licensed colleges. The Council has experienced an increase in the number of colleges since educational reform, from 39 colleges in 1991 to 64 in 2010, both in-state and out-of-state. There are three times as many out-of-state institutions now operating in Kentucky since reform. There are 2,298 academic programs, 1,178 in-state and 1,120 out-of-state, and thirty-five percent or $66.5 million of state financial aid goes to the licensed colleges.

Ms. Levy stated that there is a greater need for consumer protection due to degree and diploma mills and counterfeit operations as well as technology and internationalization causing an increased risk of fraud. This has been addressed by revising regulations to address online operations by defining operating or soliciting in those regulations; for example, an online operation that comes into Kentucky to solicit Kentucky students to attend online which triggers licensure, and that operation would have to be licensed by the Council in order to recruit those students. The revised regulations have allowed the Council to administer cease and desist orders to institutions that are recruiting students but not going through the proper licensure process.

Industry oversight is revealing more complex applications and programs particularly with the online operations. The Council is performing site visits with consultants as well as coordinating licensure with other state agencies such as the Education Professional Standards Board and the Board of Nursing. Out-of-state programs are required to go through those agencies in order to become licensed by the Council.

Ms. Levy said there was a new law in 2008 that changed the way institutions were eligible for students to participate in the Kentucky tuition grant program. Currently licensed out-of-state colleges who are not able to obtain Southern Association of Colleges and Schools (SACS) accreditation because they are not primarily located in Kentucky or are outside the SACS region, in order to be eligible for Kentucky tuition grants they have to undergo a Council on Postsecondary Education review based on accreditation criteria that mirrors SACS which begin in 2011.

In response to a question by Representative Flood concerning the University of Phoenix, Ms. Levy pointed out that the Council does not accredit but license the institution. The University of Phoenix is licensed to offer certain programs online. They are not allowed to offer their education programs in Kentucky because they are not approved by the Education Professional Standards Board. The University of Phoenix is regionally accredited, although not by the SACS, because they are located in Arizona they are accredited by their regional Higher Learning Commission.

In response to a question from Chair Simpson of whether Kentucky can mandate accreditation in order for these institutions to educate Kentucky students, Ms. Levy stated that Kentucky does mandate accreditation because you cannot discriminate by requiring accreditation from certain regions. Currently accrediting agencies are recognized by the U. S. Department of Education. There are two accreditation agency categories, one being regional and the other national. The SACS is a regional accrediting agency. Of the sixty-four institutions currently licensed in Kentucky, thirty-one are SACS accredited and forty-seven are regionally accredited. The national accrediting agencies are more specialized, such as the American Bar Association, if a law school. She pointed out that under the Council's licensing program it is not established for interstate commerce purposes but that the Kentucky tuition grant program statute is limited to regional accreditation, and if the institution is not in the SACS region under the new law the institution would need to undergo a Council on Postsecondary Education review based on accreditation criteria that mirrors SACS.

In regard to the Kentucky tuition grant, Chair Simpson asked if students enrolled in for-profit colleges or universities such as the University of Phoenix participate in the program. Ms. Levy stated that there are only three institutions of the sixty-four licensed that are applying under the tuition grant statute which are all non-profit. Chair Simpson asked Ms. Levy to look into whether students at for-profit universities are barred from participation.

Chair Simpson asked if Kentucky students can be protected by out-of-state degree mills. Ms. Levy stated that the regulation contains a provision for truth in advertising, in the event a student has been misled by a licensed institution, who would file a written complaint with the Council on Postsecondary Education which would be reviewed and a response requested from the institution in writing. Typically, the institution would indicate how the complaint had been resolved with the student, or it would submit evidence that contradicts what had been alleged by the student in the complaint. Ms. Levy also said that there had been no situation in which a complaint was proven; but, in the event it did occur, there is a licensure standard that would result in a need to review the institution, and the President has the ability to suspend or revoke a license. Within the last ten years there have been no suspensions or revocations that Ms. Levy was aware of; however, there was a situation where the institution voluntarily closed before its license was revoked.

Ms. Levy said that the Kentucky Board of Proprietary Education licenses for-profit institutions only offering below bachelor degrees, such as institutions offering associate degrees. If, in the future, the institution wanted to begin offering a bachelor's degree it would no longer be licensed by the Board of Proprietary Education, which reports to the Governor, but would then come under the Council's licensure provisions and every program offered would be licensed.

In response to a question from Representative Rollins concerning the Kentucky Tuition Grant for schools not SACS accredited, Ms. Levy said that students will be affected next year but the Council is currently doing site reviews.

President King said many of the recent issues have arisen surrounding the for-profits and the apparent abuse of some of the advertising and practices used to lure students largely to get access to federal financial aid, which is an issue of concern to many in higher education. The Council on Postsecondary Education is becoming more vigorous in management of these responsibilities.

Representative Rollins stated that many private colleges have become entrepreneurial in offering classes when it is convenient for students, and degree completion programs in different formats.

In response to a question by Chair Simpson concerning the transfer of credits between community colleges, whether regional or research universities would not accept transfer of credits from for-profit institutions, and whether there are any requirements on the for-profits to disclose that there may be a situation where the credits may not be accepted by public universities, Mr. King said that it would depend on the university, and in some instances they would. It is quite variable based on whether or not there are existing articulation agreements between the private institutions, whether for-profit or non-profit, and the public four-year campuses, and an assessment of the quality of their programs. He said that there is no obligation for the for-profit schools to disclose that credits may not be transferred, and that is part of the underlying problem. These institutions commit to students that the credits or degrees they earn are fully transferrable, when in fact they may not be, or that the degrees such as a two-year nursing degree will be accepted in the workplace, when in fact they are not recognized as adequate training. He said many of the schools involved in this activity are not licensed by the Council on Postsecondary Education but are within the jurisdiction of the Board of Proprietary Education. He did not know if complaints are addressed or resolved at that level. The Council on Postsecondary Education is concerned that a portion of the Board of Proprietary Education is made of up of the presidents of the colleges that are being regulated and that was a concern of the students that would not result in a fair and impartial airing of their concerns.

Chair Simpson asked how other states treat these types of schools and if they have separate governance structure. Ms. Levy responded that it varies among states.

There being no further business, Chair Simpson called for a motion for adjournment. Representative Richards made the motion, which was seconded by Representative Henley, and the meeting was adjourned at 11:35 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation
Minutes of the 3rd Meeting
of the 2010 Interim

October 28, 2010

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 28, 2010, at 11:00 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: Representative Sannie Overly, Co-Chair; Senator R.J. Palmer II; Representatives Eddie Ballard, James R. Comer Jr., Tim Couch, Danny Ford, Keith Hall, and Richard Henderson.

Guests: Stan Lampe, President, Kentuckians for Better Transportation (KBT); Richard Sutherland, Vice President, ENTRAN, and Chairman, KBT Highway Committee; David Willmoth, Mayor, Elizabethtown, Kentucky, and Chairman, KBT Local Roads and Streets Committee; J. Barry Barker, Executive Director, Transit Authority of Louisville; Rocky Burke, Executive Director, LexTran; Gina Douthat, Director of Communications, Transit Authority of Northern Kentucky; and Beecher Hudson, President, Kentucky Public Transit Association.

LRC Staff: Stewart Willis, Stephanie Craycraft, and Spring Emerson.

Chair Overly stated that at the last meeting of the 2009 Interim, an excellent presentation had been given by Jack Schenendorf from Washington, DC, regarding the sustainability of the gas tax and the various pressures that were being put on the revenue stream, one of which was the advancement of alternative fueled vehicles. She said that Co-Chair Higdon had raised questions about the status of hybrid vehicles and what effect they would have on Road Fund tax receipts, and she invited representatives of Kentuckians for Better Transportation (KBT) to come forward and provide information on the topic.

Alternative Fueled Vehicles: Potential Effects on the Road Fund

Stan Lampe, President of KBT, introduced Richard Sutherland, Vice President of ENTRAN and Chairman of the KBT Highway Committee, as well as David Willmoth, Mayor of Elizabethtown and Chairman of the KBT Local Roads and Streets Committee. Mr. Sutherland stated that KBT was founded in 1977 and its mission is to help all Kentuckians to understand how important the transportation network is to Kentucky's economic well-being. The network is more than just highways, and includes public transit, waterways, commerce, railways, and air transportation, as well as streets, roads, highways, and bridges.

KBT is comprised of varied participants, including airports, railroad companies, engineers, architects, banks, suppliers of many different goods and services, city and county governments, barge companies, river ports, area development districts, highway contractors, and several members who joined individually. It has six specific committees representing all modes of transportation who meet regularly to discuss emerging trends in the industry as well as legislative issues.

Mayor Willmoth gave a presentation which provided information regarding the different types of alternative fueled vehicles being marketed today. Between 2000 and 2010, there were 13 percent more vehicles on America's streets, roads, and highways, and on average, Americans are driving 7 percent more miles in 2010 than they were in 2000; however, fuel tax receipts are $12.8 billion less. A portion of the reduction in these tax receipts is due to new generation alternative fueled vehicles are being produced now.

Mr. Sutherland stated that KBT looks forward to working with the General Assembly constructively as they move into the future and decide how to fund the transportation programs, particularly as the pressure increases on Kentucky's Road Fund revenue sources. The change would happen faster than previously thought, and Kentucky must be ready to meet the future.

In response to a question from Representative Hall, Mr. Sutherland stated that tens of thousands of alternative fueled vehicles are already in the market. Representative Hall expressed his appreciation for the members of KBT being in attendance.

In response to a question from Representative Ballard regarding propane powered vehicles, Mr. Sutherland stated that it was his understanding that the Transportation Cabinet had tried them in the past and did not have any issues with them. He stated that they probably had a longer range of use than the battery powered electric vehicles.

Chair Overly requested a motion to approve the minutes of the September 23, 2010 meeting. A motion was made by Representative Hall, and the minutes were approved by voice vote.

Chair Overly expressed her concern that technological advancements would have a negative effect on tax revenues. She thanked the panel for the information provided to the committee.

Update on the Kentucky Public Transit System

Barry Barker, Executive Director, Transit Authority of Louisville (TARC), introduced Gina Douthat, Director of Communications, Transit Authority of Northern Kentucky (TANK); Rocky Burke, Executive Director, LexTran; and, Beecher Hudson, President, Kentucky Public Transit Association. He gave an update of the Kentucky Public Transit System and its funding issues.

Chair Overly thanked them for the very informative presentation. She emphasized the importance of educating members on these issues.

Representative Hall asked about the savings realized through the use of hybrid buses. Mr. Barker said the hybrid buses get approximately 25 percent better fuel economy. Due to them having a regenerative braking system, the brake life has been prolonged up to four times that of non-regenerative braking systems, which amounts to considerable savings in repairs and maintenance costs; however, the initial purchase price of the hybrids is significantly higher than the price of clean diesel buses. The price of a clean diesel bus is $425,000 versus $600,000 for a hybrid bus.

In response to an inquiry from Representative Hall regarding funding sources, Mr. Barker stated that Kentucky's Public Transit System is not eligible to apply for approximately 40 percent of federal transit funding programs due to a lack of matching funds.

Chair Overly commented that Vickie Bourne, Executive Director, Office of Transportation Delivery, Kentucky Transportation Cabinet, was in the audience. She asked if Ms. Bourne wished to comment on the topic of Public Transit. Ms. Bourne stated that there was a shortage of General Fund dollars. She also commented that alternative fueled vehicles are becoming more popular. Chair Overly agreed and stated that they are now a reality. She also said this is one area in the Transportation Cabinet that is funded by only General Fund dollars, and there are no Road Funds appropriated to Public Transportation. She commented that it was remarkable what they could do with that meager amount of funds.

There being no further business before the committee, the meeting was adjourned at 12:00 PM.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 3rd Meeting of the 2010 Interim

October 26, 2010

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 26, 2010, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Julian M. Carroll, David Givens, Gerald A. Neal, Dorsey Ridley, and Dan "Malano" Seum,; Representatives James R. Comer Jr., Ron Crimm, Robert R. Damron, Ted Edmonds, Joseph M. Fischer, Danny Ford, Jim Gooch Jr., Mike Harmon, Dennis Horlander, Dennis Keene, Adam Koenig, Brad Montell, Sannie Overly, Jody Richards, Wilson Stone, and John Tilley.

Guests: Ballard Cassady, President and CEO, Debra Stamper, General Counsel, Kentucky Banker's Association, Charles Vice, Commissioner, Department of Financial Institutions, and Thad Vann, Executive Director, Kentucky Manufactured Housing Institute.

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

There was a motion made by Representative Montell, seconded by Representative Richards to approve the minutes of the September 29, 2010, meeting minutes.

Discussion regarding the Dodd-Frank Regulatory Reform Act

Ballard Cassady, President, Kentucky Bankers Association, stated that he was appearing before the committee on behalf of the association as well as the community banking industry in the Commonwealth of Kentucky. He stated that he provided the committee members with an executive summary of the federal Dodd-Frank Regulatory Reform Act and could provide a more substantial summary if needed. He stated that the Kentucky Bankers Association urges the General Assembly to safeguard Kentucky's banking industry, just as the General Assembly has done in the past. He asked that the General Assembly tread carefully and thoughtfully when considering the barrage of federal legislation that is likely to be introduced in the next few years by those who are misinformed or misled as to the effect of financial reform on community banking states like Kentucky. He stated it was, and still is, necessary to regulate the unregulated, to put an end to "too big to fail" institutions, and to ensure that exotic investments are not so complex that even regulators cannot understand their terms. The Kentucky Bankers Association agrees with appropriate regulation of banking, but object to the new federal law because it does not problems that resulted in the ongoing financial crisis, and because it penalizes the only segment of the financial services industry that performed the way it was supposed to during the crisis, the traditional community banking system including Kentucky's state banks.

In response to a question from Representative Fischer asking if the Dodd-Frank Regulatory Reform Act has been challenged in court and what the Kentucky General Assembly can do to help. Mr. Cassady replied that the Act has not been challenged at this time, and it is the Kentucky Bankers Association's hope that the Department of Financial Institutions will stand strong and support Kentucky's community banks when there is a disagreement. He said that maintaining consistency is the best way for the General Assembly to help.

Report on the Deferred Deposit Transaction Database created by 09 RS HB 444

Charles Vice, Commissioner, Department of Financial Institutions, gave the committee an update on the Deferred Deposit Transaction Database established pursuant to 2009 RS House Bill 444. House Bill 444 amended Subtitle 9 of KRS Chapter 286, which was established in the 1992 Regular Session to authorize and regulate deferred deposit transactions referred to as "payday lending". House Bill 444 limits customers to two transaction at a time totaling $500, set the term of the loan to between 14-60 days and reduced the fee to $15 per $100 borrowed. It also provided additional enforcement tools, made internet payday lending illegal, prohibited the collection of both principal and interest on payday loans, and mandated the creation of a database which was implemented on April 30, 2010. The database is a secure, real-time database that will not approve a payday loan in excess of statutory limits. Commissioner Vice stated that as of September, 2010, there were 1.56 million transactions, with the average advance amount of $310.68, with an average fee of $51.16, and 182,159 total number of borrowers. House Bill 444 also increased the authority for the Department of Financial Institutions to order restitution, impose probation, levy fines, and enter into consent orders. He stated that to date the Department of Financial Institutions has assessed six fines, one of which has been paid, with five pending appeal.

In response to a question from Senator Buford regarding the cost of the license fee for payday lenders and the total number of state licenses. Commissioner Vice stated that the license fee is $500 and there are 657 payday lenders licensed to business in the state.

Representative Jeff Greer stated that Representative Johnny Bell worked diligently to ensure House Bill 444 and wished he could have been able to attend today's meeting to hear the presentation regarding the progress of the database.

In response to a question from Representative Dennis Horlander regarding the amount of the fines imposed on the payday lenders. Commissioner Vice stated that fines ranged from $1000 to $5000 per violation.

Discussion of the SAFE Act and the impact on the manufactured housing industry in Kentucky

Thad Vann, Executive Director of the Kentucky Manufactured Housing Association (KMHI), testified that the association had concerns about the potential for their members to be required to register as mortgage brokers under the terms of the SAFE Act when providing information to customers regarding financing of a manufactured home. However, after multiple discussions with the Department of Financial Institutions, Mr. Vann stated that the issue had been resolved.

The meeting adjourned at 12:00 noon.

JOINT MEETING
INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM
INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 5th Meeting of the 2010 Interim

October 21, 2010

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, October 21, 2010, at 1:00 PM, in the Bluegrass Ballroom, Lexington Center. 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, Denise Harper Angel, Katie Kratz Stine, Gary Tapp, Robin L. Webb, and Jack Westwood; Representatives Royce W. Adams, John "Bam" Carney, Jim DeCesare, Mike Denham, Myron Dossett, Kelly Flood, Jim Gooch Jr., Keith Hall, Mike Harmon, Melvin B. Henley, Dennis Horlander, Joni L. Jenkins, Dennis Keene, Thomas Kerr, Adam Koenig, Tom McKee, Terry Mills, Fred Nesler, David Osborne, Ruth Ann Palumbo, Don Pasley, Ancel Smith, Fitz Steele, Addia Wuchner, and Jill York.

Guests: Barry McNees, Developer, Lexington Distillery Project; John Nicholson, Executive Director, Kentucky Horse Park; Beth Brinley, Commissioner, Department of Workforce Development; William Monterosso, Executive Director, Office of Employment Training; and Tom West, Executive Director, Kentucky Workforce Investment Board.

LRC Staff: John Buckner, Lou DiBiase, Karen Armstrong-Cummings, and Dawn Johnson.

Approval of Minutes

A motion by Representative Nesler and second by Representative Dossett to approve the minutes of the August 17 and September 16 meetings carried by voice vote.

Co-Chair Ballard commended Co-chair Kerr for holding the committee meeting in Lexington.

Bill Owen, President and Chief Executive Officer, Lexington Center Corporation, welcomed committee members to the center. He expressed appreciation for General Assembly appropriations in previous years of approximately $30 million that funded major improvements at the center. Along with $20 million in new debt service issued by the center, these improvements, which were made between 2001 and 2005, included significant renovations to Rupp Arena and the creation of new convention center space, including the Bluegrass Ballroom prefunction lobby space, where today's meeting was being held. With the investment, the center has attracted more business, including the 2010 Southeast Theater Conference with over 4,000 delegates and the 2010 International Little League Congress, among others. Improvements at the center helped initiate a $17 million renovation at Hyatt Regency and the Hilton's $14 million renovation.

Lexington Distillery District

Barry McNees, developer of the Lexington Distillery District, provided an update on the distillery district project. Mr. McNees said the project consists of approximately six partnerships that represent 30 current or former Kentuckians who are dedicated to the reinvention of a heritage distilling corridor in Lexington. The project is an attempt to combine a number of Kentucky's finest elements: a rich historic heritage, an appreciation and promotion of the bourbon industry, and rejuvenation of Kentucky's resources. In the past four years, over 20 parcels have been created in the 25-acre development. Elements of the development include legacy distillery buildings and a water tower. He explained that the distillery area dates back 140 years. The first registered distillery in the area was the Tarr Distillery. Largely intact and on the National Historic Registry is the James E. Pepper Distillery.

The distillery project received tax increment financing (TIF) approval in late 2009. Project leaders worked with the Lexington officials to create new zoning overlays and rezoning the area for mixed use. In 2008, property surveys identified the area as predominantly underutilized and vacant property. Over 300,000 square feet of building space had been left unused over the past 10 years. Under the new zoning classification, buildings that were once zoned industrial can now be used as residential or commercial space. The distillery project was selected by the National Brownfield Association as one of 15 showcase properties among over 100 applicants.

The Distillery Project is working with the Kentucky Distillers Association in an attempt to become part of the Kentucky Bourbon Trail. Mr. McNees noted that during the World Equestrian Games, the district attracted national as well as international visitors.

The Distillery Project represents a significant private/public partnership and investment. Although it is in an economically distressed area of Lexington with a high poverty rate, there has been significant community building over the last five years. Efforts include those by the University of Kentucky's College of Design and Architecture, neighborhood meetings, and local interest in the possible business opportunities the proposed arts and entertainment district may provide. Mr. McNees said more than $1 million has been used on predevelopment. The project is Kentucky's first mixed use, redevelopment of a blighted area using TIF. He said Lexington approved $2.2 million for the corridor—a direct result of the TIF program. Mr. McNees noted that being designated an historic building qualifies the Pepper Building for historic preservation tax credits. He said a project coordinator has been appointed to work through the difficulties of brown fields, historic preservation, being located in a flood plain, as well getting online an area that has not seen public infrastructure improvements in decades.

Mr. McNees said in making the area environmentally friendly, there is more being considered than just energy efficient buildings. Consideration is being given to the entire neighborhood and how to best create a sustainable green environment well into the future. The Lexington-Fayette Urban County Government has invested over $1 million in the Distillery District's section of the Town Branch Trail, a proposed 'shared-use' greenway trail that will connect downtown Lexington with its world-famous equine landscape via area neighborhoods, parks, and historic sites as it follows the westward course of Lexington's historic waterway.

Mr. McNees said the project's progress is incremental, with a number of entrepreneurs surviving and thriving through the economic crisis. He noted that Barrel House Distilling Company, Lexington's first producer of vodka and legal "moonshine," has expanded from 200 to 600 retail outlets that carry their products. Buster's Billiards and Backroom has created a music venue that caters to artists and now hosts national acts. Barrel House Events, a catering company, has events booked into December.

Co-Chair Kerr commended the progress of the project and noted the artwork and improved infrastructure in the district.

Representative Palumbo said the project is a magnificent revival of Lexington's west side.

2010 Alltech FEI World Equestrian Games

John Nicholson, Executive Director of the Kentucky Horse Park, gave an overview of the recently concluded 2010 World Equestrian Games. Mr. Nicholson said the success of the games was a tribute to all Kentuckians and that history will record that the games were a triumphant success. Choosing Nicholasville-based Alltech, an international, cutting-edge biotechnology and agriculture company as the title sponsor was representative of Kentucky. Kentucky presented itself as a friendly place worthy of business investment and relocation. He said the games had an historic affect on the state's tourism industry. Mr. Nicholson noted the success of the "Kentucky Experience" pavilion at the games. There has never been a greater effort at selling all the regions of Kentucky at one event. Lexington has experienced a renaissance with the games playing an important role. The city has rediscovered public transportation. Mr. Nicholson noted that three major equine farms were sold to people here for the games.

Mr. Nicholson said legacy for the Horse Park, the state, and the community was at the center of the effort for the games. He noted the success of the Legacy Trail in north Lexington. Mr. Nicholson said Kentucky's horse industry was a winner. The ascendency of the sport horse sector of Kentucky's horse industry was in progress before the games but the games were reflective of its growth. The games have allowed Kentucky to present itself as the Horse Capitol of the World well into the foreseeable future. Mr. Nicholson thanked the General Assembly and executive branch administrations for their support of the park during this endeavor. None the $80 million in capital investment in the park over the last four years was just for the World Equestrian Games. He said the investment is now paying dividends in future events and economic activity for years to come. With the completion of the stadium, the new arena, and infrastructure improvements, there are 19 new national events coming to the park in 2011 and beyond. Additionally, 34 existing events have expanded and will be held in the new indoor arena. Mr. Nicholson said Kentucky's Horse Park is leading the way in the American horse industry, played a significant role in the renaissance of Lexington and the Bluegrass Region, and played a key role in the greatest increase in the international profile of Kentucky.

Co-Chair Ballard said the opening event was spectacular and a proud moment for Kentucky.

Senator Webb commended the professionalism and diplomacy of the coordinators of the event. Volunteers should be applauded for being great ambassadors to Kentucky. She said it is hard to evaluate the economic impact the games had and will continue to have.

Representative Hoffman noted the success of the events. He noted the acquisition of additional land several years back and suggested the Park purchase any contiguous land that may become available in the future.

Representative Flood expressed her support for the Arabian horse exhibit given the sometimes tenuous relations with the Arab nations in the aftermath of September 11, 2001. Mr. Nicholson said this was a planned effort because of the events of September 11.

Responding to Co-Chair Kerr's question, Mr. Nicholson said Horse-Tails 2010 is a fund raising event for the Lexington Philharmonic. Art is created through the use of horse mane and horsetail hair from famous horses. Proceeds from the sale of artwork support efforts of the Lexington Philharmonic Foundation's Partners in Education initiative, which builds and strengthens music education opportunities for children throughout the Commonwealth.

Mr. Nicholson noted that green initiatives during the game included recycling, composting, and the Energy-to-Waste Biomass Gasification Plant that, while not operational, was presented during the games.

There being no further business, the meeting adjourned at 3:10 PM.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 6th Meeting of the 2010 Interim

November 8, 2010

Call to Order and Roll Call

The sixth meeting of the Interim Joint Committee on Education was held on Monday, November 8, 2010, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Carl Rollins II, 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, Alice Forgy Kerr, Vernie McGaha, R.J. Palmer II, Tim Shaughnessy, Elizabeth Tori, Johnny Ray Turner, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Hubert Collins, Leslie Combs, Jim DeCesare, Ted Edmonds, C. B. Embry Jr., Bill Farmer, Tim Firkins, Jim Glenn, Derrick Graham, Jeff Greer, Reginald Meeks, Charles Miller, Harry Moberly Jr., Marie Rader, Jody Richards, Tom Riner, Charles Siler, Kent Stevens, Wilson Stone, Addia Wuchner, and Jill York.

Guest Legislators: Representatives Fred Nesler, Arnold Simpson, John Will Stacy, and Susan Westrom.

Guests: Nathan Goldman, General Counsel, Kentucky Board of Nursing; Sue Derouen, Manager, Professional Support Branch, Kentucky Board of Nursing; Patricia Spurr, Education Consultant, Professional Support Branch, Kentucky Board of Nursing; Cindy Landry, ATA College, Louisville; George Hruby, Executive Director, Collaborative Center for Literacy Development; Mark Gabis, Kentucky State Board of Proprietary Education; Tamela Biggs, Staff Attorney, Kentucky Teachers' Retirement System; Keith White, Office of Education Accountability; Bill Sheckles, Kentucky Black Caucus League of Elected Officials, Bardstown; Stan Holmes, Kentucky Black Caucus League of Elected Officials, Radcliff; Cindy Heine, Prichard Committee for Academic Excellence; and Clyde Caudill, Legislative Agent, Jefferson County Public Schools and Kentucky Association of School Administrators.

LRC Staff: Audrey Carr, Janet Stevens, Sandy Deaton, Kenneth Warlick, Henry Smith, and Janet Oliver.

Approval of Minutes

Upon motion by Senator Winters, seconded by Representative Richards, the minutes of the October 11, 2010, meeting were approved by voice vote.

Subcommittee Reports

Representative Combs reported that the Subcommittee on Postsecondary Education heard two separate presentations. The first presentation pertained to higher education opportunities for students with intellectual or developmental disabilities. The Postsecondary Inclusion Project is a federally funded $2.2 million pilot partnership for special needs students between the University of Kentucky, the Blue Grass Technical and Community College, the Office of Vocational Rehabilitation, and Fayette County Schools. The Supported Higher Education Project provides a variety of educational options for special needs students and includes tutoring, social networking, internships, and assistive technology supports. The subcommittee also heard a presentation on Kentucky's 20 independent, non-profit colleges and universities. These institutions have an enrollment of 33,000 students with a 70 percent four-year graduation rate. They offer traditional residential campuses, distance learning, community based programs, Kentucky Community and Technical College System (KCTCS) partnerships, and accelerated degree completion. Currently, 25 percent of Kentucky's new teachers, 20 percent of Kentucky's nurses, and 20 percent of science, technology, engineering, and mathematics (STEM) bachelor degree holders receive their degrees from independent non-profit colleges.

Representative Edmonds reported that the Subcommittee on Elementary and Secondary Education heard a discussion concerning special needs education as it relates to certificates of attainment and high school diplomas. Representative Addia Wuchner introduced the topic and Larry Taylor, Director of the Division of Learning Services, Kentucky Department of Education, provided information on the differences between the attainment certificate and high school diploma and statistical information regarding special needs students. Mr. Taylor also discussed a federal definition issue that requires students to be classified as dropouts even though they are still attending school. Dr. Meada Hall, who oversees the Office of Vocational Rehabilitation's community based work transition program at the University of Kentucky (UK), explained how the transition program works with special needs students to help them find gainful employment upon completion of high school. Currently 68 school districts use these services and each district is reimbursed up to 75 percent of the cost of the program. Several parents and one student also discussed the certificate of attainment with each expressing a hope that an alternative certificate could be developed for those students who exceed certificate of attainment criteria yet are unable to obtain a standard high school diploma. Dr. Harold Kleinert, Executive Director, Human Research Institute, UK, also provided information on programs of studies offered by some postsecondary institutions for students with special needs.

2009-2010 Student Assessment Results

Commissioner Terry Holliday, Kentucky Department of Education (KDE), and Dr. Ken Draut, KDE Associate Commissioner of Assessment and Accountability, provided information on the interim assessment results. The new assessment mandated by 2009 Senate Bill 1 will be administered in spring 2012 and, during the interim, students are being tested with the Kentucky Core Content Test and the nationally norm-referenced Iowa Test of Basic Skills.

Commissioner Holliday said KDE's Open House Website provides full access to assessment results for each district and each school and will be expanded to the classroom level in the near future. The Open House Website includes reports on achievement level data, a combined gap to goal comparison report, and readiness benchmarks for college and career readiness. In 2012, information will also be available on growth and will include individual student longitudinal growth. Commissioner Holliday said assessment results showed a significant improvement in reading and math at the elementary level and some improvement in reading and slight improvement in math at the middle school level. Kentucky scores on the National Association of Education Progress (NAEP) tests were similar and substantiate the accuracy of the data. The greatest area of concern in reading and math was at the high school level. Commissioner Holliday said when the new model is implemented at the high school level with end-of-course assessments, significant improvement should be realized. There was little or no improvement in science and social studies at any level but there was marked improvement in writing on demand at the elementary level. Also results from the Iowa Test of Basic Skills showed Kentucky is above national averages, except for sixth grade reading and math.

Commissioner Holliday said current data shows that the largest gap to proficiency exist among the students with disabilities and African-American student populations. A gap component will be included in the accountability model if approved by the Kentucky Board of Education. College and career readiness data showed that approximately 40,000 students graduated in 2010 of which 34 percent met ACT benchmarks for college readiness. Data will be added in the future to reflect career readiness through industry recognized certifications. The goal for 2015 is that 67 percent of Kentucky's high school graduates will meet college and career readiness benchmarks.

Commissioner Holliday said that 168 non-Title I schools are eligible for state assistance because they did not meet NCLB adequate yearly progress (AYP) benchmarks and 134 Title I schools did not make AYP for two full years. Ninety-three (93) of the 174 districts are in some form of consequences and 130 of the 174 districts did not meet AYP. Although some of the districts may be high performing in almost all categories, they may have one subgroup that is continuously not meeting AYP. The districts are ranked by performance in math and reading. Five low-achieving districts will receive state assistance, which may include implementation of a corrective action plan, assignment of a district coach to monitor improvement plans, and other improvement measures.

In response to questions from Representative Glenn, Commissioner Holliday said that LEP is the acronym for limited English proficient and represents students using English as a second language. He said partnerships have been developed with postsecondary institutions to help improve student college and career readiness. One effective program has been a partnership between Eastern Kentucky University and local high schools in which transition and developmental courses are being taught for juniors who did not meet ACT readiness scores. This model will be replicated throughout the state. The Kentucky Board of Education has adopted a regulation that requires every school to implement transition programs for high school seniors and encourages them to have early interventions in place for students scoring low on Explore and Plan assessments. This year Kentucky's seniors will be provided access to COMPASS®, which is a computer-adaptive college placement test, and KYOTE, which is the Kentucky Online Testing Examination, to predict college readiness.

In response to questions from Representative Moberly, Commissioner Holliday said KDE is working with national organizations, such as the Chief State School Officers Association, to identify employment measures, such as industry certifications, as an indicator of career readiness. Over a thousand educators are meeting each month in Kentucky to review and develop standards and performance measures for various subject areas. Representative Moberly said the alignment of secondary-postsecondary curriculum is extremely important and providing options for students, such as middle colleges, will be instrumental in ensuring educational improvement in Kentucky.

In response to a question from Senator Winters, Commissioner Holliday said end-of-course assessments will be vendor provided. The request for proposal will be issued soon and will include a component to allow assessment data comparison with other states.

In response to questions from Representative Meeks, Commissioner Holliday said eighth graders are tested with Explore, tenth graders are tested with Plan, and the ACT is administered to juniors. The assessment results for the new math and reading standards will not be available until the 2012 test administration period. Commissioner Holliday said the subsets in each district that did not make AYP are identified in the assessment results on KDE's Open House Webpage.

In response to a question from Senator Shaughnessy, Commissioner Holliday said end-of-course assessments will be given in Algebra II, English II, Biology, and U.S. History. It is anticipated that end-of-course assessments will be developed for every subject that has common core standards. End-of-course assessment scores will be used to identify college readiness and may also be explored as possible college credit.

Assessment and Categorization of School Facilities

Hiren Desai, KDE Associate Commissioner for Administration and Support, said that Senate Bill 132 required KDE to issue a request for proposals (RFP) to contract with a vendor to establish a standard system for assessing and classifying facilities in school districts by January 2011. The RFP closing date is November 19 and several vendors have expressed an interest in the contract. It is anticipated that the contract will be awarded in January with a completion date of December 2011 so the information will be available by the 2012 Regular Session.

Proprietary Education in Kentucky: Governance and Consumer Issues

The presentation regarding the Kentucky State Board of Proprietary Education was given by Lindsey Lane, Board Administrator, Office of Occupations and Professions; and Frances S. Short, Executive Director, Office of Occupations and Professions. Members were provided background materials and information regarding this issue.

Representative Rollins requested that the discussion be in general terms and that specific institutions not be named.

Ms. Short said that KRS 165A.340 established the Kentucky Board of Proprietary Education with 11 voting members appointed by the Governor. The Office of Occupations and Professions serves in an administrative capacity to the board. Duties include processing school applications and renewals, responding to telephone calls and email inquiries, recordkeeping, budget preparation, preparing for monthly board meeting and producing minutes of meetings, and completing other assignments as directed by the board. The office also provides information technology services, such as maintaining the board's Website and license fee database. The staff of the Office of Occupations and Professions does not have any legal authority to make decisions on behalf of the board nor is any of the staff a voting member of the board.

Ms. Short said the primary purpose of the board is to administer the provisions of law pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions. The definitions for board membership and overall responsibilities are outlined in the statute and regulations. A list of member institutions was included in the handout provided by the Office of Occupations and Professions.

Ms. Short said a complaint may be submitted by an individual, organization, or entity and is heard by a complaint committee established by the board chair and made up of one school representative and two members at large. The complaint committee reviews complaints, conducts informal proceedings, and makes recommendations for disposition of complaints to the full board. The full board reviews the complaint committee's recommendation and determines whether to dismiss the complaint or proceed with a formal investigation, which may also include judicial action. Ms. Short said three complaints have been filed with the board during the current calendar year. Two of the complaints were dismissed as having no violation of law and one complaint has not been resolved.

In response to a question from Representative Rollins, Ms. Short said six of eleven board members represent proprietary schools. If a member's school was named in the complaint, the member would be recused from serving on the complaint committee.

In response to questions from Representative Meeks, Ms. Short said that the Board issues licenses and the primary purpose of licensing is public protection. Ms. Lane said proprietary schools provide trade and technical education which take two or fewer years to complete a certification. They do not fall under the jurisdiction of the Council on Postsecondary Education (CPE). Representative Meeks said that advertising in his region by some proprietary schools imply that advanced degrees may be earned. Representative Rollins said it is his understanding that all institutions offering a bachelor or more advanced degree are regulated by CPE. Ms. Short said that a board member would be recused from voting on any complaint against an institution in which they have a financial interest. Representative Meeks asked that the committee be provided with a complaint history for the last five years including the nature of the complaint, the findings, and disposition of the complaint. Representative Meeks asked if any student complaints have been resolved by reimbursing a student's tuition. Ms. Short said that has not occurred during her two year employment with the Office of Occupations and Professions.

In response to questions from Representative Farmer, Ms. Short said although the office receives several calls about how to file complaints, only three formal complaints have been filed involving the Board of Proprietary Education during the current calendar year. She said the Office of Occupations and Professions provides administrative and fiscal management, technical support and advice to 20 regulatory boards of occupational licensing, one of which is the Board of Proprietary Education.

In response to questions from Representative Moberly, Ms. Lane said some of the proprietary schools offer associate degrees. Regulation 201 KAR 40:020 sets forth the standards for approval of associate degree programs. Ms. Lane said that when a school applies to become a resident school in the state, site visits are conducted by a board investigator to ensure that standards set by the board are met. Reviews and site visits may also be conducted during license renewals and when programs change or add new programs. Representative Moberly asked which U.S. Department of Education agency provides accreditation for schools offering Arts or science associate degrees. Ms. Short said she would provide the information to the committee. She said she was not aware of any specific inquiries about whether certain schools meet the requirements in the regulation.

In response to questions from Senator Westwood, Ms. Lane said that if the board were to receive a complaint about a non-licensed school, they would conduct an investigation. Investigations are done by a contract investigator or the Office of Inspector General in the Cabinet for Public Protection and Regulation. Senator Westwood said that he has also seen advertisements by proprietary schools for advanced degrees. Ms. Short said institutions offering online education opportunities is a grey area and may require additional regulatory oversight.

In response to questions from Representative Collins, Ms. Lane said proprietary schools are required to provide financial data when applying for a license and during license renewal. New schools are also required to provide a fee schedule. Ms. Short said the board has created a student protection fund and criteria to be followed if a school plans to close. Each institution is required to carry a $20,000 bond.

Representative Nesler said the quality of education provided by for-profit proprietary education schools is being discussed nationally. He said the senate chair of the U.S. Health, Education, Labor and Pensions Committee acknowledged that although many for-profit colleges deliver top quality innovative options for students who want to pursue postsecondary education while managing work and family obligations, serious questions have been raised about some of the institutions involved in this rapidly growing industry. He said many state legislators and attorneys general are taking a look at for-profit colleges and that Kentucky should also study the issue. He said the presentations to be made by two students who attended proprietary schools would show there are many unanswered questions and consumer protection issues.

Monica Hall said she is a licensed practical nurse and attended a for-profit college to earn a registered nurse (RN) degree. She described her experience at the institution as lacking adequate instruction and not being provided the education for which she paid an extremely high tuition. She said during the third quarter, the Kentucky Board of Nursing conducted an investigation and the students were informed by the clinical director that the program could be shut down and it was a possibility that the credits would not transfer. She said ultimately she did not pass the class because of retaliation and she lost a great deal both emotionally and financially. Jackie Collins said she paid $24,000 in tuition to get an associate's degree from a for-profit college but did not receive the education she was promised. She asked who provides oversight of the proprietary board to make sure they are carrying out their duties and responsibilities, including consumer protection.

Representative Collins said that a for-profit school with several students enrolled in his district closed unexpectedly. He also wanted additional information on the financial requirements for licensure and said additional legislation may be needed to protect the public.

Representative Westrom said that Ms. Hall is serving as her mother's LPN in Hospice care and she is aware of the financial and personal sacrifices Ms. Hall made to pursue her education. She said the General Assembly has worked diligently to ensure that colleges are adequately preparing students for the workforce and she is concerned about the lack of transparency in for-profit schools related to their curriculum and oversight. Representative Westrom said proprietary schools need to be held to the same level of accountability as state and private colleges and universities and some legislative changes may be necessary to ensure consumer protection.

In response to questions from Representative Wuchner, Ms. Hall said the first school to which she applied had 600 applicants for 60 slots in the RN program. She said the school she attended advertised in the Kentucky Board of Nursing magazine as a place where the student could complete the LPN or RN program in twelve months and there was no waiting list. Ms. Hall said she attended a Kentucky Tech school to get her LPN certificate and was not aware that she needed to research any Kentucky licensed school's history and pass rates.

In response to a question from Representative Rollins, Ms. Hall said she took out student loans to attend the proprietary school.

Representative Farmer said he is also aware of advertisements by for-profit colleges for bachelor and master degrees which seem to be misleading. Ms. Collins said the school she attended did not advertise any programs beyond an associate degree. She said the degree she earned has not improved her employment situation and she is struggling with repaying the student loans she obtained to pay the high tuition.

Representative Rollins said some of the proprietary schools do an excellent job, especially since they offer courses at a time when it is convenient for adult students. He said he is also aware that nursing programs are offered in various sequences and vary among colleges and many nursing programs are reluctant to accept transfer credits.

Robert King, President of the Council on Postsecondary Education, said CPE provides oversight of all colleges and universities, whether they are public, private, or for-profit, if they offer at least bachelor or higher degrees.

In response to a question from Senator McGaha, Ms. Hall said the clinical coordinator at the school she was attending informed the class that the Kentucky Board of Nursing was conducting an investigation and students may have to go to other programs and their credits may not transfer.

In response to a question from Representative Moberly, Mr. King said that Sullivan University is a proprietary school in Jefferson County and has a pharmacy program. Representative Moberly asked if coal severance funds were appropriated during the last session for scholarships for students from coal counties to go to the Sullivan pharmacy school. Mr. King said that Sullivan University is a private, for-profit institution and meets all criteria for licensure including required financial reserves. The college that was being discussed at the meeting is a separate institution not licensed by CPE and offers credentials up to an associate degree. Representative Collins asked if a private institution would be eligible for scholarship money from coal severance funds. Representative Rollins said financial aid is for the student and not any particular institution.

Jo Carole Ellis, Vice President for Government Relations and Student Services, Kentucky Higher Education Assistance Authority, said that the appropriation for pharmacy scholarships passed in the 2010 Extraordinary Session did not specify institutions but allows students to attend eligible pharmacy programs in Kentucky, which would include Sullivan University and Midway College. Students from coal producing counties receive priority, although it is not limited only to those students, but the service has to occur as a pharmacist in a coal producing county or the money has to be repaid.

Representative Firkins asked if representatives from proprietary schools could come before the committee at a subsequent meeting to answer questions. Representative Rollins said that although the December agenda for the committee is full, it may still be possible to have a representative available at the meeting. Representative Miller also supported hearing from a representative of the industry. Representative Belcher recommended that an appointed member of the Board of Proprietary Education be available to answer questions.

Representative Westrom asked Ms. Hall if her credits would be transferrable from the school she attended to the parent school. Ms. Hall said she did not think they would transfer although she has not attempted to do so. Ms. Hall explained that the written information she provided to the committee related to three different for-profit schools in Kentucky.

Review of Administrative Regulations

Ms. Tamela Biggs, staff attorney for the Kentucky Teachers' Retirement System, said that Regulations 102 KAR 1:320 and 102 KAR 1:330 were necessary to establish the procedures and timelines involved for accepting and instituting qualified domestic relations orders.

Adjournment

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 2010 Interim

November 8, 2010

Call to Order and Roll Call

The fourth meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, November 8, 2010, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Ted Edmonds, 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 Walter Blevins Jr., David Givens, and Jack Westwood; Representatives Linda Belcher, John "Bam" Carney, Marie Rader, Carl Rollins II, Kent Stevens, Wilson Stone, Alecia Webb-Edgington, and Jill York.

Guest Legislator: Representative Addia Wuchner.

Guests: Mike Ford, Director of Pupil Personnel, Boone County Schools; Rick Culross, Executive Director of Student Supervision and Pupil Personnel, Kenton County Schools; Terri Sparks; William and Cindy Taylor; Robin Dixon; Colleen Dixon; Tracy Goff Herman, Legislative Liaison, Kentucky Department of Education; Clyde Caudill, Legislative Agent, Jefferson County Public Schools and Kentucky Association of School Administrators; and Jim Thompson, Legislative Liaison, Education and Workforce Development Cabinet.

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

Approval of Minutes

Representative York made a motion to approve the minutes of the August 9, 2010, and September 13, 2010, meetings. Senator McGaha seconded the motion and the motion was approved by voice vote.

Opening Remarks

Representative Wuchner thanked the committee for allowing testimony on special needs education and the types of completion certificates awarded to special needs students. She said many special needs students who are tested with alternative assessments exceed the criteria for certificates of attainment although they may not meet the criteria for a traditional high school diploma. Representative Wuchner said she plans to develop legislation that would allow students who fall in this educational gap to be awarded a different type certificate or diploma that would better represent their academic achievements and help them pursue career and postsecondary educational goals.

Certificates of Attainment and High School Diplomas

Larry Taylor, Director, Division of Learning Services, Kentucky Department of Education (KDE), presented information on the special needs education program. Dr. Meada Hall, Human Development Institute, University of Kentucky, also provided information on community-based services provided through the Office of Vocational Rehabilitation. Committee members were provided background information, including applicable statutes and regulations.

Mr. Taylor said that certificates of attainment may be awarded to students with significant intellectual disabilities; to students requiring extensive direct instruction in multiple settings so they can apply functional and career-readiness skills in school, work, home, and community environments; and to students who are unable to acquire, maintain, and generalize skills without intensive, frequent, and individualized community-based instruction. Community-based instruction includes consumer activities and life skills, such as reading and understanding product labels, identifying products, paying for products, et.al, which are taught in real life settings, such as supermarkets and other retail establishments.

There are currently 106,046 students in Kentucky between the ages of 3-21 with individual education plans (IEPs). Included in this group are 101,215 students participating in assessments to receive a standard diploma and 4,831 students participating in the alternate assessment education curriculum to receive certificates of attainment. Each student's IEP is evaluated annually to determine progress being made in meeting educational goals and objectives.

The requirements to obtain a diploma or a certificate of attainment are included in Regulation 704 KAR 3:305. A minimum of 22 credits is required to receive a high school diploma with the local option to add additional requirements. Mr. Taylor said that in 2006, the regulation was amended to change the name of the certificate awarded to students whose disabilities are severe enough to preclude them from participating in a course of study to meet traditional high school graduation requirements from certificate of completion to certificate of attainment. KDE sought input from local district representatives when amending the regulation to find a term that would more adequately describe the specific skill levels achieved by this group of students. Kentucky assesses all students and uses an alternate assessment for students with IEPs. Federal regulations require that students who participate in alternate assessments as well as all students who take longer than four years to complete high school be statistically reported as dropouts. Mr. Taylor said that KDE representatives are working with various professional organizations, such as the Council of Chief State School Officers, to collectively make recommendations to change the definition of dropout when the No Child Left Behind Act (NCLB) and Individuals with Disabilities Education Act (IDEA) are reauthorized so that students who are still attending school will not be included in dropout statistics and states will be recognized for educating their entire student population.

Mr. Taylor said that the alternate assessment for students with moderate or severe disabilities includes a portfolio of instructional samples used to measure the effectiveness of the IEP; attainment tasks in which students are asked to complete a task, working step by step as directed by the teacher; and a transition attainment record, which is a checklist to evaluate the student's readiness in reading, mathematics and science for postsecondary education or the workforce. Mr. Taylor said that one of the KDE initiatives to help students successfully transition is the Community Based Work Transition Program, which is a jointly funded program between the Office of Vocational Rehabilitation and a number of school districts in the state. He asked Dr. Hall to provide information on the program.

Dr. Hall said a job coach or student employment coordinator works with the students during their last two years of school with the goal of helping them find a competitive paying job with benefits in integrated settings. They work with the students and their families to determine a career or educational path suitable for the student's skills and abilities and develop the necessary support around the student so they can be successful after high school. Districts can be reimbursed up to 75% of the cost of the program and currently 68 school districts are participating. Mr. Taylor said it is important that employers and community leaders be continually informed about the contributions these students can make because their support is crucial to the effectiveness of the transition program.

In response to questions from Senator Givens, Mr. Taylor said that the terminology used to identify completion of high school by special needs students varies among states. He said that all test scores, including those from alternate assessments, are counted in a school's accountability index. A parent or guardian can request that their special needs student not be assessed with an alternate assessment.

In response to questions from Representative Stone, Mr. Taylor said an alternate assessment and an assessment with accommodations are not the same. Representative Stone said he was not aware that students who have been in high school for more than four years are included in the dropout statistics. Mr. Taylor said that many districts have expressed a desire to have two separate accountability reports issued, one to comply with federal regulations and another that truly reflects student enrollment and accountability. He said further discussion is needed to educate the public on the skills and abilities of students with disabilities, regardless of the name of the certificate or diploma, with a focus toward helping them to effectively transition into the workforce or postsecondary education.

In response to a question from Representative Belcher, Mr. Taylor said that prior to 2007, the alternate assessment included seven content areas and an alternate portfolio containing a compilation of a student's work. Three assessments were used to test students, one for elementary, one for middle, and one for high school. Federal law now requires that special needs students be assessed with a grade level instrument mirroring the assessment given to non-disabled students which incorporates all grade level content areas. The alternate assessment is standardized across the state. Dr. Hall said that standards for students with disabilities are more broad and limited in number than those of traditional assessments. Representative Belcher said she has been informed by some teachers in her area that special needs students are being asked to perform above their skill level and are being evaluated by people who do not have firsthand knowledge of the students. Mr. Taylor said that the current alternate assessment system was implemented quickly to allow federal dollars to continue to flow to the school districts. When the new assessment system is implemented, changes will need to be made to the alternate assessment to ensure that it mirrors the new system and professional development will be important to effective implementation.

In response to questions from Senator Westwood, Mr. Taylor said that all students being tested with alternate assessments are considered dropouts as well as any student who attends high school longer than four years. He said that as long as a student is attending school, the school continues to receive per pupil SEEK funding, the SEEK IEP add-on funding, and federal dollars for the special needs students.

In response to a question from Representative Rollins, Mr. Taylor said that federal laws require each student to be assessed in similar fashion on the same content areas for the same grade levels, although students who participate in alternate assessments are taught a reduced number of standards that are lesser in depth and breadth. Representative Rollins expressed concern that all special needs students should be assessed based on their IEPs and that accomplishments be rewarded, regardless of federal requirements.

In response to a question from Representative Carney about specific problem areas, Mr. Taylor said that students, schools, and school districts need to receive credit for every student's growth; students who stay in school longer than four years up to age 21 should not be counted as dropouts and districts and schools should not be penalized; the alternate assessment needs to be further refined; and the Office of Vocational Rehabilitation's community-based transition program needs to be expanded to all districts.

In response to a question from Senator Blevins, Mr. Taylor said there has been a decrease in the number of students participating in alternate assessment since 2005. He said he would provide information to the committee on the number of students participating each year since 2005 and the amount of federal dollars districts receive for this student population. He said some districts use other initiatives, instead of the vocational rehabilitation program, to help transition students into work and higher education environments.

Representative Stevens said that Kentucky's educational system needs to prepare all students for success. He said that, as a former educator, he was aware that a negative stigma exists with special needs education and everything possible needs to be done to remove that image.

Alternative Education Diploma for Students with Disabilities - Parents/Student Presentation

Robin Dixon, parent of Colleen Dixon, said her daughter, who has Down's syndrome, attends school in Boone County. She said in addition to attending school, Colleen participates in many extracurricular school and community activities. She expressed a desire that Colleen be afforded the same opportunities as her other daughter, who received a high school diploma and is enrolled in a postsecondary institution. She said because Colleen is tested with an alternate assessment, she currently can only receive a certificate of attainment, although other states provide various other options and some award a high school diploma. Ms. Dixon said it is unfair to students like her daughter, who dedicate a tremendous amount of time and effort, to be classified as a dropout and ineligible to receive a diploma, which presents employment and higher education barriers. She said even though the University of Kentucky and Northern Kentucky University are now offering programs specifically designed for students with special needs, other opportunities and resources will not be available for the students without a high school diploma.

Colleen Dixon thanked the committee for inviting her to the meeting and expressed her desire to earn a high school diploma.

William and Cindy Taylor provided information on their 13 year old son Zach, who is a special needs student in the sixth grade in the Boone County school system. Ms. Taylor said her son is involved in many school activities and works very hard to accomplish educational goals and deserves to be awarded a diploma upon completion of school rather than a certificate of attainment. Ms. Taylor said although the curriculum is challenging for her son, he does receive accommodations. She said the IEP meetings with school personnel are very intimidating for the parents even though school personnel are trying to meet his educational needs. Ms. Taylor said she wants her son and other special needs children to feel successful and receive appropriate recognition for their achievements.

Terri Sparks said that her 15 year old daughter Lindsay is a freshman at Cooper High School in Boone County. She said Lindsay also participates in various extracurricular activities and is especially good with computer technology. She said that Lindsay had an IEP since first grade and when she was to enter eighth grade, the teachers recommended and she agreed to place Lindsay on a certificate of attainment track. Ms. Sparks said she was not aware at the time of the stigma attached to certificates of attainment, such as being statistically identified as a dropout, and the employment and educational barriers created from having only a certificate of attainment.

In response to a question from Representative Belcher, Mr. Taylor said that students with a certificate of attainment may be admitted to various colleges and universities that have programs of studies designed for special needs students. Ms. Taylor said she had contacted the community college in her area to find out the requirements for automobile mechanic certification and was informed that her son could attend but would not be eligible for financial aid unless he had a high school diploma or a general education development (GED) diploma.

Senator McGaha thanked the parents for their presentations and for informing the committee of the challenges they and their children face in the school environment. He said he would provide support in the Senate for legislation that Representative Wuchner may develop to provide a different type of diploma for students in the gap between certificate of attainment and traditional high school diploma criteria.

Dr. Harold Kleinert, Executive Director, Human Development Institute, University of Kentucky, said as a former teacher of students with moderate and severe intellectual disabilities he fully understands the tremendous effort students and their families put forth to achieve educational goals. He said the federal Higher Education Opportunity Act of 2008 specifically states that students with intellectual disabilities, even those without a high school diploma, are eligible for Pell grants and work studies in universities and colleges offering programs of studies for special needs students. He said Gateway Community and Technical College has not yet applied to be a part of the program of studies for special needs children, but Bluegrass Community and Technical College and Northern Kentucky University are participating and have students without high school diplomas enrolled in their programs. Dr. Kleinert said a new document is needed to recognize the educational achievement of students in the gap and the business community also needs to be informed about the positive contributions these students can make in a work environment.

In response to a question from Representative Belcher, Dr. Kleinert said that the community based transition program helps develop customized employment for special needs students. Representative Belcher said it is also important for parents to not have misconceptions based on document titles but realistic expectations based on student ability.

William Taylor, parent of Zach, said this group of special needs students should be provided the opportunity to earn a diploma so they can seek out education and work environments where they can be successful.

Representative Wuchner said the issue is very complex, emotional, and complicated and thanked the committee members for the discussion. She said the Kentucky Chamber of Commerce had representatives at the meeting to hear the testimony and will provide input on behalf of employers.

Closing Remarks and Adjournment

Representative Edmonds thanked the members for attending the subcommittee meetings and committee staff for providing the necessary support to ensure successful 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 4th Meeting
of the 2010 Interim

November 8, 2010

Call to Order and Roll Call

The fourth meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Monday, November 8, 2010, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Leslie Combs, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Leslie Combs, Co-Chair; Senator Ken Winters; Representatives C. B. Embry Jr., Bill Farmer, Tim Firkins, Jody Richards, and Tom Riner.

Legislative Guest: Representative Arnold Simpson

Guests: Clyde Caudill, Kentucky Association of School Administrators and Jefferson County Public Schools.

LRC Staff: Kenneth Warlick, Sandy Deaton, and Lisa W. Moore.

Approval of Minutes

The minutes of the September 13, 2010, meeting, were not approved because of a lack of a quorum.

Inclusion of Students with Intellectual Disabilities in Postsecondary Education, University of Kentucky

Mr. Harold Kleinert, Ed.D., Director, Human Development Institute, said the two postsecondary inclusion grants provide tremendous opportunities for students with disabilities who have never been included in higher education. The project also represents a strong national movement in terms of the reauthorization of the Higher Education Act amendments of 2008.

Mr. Jeff Bradford, M.S.W., Postsecondary Inclusion Partnership (PIP), said PIP's goal was to support up to 40 students with intellectual disabilities in a postsecondary and inclusive setting. He said alliances have been formed with many institutions such as Fayette County Public Schools, Office of Vocational Rehabilitation, and many postsecondary institutions. He noted these partnerships were crucial to the success of the program because staff and money are limited. It is important to prove that students with intellectual and/or developmental disabilities can excel at high levels if given the opportunity and the right supports.

Mr. Bradford said PIP is funded by the Kentucky Council on Developmental Disabilities, and administered by the University of Kentucky (UK's) Human Development Institute. He noted the new Supported Higher Education Project (SHEP) is funded by the United States Department of Education, Office of Postsecondary Education. The grant award is for $2.2 million dollars over a period of five years, and will have a statewide focus.

Mr. Bradford said PIP has met its student goals for the first three years. He said many intellectually disabled students can benefit from the college experience, even if they do not graduate. National data from a program in Canada indicated 85 percent more intellectually disabled students obtained a career job after receiving some form of higher education.

Mr. Bradford said PIP uses a process called person-centered planning. He does not believe that there is one program that fits all people with disabilities. There are a variety of educational plans available including: standard degree option, specialized degree option, certificate option, and audit option. Each educational plan includes customized supports such as: individual tutoring, organization and planning, social networking assistance, experiential learning and internships, and assistive technology supports.

Mr. Bradford said evaluation is based on a variety of methods. Ultimately, the goal of the program is for students to obtain employment in a career of their choice. The program also tracks the courses taken and completed, grade point average (for graded courses), work internships completed, college activities joined, and students' own perceptions of how they have gained from the postsecondary experience.

Mr. Bradford said students also participate in a self-evaluation. Using a four point Likert scale, new PIP students respond to a brief survey designed to measure satisfaction across learning, self-efficacy, and social domains. He said the surveys will be re-administered annually to assist in evaluating outcomes.

Mr. Bradford said journey mapping is used as a qualitative evaluation tool which uses creative strategies and personal reports from students to capture the data and their feelings from the social service programs. He said six participants in the PIP program will record their impressions through video, internet journaling, and other formats of their choosing to offer a comprehensive view of their individual experiences. Data will be collected three times each semester, and will focus on three areas: academic, social, and personal growth. A combination of closed and open-ended questions will be used to prompt responses in interviews lasting thirty minutes each. He noted in addition to offering a broad analysis of outcomes, journey mapping techniques will allow PIP staff to make immediate adjustments to methods and services offered, based on participant needs. He said student stories can be just as compelling as data.

Dr. Beth Harrison, Ph.D., SHEP, said Kentucky was one of the recipients of a $2.2 million federal grant that twenty five other states also received. She is hoping to work with the partnerships already established in the pilot project and expand the program statewide. She said a major goal of the new grant is to work with institutes of higher education to help them gain recognition as an institute that provides a transition program for students with intellectual disabilities. She noted students would achieve a specialized certificate after a program is completed.

Dr. Harrison said SHEP will support 150 students in inclusive higher education settings using person-centered planning and student-centered teams. She said SHEP will implement individualized certificates and meaningful academic recognition that promotes improved educational and employment outcomes. SHEP will also work to create viable funding streams to sustain project efforts beyond the project funding.

Dr. Harrison said college is more than just class work. Students will be true participants in campus life, and will meaningfully engage in the college culture, ranging from living in a dorm to taking part in study groups, rallies, and student clubs. Whenever possible, natural support through peer mentors and classroom accommodations will be used, changing the college culture to one of inclusiveness where diversity is valued.

The committee heard from Ms. Megan McCormick, who is a successful and active student in the program. Megan was diagnosed with Down syndrome at two weeks old and is a star in the program who is seeking a master's degree as an Occupational Therapy Assistant.

Representative Farmer commented that he had known Megan and followed her educational pathway for many years. He was impressed at Megan's progress and is in support of continuing and expanding the program.

Mr. Kleinert said higher education is offering students with intellectual disabilities meaningful careers and the chance to be contributing members of society. He said the Higher Education Act of 2008 was intricate in universities and community colleges nationally applying to administer these types of programs. With the Act, intellectually disabled students became eligible for work studies and federal Pell grants, and this helps society as a whole.

Representative Combs said the potential is there for students with intellectual disabilities to perform and succeed. She noted that Megan has a strong support system in her family and said all students may not have that. She hopes the General Assembly will consider action to promote program support for intellectually disabled students who do not have family support at home.

In response to questions from Senator Kerr, Megan said she selected the Occupational Therapy Assistant degree because one of her friends and mentors had chosen that career. She said the hands-on internship was invaluable to her learning experience.

Senator Winters said he was proud and impressed with Megan. He would like for Megan and the project leaders to keep the committee updated on her achievements when she obtains a job.

In response to questions from Senator Winters, Mr. Kleinert said immediate plans for expansion include UK, Western Kentucky University (WKU), and the Kentucky Community Technical and College System (KCTCS). He said there are several factors to consider in selecting the additional 150 students. The students' goals will be a factor and if postsecondary education will help to meet the goal. He said some students benefit from the college experience, while others do better transitioning from a high school program to work.

Mr. Kleinart said the program hopes to add two to three sites per year over the five years. He said mechanisms need to be developed, in conjunction with vocational rehabilitation, to ensure the infrastructure of the program is maintained after the five year grant period is over.

Mr. Kleinart said they are working on an electronic web-based book of success stories. He assured Senator Winters that success stories, such as Megan's, would be shared with all school districts across the state.

Dr. Malkanthie McCormick, M.D., Parent/Advocate said students with intellectual disabilities do not often take a full course load in college. She would like the General Assembly to study the issue of students losing their Kentucky Educational Excellence Scholarship (KEES) funds if they cannot complete a regular class schedule. Research shows that intellectually disabled students perform better taking two courses a semester. She feels they should not lose their KEES money for this reason.

Representative Riner said Kentucky taxpayers are getting a bargain for this program. He noted the only other school to offer something similar, is Landmark College in Vermont, and the tuition is more there than to attend Harvard.

Status Report On Independent Colleges and Universities

Dr. Gary Cox, President, Association of Independent Colleges and Universities (AIKCU), said House Bill 1 (enacted in Regular Session 1997) and Senate Bill 1 (enacted in Regular Session 2010) has given the opportunity for independent colleges to be significant participants in postsecondary education. He said AIKCU is the tenth component of Kentucky's postsecondary education system. There are 20 independent, nonprofit colleges and universities, all which are accredited by the Southern Association of Colleges and Schools (SACS). He noted AIKCU schools meet the same rigorous quality standards as Kentucky's public colleges and universities.

Dr. Cox said AIKCU schools are composed of 33,000 students. He said 75 percent are Kentucky residents. They provide critical choices and access to postsecondary success. He said 70 percent of AIKCU students who graduate do so in four years.

Dr. Cox said AIKCU universities are very diverse. There is a mix of traditional campuses, extended sites, KCTCS and business partnerships, and distance learning. He said admissions standards range from open admissions to highly selective. He noted 23 percent are adult students, with about ten percent of students being minorities. Forty percent of undergraduates receive federal Pell grants.

Dr. Cox said AIKCU universities enroll twenty percent of KCTCS transfers. AIKCU produces one-fourth of new public school teachers annually. One-third of teachers have at least one credential from an AIKCU institution. He said AIKCU universities produce 20 percent of Kentucky bachelor's degrees in nursing and 20 percent of all Kentucky Science Technology Engineering and Math (STEM) science and math bachelor's degrees. They do not offer the engineering program.

Dr. Cox said enrollment has increased at AIKCU universities from 2000 through 2010. There has been a 39 percent increase in total annual degrees. He said AIKCU promotes timely degree completion. He said about 40 percent of AIKCU students graduate in four years. He said students are called who are not attending class to solve any problems that may be prohibiting them from being in class.

Dr. Cox said AIKCU is very cost effective. He said their tuitions on average are 35 percent less than private colleges across the country, and 25 percent less than the southern average. He noted student financial aid is important to AIKCU students. The College Access Program (CAP) and federal Pell grants are critically underfunded. He said the institutions provide $160 million in financial aid to students. The average loan debt of students is generally less for

Kentucky private college students. Kentucky's investment in AIKCU students is less than five percent of total postsecondary spending.

Dr. Cox said AIKCU institutions are good stewards of their resources. He said institutions do not have any long term debt, except in extreme circumstances. He commended the university presidents and their ability to be tremendous fundraisers. He said the recent investments of $300 million in new facilities had no Commonwealth funds invested. AIKCU institutions depend largely on the strengths of their Presidents to be successful. He said faculty is very involved in the implementation of Senate Bill 1.

In response to questions from Representative Simpson, Dr. Cox said transfers from KCTCS into AIKCU have not been previously counted in the completion rate. This is currently being changed in the data collection system. Dr. Cox noted that AIKCU participates in the state data system, which is very unusual for private colleges. He said AIKCU is striving for higher graduation rates.

Dr. Cox does not know the percentage of students who require remediation in the private colleges, but will try to find out. He noted remediation is a significant problem in private institutions as with public universities. He said remediation is expensive to the institution as well as the student.

Dr. Cox said AIKCU institutions are at capacity, but growing. He said for-profit institutions are impacting enrollments, particularly the institutions that are not SACS accredited. He said AIKCU needs to do more to reach out to adults.

In response to a question from Representative Riner, Dr. Cox said some of the private institutions partner to offer Reserve Office Training Corps (ROTC) credit. He said the University of Cumberlands is in partnership with Eastern Kentucky University and several Centre students are involved with the University of Kentucky.

Senator Winters said military science is offered and Campbellsville University has applied for a free-standing program from the Department for Defense. He said the only alternative is for private colleges to partner with established institutions until the Department for Defense rules favorably on establishing new programs. He also commented that most students attend private colleges based on proximity to their homes and therefore the ACT scores of these students are not much different than a nearby public school.

In response to a question from Senator Winters, Ms. Jo Carole Ellis, Kentucky Higher Education Assistance Authority, said the CAP money runs out in March every year and KTG funds were depleted in April. There is more demand for financial aid than money available.

Representative Richards said he attended Kentucky Wesleyan College because the school was affiliated with his church. He said the private colleges are entrepreneurial and market themselves nicely. They fill niches and serve a great need in the Commonwealth.

In response to questions from Representative Simpson, Dr. Cox said the accreditation process for the Southern region (SAKS) is the toughest of the six regional accreditation associations. He noted many for-profit schools are nationally accredited, and do not have to meet the same standards as the regional accreditor. He feels there is little oversight for proprietary schools. Dr. Cox said some states require the same level of accreditation for an out-of-state institution as they do the in-state institutions. He said proprietary schools have access to more resources because they are for-profit. He said private colleges struggle with marketing campaigns.

With no further business before the committee, the meeting adjourned at 11:45 AM.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 5th Meeting of the 2010 Interim

October 22, 2010

Call to Order and Roll Call

The 5th meeting of the Special Subcommittee on Energy was held on Friday, October 22, 2010, at 10:00 AM, in Lexington, Kentucky. Representative Keith Hall, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Keith Hall, Co-Chair; Senators Ray S. Jones II, John Schickel, Robert Stivers II, Gary Tapp, and Johnny Ray Turner; Representatives Rocky Adkins, Eddie Ballard, Dwight D. Butler, Leslie Combs, Tim Couch, Jim Gooch Jr., Thomas Kerr, Martha Jane King, Fred Nesler, Sannie Overly, Tanya Pullin, Tom Riner, and Fitz Steele.

Guests: House Speaker Greg Stumbo; Steven F. Leer, Chairman and CEO of Arch Coal; John Snider, VP External Affairs, Eastern Region, Arch Coal; Mahendra Sunkara, Director for the Institute for Advanced Materials and Renewable Energy, University of Louisville; Rodney Andrews, Director, Center for Applied Energy Research (CAER); Secretary Len Peters and Deputy Secretary Hank List, Energy and Environment Cabinet.

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

The September 17, 2010 minutes were approved, without objection, upon motion made by Rep. Fitz Steele, and seconded by Rep. Tim Couch.

America's Energy Future: The Essential Role of Coal

Mr. Steven F. Leer, Chairman and CEO of Arch Coal, Inc. spoke about America's Energy Future: The Essential Role of Coal. He explained that Arch Coal is the second largest coal producer in the United States, and employs approximately 600 people in Kentucky. The world's need for energy is increasing. Electricity consumption, based on the world average, is 3,427 kWh per person, per year. Based on current production levels and proven reserves, coal should outlast both gas and oil reserves by more than 3 times. Coal has been the world's fastest growing fuel source for the last 9 years and continues to grow. China consumes more coal than the United States, Japan and Europe combined. Mr. Leer said that countries around the world are building coal plants to fuel electricity needs. Globally, a new coal-fueled generation is planned to come online by 2015 and will be fueled by more than 1 billion tons of coal.

Mr. Leer also asked where the United States would get its future power if not from coal. Renewables can play a role in the future for power, but stressed that renewables face enormous hurdles achieving baseload status. Coal is the dominant fuel source for electricity generation in the United States, and it provides low-cost electricity that enhances the standard of living and global competitiveness. As an example, he said that electricity prices in Kentucky are 34 percent lower than the national average. With funding, time, and new clean coal technologies, coal will become cleaner and more climate friendly. The United States and other countries must work together to find solutions to climate challenges. To meet the federal greenhouse gas reduction (GHG) targets by 2050, it will be essential to capture GHG emissions from both coal and natural gas.

In response to a question from Rep. Gooch, Mr. Leer stated that another 10 years of investing in carbon capture technologies would be needed.

In response to questions from Sen. Stivers, Mr. Leer stated that the federal regulations regarding emission levels would impact coal and utilities. If the Environmental Protection Agency passes new regulations, there will be a moratorium on building plants that will affect all Americans. Mr. Leer also said that state renewable portfolio standards have better tax incentives than the federal proposals.

Comments from legislators indicated that a good way to spur the economy in Kentucky would be to build new coal-fired plants, employing thousands of people, investing in technology.

Argonne Battery Project

Rodney Andrews, Director, UK Center for Applied Energy Research, and Mahendra Sunkara, Director, UL Conn Center, gave a brief presentation on Kentucky's Argonne Battery Manufacturing Research and Development Center. The Center's mission is to assist Argonne and other materials developers to bench mark their new lithium technology by fabricating commercial-style cells to quantify performance of their new cell chemistries. It would position Kentucky and the U.S. industry as competitive, cost effective players in the battery marketplace. One of the program's goals is to establish the Kentucky-Argonne Battery Manufacturing Research and Development Center as a home of new technology and expertise.

In response to questions from Rep. Adkins, Mr. Andrews stated that the new Center for Applied Energy Research laboratory facility should be completed by November 2011. He also stated that the demonstration coal-to-liquid refinery should be able to produce 40 gallons a day.

Meeting adjourned.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the 5th Meeting of the 2010 Interim

October 20, 2010

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, October 20, 2010, at 1:00 PM, at the Brown & Williamson Club, Papa John's Cardinal Stadium, 2800 S. Floyd Street, Louisville, Kentucky 40209. Representative Tom Burch, Co-Chair, called the meeting to order 1:10, and the secretary called the roll.

Present were:

Members: Senator Julie Denton, Co-Chair; 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 Bob M. DeWeese, Joni L. Jenkins, Mary Lou Marzian, Tim Moore, Darryl T. Owens, Susan Westrom, and Addia Wuchner.

Guests: Dr. Don Miller M.D., Ph.D., Director, James Graham Brown Cancer Center; Dr. Richard Goldstein, M.D., Ph.D., Vice Dean of Clinical Affairs and Professor of Surgery, University of Louisville School of Medicine; Demetra Antimisiaris, PharmD, Assistant Professor, Director of Geriatric Pharmacotherapy, Department of Family and Geriatric Medicine, University of Louisville; Kevin T. Kavanagh, MD, MS, Board Chairman, Health Watch USA; Dana Stephens, Director, Infection Prevention and Control, Saint Joseph Health System; Kraig E. Humbaugh, M.D., M.P.H., Director, Division of Epidemiology and Health Planning, Kentucky Department for Public Health, Cabinet for Health and Family Services; James Ramsey, President, University of Louisville; Hope McLaughlin and Nick D'Andrea, University of Louisville; Mike Weinrauch, Commission on Children with Special Health Care Needs, Cabinet for Health and Family Services; Eric T. Clark, Kentucky Association for Health Care Facilities; and Charles George, Kentucky Chamber.

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

Approval of the Minutes

A motion to approve the minutes of the September 15, 2010 meeting was made by Senator Carroll, seconded by Representative Jenkins, and approved by voice vote.

Consideration of the Referred Administrative Regulations

The following referred administrative regulations were on the agenda for consideration: 201 KAR 2:330 – sets out the conditions whereby a pharmacy may operate temporarily in an area not designated on the pharmacy permit pursuant to an executive order issued by the Governor as authorized by KRS 315.50; 201 KAR 20:057 – establishes the scope and standards of practice for an advanced practice registered nurse; 201 KAR 20:070 – establishes the requirements for the licensure of nurses by examination; 201 KAR 20:110 – establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed; 201 KAR 20:162 – establishes procedures for conducting an administrative hearing for the denial, limitation, probation, suspension, or revocation of the license of a registered or practical nurse; 201 KAR 20:225 – establishes the procedures for reinstatement of a nursing license that has lapsed or has been subject to disciplinary action; 201 KAR 20:230 – establishes requirements and procedures for the renewal of nursing licenses; 201 KAR 20:240 – establishes fees for nurse licensure, examination, renewal, reinstatement, and continuing education; 201 KAR 20:370 – establishes requirements and procedures for nurse licensure; 201 KAR 20:411 – establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner; 201 KAR 20:470 – establishes the requirements for dialysis technician training programs and for credentialing dialysis technicians. A motion to accept the administrative regulations was made by Senator Buford, seconded by Senator Carroll, and accepted by voice vote.

Cancer Vaccines

Dr. Don Miller M.D., Ph.D., Director, James Graham Brown Cancer Center, stated that cancer is a major public health problem in Kentucky. Kentucky's cancer incidence and death rates are 40 percent greater than the national average and the gap is not narrowing. The Bucks for Brains has funded 14 endowed positions, the Kentucky Lung Cancer Research Program has taken Kentucky from no lung cancer research ten years ago to 26 laboratories that work on lung cancer research, the tobacco excise tax has been important in recruitment of new faculty, the coal severance tax has supported the dataseam project, and support of the translational research program. Gardasil was developed at Georgetown University and is the first 100 percent effective cancer vaccine, but costs $360 per person. The university is in the process of developing a tobacco-based vaccine for cervical cancer that would be much less expensive to produce. Since 1999, approximately $50 million has been invested in building the drug development program and approximately $80 million in federal funding has helped support drug development research. The university has a satellite cancer research center located in Owensboro that concentrates on natural products, particularly those produced in plants.

The Owensboro Cancer Research Center recently received a $3 million grant from the Leona Helmsley Foundation. Advanced Cancer Therapeutics is a biotech startup company owned by the University of Louisville, the James Graham Brown Cancer Center, and local investors. The company is financed by local investors and pharmaceutical partners. The company will allow the center to develop two to three new drugs per year. Early clinical trials will be done with Kentucky patients. In 2011, the center will submit an application to become an NCI designated cancer center.

In response to a question by Representative Burch, Dr. Miller stated that there is no scientific evidence that nine to twelve year old girls who get the Gardasil vaccine will become more sexually active.

In response to a question by Representative Moore, Dr. Miller stated that the presence or absence of a cervical cancer vaccine has nothing to do with the incidence of cervical cancer. Cervical cancer screenings are less universally utilized in parts of Appalachia as they are in the rest of the state and the country. The sooner someone is diagnosed with cancer the sooner they can receive treatment. The Kentucky Cancer Program has had a long emphasis on smoking cessation. Research is being conducted to find better ways to help individuals stop smoking.

In response to questions by Senator Clark, Dr. Miller stated that radon is the second most important cause of lung cancer, and the center is looking for better ways to detect radon and avert its affect. The financial benefit to holding a patent on a medication or treatment is the university receives half of the royalties and half goes to the scientist who invents the medication or treatment. The university will receive 30 percent above the royalties from the Advanced Cancer Therapeutics biotech company.

Medical School Partnerships

Dr. Richard Goldstein, M.D., Ph.D., Vice Dean of Clinical Affairs and Professor of Surgery, University of Louisville School of Medicine, stated there has been an increase in medical student class size from 142 to 160 per year and 75 percent of these students are from Kentucky. Approximately half of the students who graduate stay in Kentucky to practice medicine. It is important to educate and retain medical students in Kentucky. The relationship between the Louisville Veterans Hospital and the University of Louisville School of Medicine is beneficial to both the veterans and the medical students. The first of four planned student housing complexes will break ground within the next few weeks. Each housing complex will include an on-site faculty member. The University of Louisville has a self-insured plan that spends $43 million in health care costs to cover 9,600 employees. The PharmD helps them understand medications prescribed for diabetes and teaches them how to treat the disease.

In response to questions by Senator Denton, Dr. Goldstein stated that the chronic disease management program at the university began in March 2010. There are no co-payments for the treatment of and medications for diabetes, hypertension, or lipid lowering medications for the approximately 420 people in the program. The diabetes chronic disease program could possibly help save $2 million per year.

In response to questions by Senator Carroll, Dr. Goldstein stated that the cost for each individual in the University of Louisville's diabetes chronic management program is approximately $10,000 per year. With better management this amount could be reduced by $2,500 per year. There is no coordinated aligned delivery system and some patients do not know why they are on certain medications. All people in the program meet with the pharmacist to make sure they understand why they are on their medications and how they can better manage their diseases. If a person understands how to manage the disease and have the correct medications, it helps reduce emergency room visits. If overall cost can be reduced to the health care plan, it can be delivered at less expense per month to all 9,600 employees.

In response to questions by Senator Stine, Dr. Goldstein stated that the medical school recognized the need to be more responsive to the healthcare needs of the state. Family medicine and internal medicine have struggled to make rural health or primary care something that is attractive to medical students. It is difficult to determine if a medical student may be predisposed to practicing primary or rural health care.

Polypharmacy

Demetra Antimisiaris, PharmD, Assistant Professor, Director of Geriatric Pharmacotherapy, Department of Family and Geriatric Medicine, University of Louisville, stated that polypharmacy is the use of five or more medications at the same time. The signs and symptoms are mental status changes, not eating or sleeping, generalized pain, and falling. Approximately 2,216,000 hospitalized patients experienced an adverse drug event. Approximately 30 percent of older persons are admitted to the hospital due to medication-related problems. The more diagnoses and the more drugs a person has, the more risk there is of an adverse drug event. There are too many drugs available and there is poor monitoring and follow up with a doctor.

Senator Carroll stated that Kentucky uses two times more medications per patient per year than other states. Complications associated with the use of unnecessary drugs would be reduced if physicians were required to use the Kentucky All Schedule Prescription Electronic Reporting (KASPER) System. Professor Antimisiaris said that KASPER is very innovative and helpful. Prescription drug abuse is a huge problem, and most people do not need all the drugs that are available. In response to a question by Senator Carroll, Professor Antimisiaris stated that the problem is doctors do not have enough time to check the KASPER System before prescription drugs are prescribed.

Representative Westrom stated that the Veterans Administration is exempt from using the KASPER System. A way to save money is to have a PharmD specialist in every hospital and clinic. Professor Antimisiaris stated that PharmDs do not have a Medicare cost code, but could be used to help monitor patients.

In responses to questions by Representative Owens, Professor Antimisiaris stated that medical learners and nurses are taught how to use references and check for drug interactions. People assume that if a doctor prescribes a medication, it is needed and do not look at routine use of medications until there is a problem.

In response to a question by Representative Marzian, Professor Antimisiaris stated there needs to be a better system to achieve better drug surveillance and coordination.

In response to comments by Representative DeWeese, Professor Antimisiaris stated that electronic health records will help.

In response to a question by Senator Carroll, Representative DeWeese stated that the e-Health Board has met several times. There is $40 billion in the stimulus package that gives physicians an incentive to move toward electronic health records. Senator Denton stated that in January or February 2011, there will be federal grants available to help doctors obtain software to participate and help meet the five-year requirement. Professor Antimisiaris said that consumers need to be aware that the pay incentives to doctors could create more polypharmacy problems.

Hospital Acquired Infections

Kevin T. Kavanagh, MD, MS, Board Chairman, Health Watch USA, stated that the Centers for Disease Control and Prevention estimates that there are 1.7 million hospital acquired infections each year that cause nearly 100,000 deaths. The cost to Kentucky's health care system is approximately $392 million to $462 million yearly. Methicillin-resistant Staphylococcus aureus (MRSA) is the most common health acquired infection in facilities. Kentucky has the sixth highest rate of clostridium difficile infections in the nation at 21.8 infections per 1,000 patients. Evidence indicates that with focused efforts, these once formidable infections can be greatly reduced in number, leading to a new normal for health care-associated infections as rare and unacceptable events. The combined tools of healthcare payment, oversight and accreditation, and public reporting are emerging ways to increase adherence to hospital acquired infections prevention practices.

Kentucky does not track individual hospital acquired infections but requires reporting of outbreaks. Dr. Wright, MD, MPH, Deputy Assistant Secretary for Healthcare Quality, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, stated that state initiatives on public reporting of healthcare-associated infections play an important role in the federal effort to prevent healthcare-associated infections. Measurement can also provide institutions and the public with information for comparisons across facilities and regions to better understand current risks for hospital acquired infections as well as risks over time. Data would allow public health officials to identify local and regional facilities requiring improvement. The National Healthcare Safety Network is a standardized reporting service provided free to facilities by the CDC.

In response to question by Senator Harper Angel, Dr. Kavanagh stated that of the 28 states that require public reporting of hospital infection rates, he did not know how it affected Medicaid budgets. Requiring states to use the National Healthcare Safety Network would eliminate duplicative work.

Dana Stephens, Director, Infection Prevention and Control, Saint Joseph Health System, said the primary focus is keeping patients, health care providers, and employees safe through scientific-based systematic approaches. The goal is to completely eliminate preventable health care associated infections. The rules that govern are infection prevention and control programs, accreditation, licensure, statutes, and regulatory are complied with daily. In January 2011, the Centers for Medicare and Medicare Services will require hospitals to use the National Healthcare Safety Network, the Centers for Disease and Control Prevention national data base for surveillance. Currently hospitals do not get paid for health care associated conditions from Medicaid, Medicare, and other payors. Hospitals are focusing resources on the elimination of health care associated infections through adherence of evidence-based prevention practices and collaboratives aimed at reducing infections. More research and data is needed to learn how to prevent infections across all settings and engaging all stakeholders in the dialogue. Daily attention to prevention efforts and active participation in a collaborative approach across all health settings to reach the ultimate goal of zero preventable infections is attainable.

In response to questions by Senator Carroll, Ms. Stephens stated that the Saint Joseph Healthcare System is participating in the National Healthcare Safety Network. Currently, Saint Joseph reports healthcare associated MRSAs in the critical care units.

In response to questions by Senator Westwood, Ms. Stephens stated that Saint Joseph Healthcare System absorbs the cost of hospital associated infections not covered by Medicaid even though some infections could be the patient's fault.

In response to questions by Representative Westrom, Ms. Stephens stated that most hospitals cannot afford to test every patient for MRSA, especially since testing would not decrease MRSA infections.

Kraig E. Humbaugh, M.D., M.P.H., Director, Division of Epidemiology and Health Planning, Kentucky Department for Public Health, Cabinet for Health and Family Services, stated that while individual hospital acquired infections are not required, by law all outbreaks are to be reported to the Department for Public Health. The Kentucky Department for Public Health was awarded $276,125 grant from ARRA to establish a Healthcare Associated Infections (HIA) Prevention Program starting September 1, 2009 and ending December 31, 2011. With the initial funding, Kentucky has established a statewide multidisciplinary leadership committee (the HAI Advisory Group), hired a full-time experienced Infection Preventionist to coordinate and oversee the HAI Prevention Program, developed and submitted a Kentucky HAI Prevention Plan to the CDC and the federal Department for Health and Human Services, conducted a current baseline needs assessment survey for Kentucky healthcare facilities, and identified two specific HAI prevention targets consistent with the national HHS priorities.

Adjournment

There being no further business, a motion to adjourn at 3:46 p.m. was made by Senator Harper Angel, seconded by Representative DeWeese, and approved by voice vote.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY AND INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Minutes of the 4th Meeting of the 2010 Interim

October 21, 2010

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Thursday, October 21, 2010, at 1:00 PM, at the Lexington Center, Lexington, Kentucky. The committee met jointly with the Interim Joint Committee on Economic Development. Senator Alice Forgy Kerr, Chair, of both committees, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Rick G. Nelson, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, Katie Kratz Stine, Gary Tapp, Robin L. Webb, and Jack Westwood; Representatives Will Coursey, C. B. Embry Jr., Bill Farmer, Tim Firkins, Richard Henderson, Charlie Hoffman, Dennis Horlander, Joni L. Jenkins, Thomas Kerr, Adam Koenig, Mary Lou Marzian, Charles Miller, Terry Mills, Tom Riner, and Brent Yonts.

Guests: Barry McNees, Developer, The Lexington Distillery Project; John Nicholson, Executive Director, Kentucky Horse Park; Beth Brinley, Commissioner, Department of Workforce Development; William Monterosso, Executive Director, Office of Employment and Training; Tom West, Executive Director, Kentucky Workforce Investment Board.

LRC Staff: Linda Bussell, Adanna Hydes, Carla Montgomery, and Betsy Bailey

A motion and a second were made to approve the minutes of the August and September meetings. The minutes were approved.

Senator Kerr introduced guests Tom West, Beth Brinley, and William Monterosso.

Strategic Plan of the Kentucky Workforce Investment Board

Tom West, Executive Director, Kentucky Workforce Investment Board (KWIB), Beth Brinley, Commissioner of the Department of Workforce Investment, and William Monterosso, Executive Director of the Office of Employment and Training, presented the strategic plan of the Kentucky Workforce Investment Board (KWIB). Mr. West said the KWIB was reenergized and renewed last year. More than half of the 42 members of KWIB are from the private sector. Other members include cabinet officials, legislators, and labor representatives.

Mr. West showed the members a large organizational chart of the previously effected workforce investment system. He said the system was huge, complex, and not user-friendly. The mission of the newly constituted KWIB was to revise the workforce system to make it workable and user-friendly. After a year of planning, a new strategic plan called WORKSmart Kentucky has been adopted. The goals of the new plan are to develop a system that is aligned with education objectives and economic development strategies of the Commonwealth and to create a simplified and customer-centered delivery system. The primary objective is to develop a workforce system that promotes and fosters sustainable economic and job growth. Mr. West said more than 300 people from inside and outside government are working along with the KWIB to implement the new system and that significant progress has already been made since the new plan was adopted in May. The new workforce system will have a new identity which will highlight the core values and service provided by the system. Career centers will be improved and counties and regions will be certified as work ready, which means people will have to come together to work toward specific education and economic development goals. The Workforce Investment Act and the American Recovery and Reinvestment Act fund the workforce system.

Commissioner Brinley discussed the federal resources that are available and how the state is aligning those resources as opposed to duplicating effort. Federal resources are provided by the Workforce Investment Act, Weyner-Peyser Act, Trade Act, Vocational Rehabilitation Act, and the Perkins Act. These resources provide many services to unemployed workers who need a variety of assistance to obtain reemployment. She discussed energy sector grants that are available in Kentucky and the energy sector partnership. The United States Department of Labor provided $5 million to create an energy sector strategy for Kentucky.

Executive Director Monterosso described the WorkNow program as a joint venture between the Health and Family Services Cabinet, the Education and Workforce Development Cabinet, and ten local workforce investment areas with local employers. The program subsidizes local employers to hire employees to provide employment experience and jobs for Kentuckians. The WorkNow program has impacted close to 10,000 individuals from June 2010 to September 2010. Over 1,000 businesses provided jobs to individuals to gain first time work experience. The program has generated $30 million for Kentucky's economy and approximately 2,000 individuals have retained unsubsidized employment. Approximately 4,000 individuals are currently in employment training. Mr. Monterosso commended the Eastern Kentucky area and the Cumberland area for its superior involvement in the WorkNow program.

In response to Representative Carney, Commissioner Brinley stated the program efforts need to reach the individual business communities to remain geared to the needs of each area to allow for business growth. In response to Senator Carroll, Commissioner Brinley stated counselors are used within all levels of education to encourage students into career pathways.

There being no further questions the meeting adjourned.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS

Minutes of the 4th Meeting of the 2010 Interim

October 8, 2010

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 8, 2010, at 10:00 AM, at Acres of Land Winery, 2285 Barnes Mill Road, Richmond, KY. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Gary Tapp, Co-Chair; Representative Dennis Keene, Co-Chair; Senators Tom Buford, Julian M. Carroll, Perry B. Clark, Julie Denton, Carroll Gibson, 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, Joni L. Jenkins, Adam Koenig, Reginald Meeks, Charles Miller, David Osborne, Darryl T. Owens, Ruth Ann Palumbo, Carl Rollins II, Sal Santoro, Arnold Simpson, Ron Weston, and Susan Westrom.

Guests: Senator Ed Worley; Representative Lonnie Napier; Vice-Mayor Rita Smart; William Swope, Jr., State Fire Marshal, Charles Sparks, Deputy State Fire Marshal, Hazardous Materials Inspector/Plans Reviewer; Mac Stone, Executive Director, Office of Agricultural marketing and Product Promotion, Kentucky Department of Agriculture.

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

Approval of minutes from September 10, 2010, meeting

There was a motion from Representative Burch, followed by a second from Representative Clark and the minutes were adopted.

Representative Keene told committee members that the November meeting date was going to be changed due to the regular meeting date being a furlough day. He said that a notice would be sent out when the date was confirmed. Also, Representative Keene told members that Representative Firkins mother had passed away and asked members to remember the Firkins family in their prayers.

Representative Keene then recognized and thanked Lowell Land for hosting the meeting at his winery, Acres of Land, adding that lunch and a tour of the winery followed the meeting.

Representative Keene recognized Senator Ed Worley who welcomed the committee members to Madison County.

Presentation regarding the certification of contractors who engage in the removal of underground petroleum storage tanks

State Fire Marshal William Swope, Jr., introduced BR 46 and told committee members it is an effort to strengthen current statutes for the underground storage tank program. Currently an underground storage tank installer must be certified by passing a written exam, documenting practical experience in the industry, and providing proof of liability and pollution insurance. The fire marshal said before work begins on a storage vessel, plans for the project must be submitted and reviewed by Charles Sparks, Deputy State Fire Marshal, Hazardous Material Inspector/Plans Reviewer. After the plans are reviewed, Mr. Sparks forwards the document to the Energy and Environmental Cabinet, Division of Waste Management, Underground Storage Branch. Mr. Swope said that when these procedures are followed environmental compliance and life safety measures are documented.

Mr. Swope said that the current statutes authorize the Department of Housing, Buildings, and Construction to promulgate administrative regulations regarding fees, certification requirements, and penalties for licensed contractors. BR 46 will allow the fire marshal's office to establish a process to correct violations, and a means to reinstate suspended or revoked licenses. It will also allow for the issuance of a cease and desist order upon notification of a violation. Currently, when unlicensed work is uncovered, the fire marshal must follow the process for a 13B hearing, which could allow time for the unauthorized contractor to complete the work. Mr. Swope said he felt that the most important part of the bill request; however, is allowing the fire marshal or Underground Storage Branch to fine or penalize uncertified contractors. He said uncertified contractors create an unfair advantage in the bidding process. Without being certified, the competency level of workers and supervisors cannot be assured, and there is little or no incentive to be compliant because there is no means of enforcement or penalties for the unlicensed contractor.

In response to a question from Representative Crimm, Mr. Swope said the State Fire Marshal's office does not have oversight for the removal of tanks. After a tank is installed all information is turned over to the Energy and Environmental Agency who then monitors any other activity of that tank. The fire marshal ensures that the installation is done correctly; any environmental impact is handled by the department of energy. Charles Sparks, Deputy State Fire Marshal, Hazardous Material Inspector/Plans Reviewer added that when a company leaves a site it has 30 days to remove an underground storage tank; however, the EPA is the lead agency in tank removal and allows up to a year to remove the tank. Mr. Sparks said in the past the agency had allowed empty tanks to be filled with concrete but this practice was no longer allowed.

In response to a question from Senator Tapp Mr. Swope said the primary reason for BR 46 was to deal with contractors that come from out-of-state perform the tank removal and leave before the work is discovered. In response to a question from Representative Owens, Mr. Swope said a land owner does have responsibility for making sure that a certified contractor is removing the underground storage tank from his property. In response to a question from Senator Carroll, Mr. Swope said the current statute only gives enforcement authority over licensed contractors. In response to a question from Representative Koenig, and from Senator Seum, Mr. Swope responded that the State Fire Marshal's office licenses underground storage tank contractors and collects fees for licensure and plan review. He added that there are no additional licensure fees added in the bill request. Senator Tapp added that current, existing fees charged per tank will stay the same; however, there will be new fees for certification and examination for the contractors.

In response to a question from Senator Webb, Mr. Swope said there are instances when the land owner and the tank owner are different. He added that there was an increasing problem with out-of-state contractors leaving a site after removal of a tank, before the site is cleaned up. In response to a question from Representative Burch, Mr. Sparks responded that the Environmental Protection cabinet regulates the removal of underground petroleum storage tanks. He said that to remove a tank, as much product as possible is pumped out. The lines are then capped at the dispensers and vents are left open and the EPA monitors the tanks for weeks. In response to Senator Buford's question, Mr. Swope said the fire marshal's office has been in contact with the Energy and Environment cabinet. Mr. Swope added that the fire marshal's office issues the permit to start the work, therefore the contractor is not paying a double fee or taking the exam multiple times. If an individual in not licensed the fire marshal's office does not issue a permit for the work. Mr. Swope said a list of all licensed contractors is given to the Energy and Environment cabinet. Senator Webb said there are both federal and state guidelines that have to be followed making the removal hard to streamline. However, she added that she would like to see more agency cooperation and felt a notice to all agencies involved should be included in a proposed legislation.

Presentation regarding the activities of the Grape and Wine Council and other issues relating to small farm wineries in Kentucky

Mac Stone, Executive Director, Office of Agricultural Marketing and Product Promotion in the Department of Agriculture introduced Roger Leasor, Lowell Land, and Chuck Berry with the Grape and Wine Council and Tom Cottrell, Enologist, University of Kentucky. Mr. Stone told committee members that, thanks to the hard work of Senator Tapp and the legislature, Kentucky's wine industry is much better today than in 2006 when Senate Bill 82 was introduced. He said today there is a total of 65 wineries in Kentucky. Not only are the wineries producing more grapes and producing more wine they are hosting events that have an economic impact in rural Kentucky. Mr. Stone said the department has reprinted its wine brochure to add new wineries. He said the Kentucky Department of Agri-tourism has partnered with the Tourism, Arts and Heritage Council to develop advertising and signage for the industry. Mr. Stone said the website has also been redesigned to stay current with mapping, events, and Kentucky winery information. "Vintage Kentucky: Vine to Wine Experience" a video program has been shown on KET and was awarded Telly awards in the Cultural and History/Biography category as well as in the Travel/Tourism category.

Mr. Stone said that the department has also had a visible role in the World Equestrian Games. Each day two wineries are featured at the cocktail party prior to the James Beard Celebrity Chef dinner. The James Beard Foundation is the most celebrated culinary organization in the nation, renowned for its dedication to the educational initiatives, development and recognition of the culinary arts. He said working closely with other agencies is important to the success of this event.

Mr. Stone told committee members that at the 2010 Kentucky State Fair the third annual wine competition took place with 14 participants and 95 medals awarded. He said this type of competition does not award first, second and third medals. He said gold, silver or bronze medals are awarded based upon the quality of wine. Mr. Stone added that the number of medals and the quality of Kentucky wine is increasing each year.

Mr. Stone said grower development, while less high profile, is still an important part of the wine industry. He said the legislature's support of the industry, with the agriculture development fund and the state-wide financial marketing program, have been helpful in keeping agriculture in the wine industry. The enologist at the University of Kentucky has been extremely helpful to the farmers in adjusting their growing patterns to fit wet or dry weather. Mr. Stone said that the varieties of grapes that grow well in Kentucky are different than more popular varieties currently in stores, and the enologist is helpful in this area also. He said by replacing vines that do not grow as well with vines that thrive in Kentucky, the acres planted in grapes continues to increase. He said tonnage is also going up as post-harvest handling has improved. Mr. Stone said that the marketing cost share program is used more during the fall season and the mechanism has been adjusted to have more funds available during the fall season. He said the opt-in card is working for smaller farms who know that they are not going to use their equal percentage. This allows funds to be available to all wineries.

Mr. Stone said that the relationship with the wholesalers is improving as wineries and distributors are learning to evaluate stocking and restocking communication. He added that some wineries have full contracts with the wholesales rather than self-distribution. Mr. Stone said leadership development has helped the industry to become stronger.

In response to Senator Stein, Mr. Stone replied there is quite a bit of fruit wine produced in Kentucky. He added that most farmers grow their fruit knowing that it will go to a winery. Senator Stein asked Lowell Land how his winery, in a dry territory, sold his wine at his small farm winery. Mr. Land replied that there had been a precinct election to allow alcohol sales. In response to Senator Denton's question, Mr. Stone said that the wine council is having discussion on the pros and cons of Sunday Sales. He said that data shows that Sunday would be the second largest retail sales day of the week behind Saturday. He said that winery operators have stated that visitors are disappointed, after they have followed the brown signs to a winery, that they cannot purchase or even taste wine on Sunday. He said currently it is a local option decision rather than a state-wide decision. He said a precinct could hold an election to have Sunday sales if the winery is in a wet territory; however, local leaders do not advocate for this election. Mr. Land added that the local jurisdiction typically does not support Sunday sales because the issue is not politically popular. He said constituents phone their mayor's, commissioners, and magistrates causing the initiative to lose support. Mr. Land said currently there are eight wineries that are allowed Sunday sales and that they report 20 to 30 percent of their sales for the week come from Sunday sales.

In response to a question from Representative Westrom, Mr. Stone replied that wineries are changing varieties of grapes grown to those able to better grow in Kentucky's climate. He said the university is working with the growers to improve the quality of the fruit and increase the tonnage. In response to a question from Representative Burch, Mr. Land said Acres of Land winery is selling more wine than it can produce just off the acreage they have in grapes, therefore he buys grapes from other Kentucky growers. He said there is demand for Kentucky grapes.

Representative Keene thanked Mr. Land for his hospitality.

Other business

Representative Keene recognized Representative Lonnie Napier and Mayor Pro-Tem Rita Smart.

There being no further business to come before the committee the meeting was adjourned at 11:29 a.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 4th Meeting of the 2010 Interim

October 27, 2010

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Local Government was held on Wednesday, October 27, 2010, 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, Alice Forgy Kerr, John Schickel, Johnny Ray Turner, and Robin L. Webb; Representatives Ron Crimm, Mike Denham, Ted Edmonds, Derrick Graham, Charlie Hoffman, Dennis Keene, Adam Koenig, Stan Lee, Tom McKee, David Osborne, Arnold Simpson, and Jim Wayne.

Guests: Representative Mike Cherry; J.D. Chaney, Bert May, Joe Ewalt, Tony Goetz, and Temple Juett, Kentucky League of Cities; Bowling Green Mayor Elaine Walker and KLC President; Paducah Mayor Bill Paxton and KLC First Vice President; Denny Nunnelley, Carolyn Belcher, Shelley Hampton, and Tim Sturgill, Kentucky Association of Counties; Mayor Ed Burtner, City of Winchester; Debbie Batliner, Simpsonville City Clerk; Dan Walton, Labor Cabinet; Sam Crawford, Kentucky Magistrates and Commissioners' Association; Ned Sheehy, Kentucky Tobacco and Candy Association; and Teena Halbig, Floyd's Fork Environmental Association.

LRC Staff: Mark Mitchell, Kristopher Shera, Joe Pinczewski-Lee, Tom Dorman, Matt Niehaus, Bryanna Carroll, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Crimm, seconded by Representative Simpson, the minutes of the September 22, 2010 meeting were approved by voice vote.

Discussion of Kentucky League of Cities' (KLC) and Kentucky Association of Counties' (KACo) Response to the State Auditor's Report and 2010 SB 88

Representative Riggs introduced Bowling Green Mayor and KLC President Elaine Walker, and Paducah Mayor and KLC First Vice President Bill Paxton. Mayor Walker discussed KLC's implementation of SB 88. KLC has met or exceeded all of SB 88 requirements.

Policies and procedures. KLC's Executive Board adopted a new employee handbook in June. The handbook was adopted by governing boards of all affiliated organizations.

Open records and open meetings. KLC has complied for nearly one year to the open records request. A policy was adopted to facilitate handling of requests. KLC and all affiliates have been in compliance since July with the open meetings requirement. A regular meeting schedule was adopted by all boards.

Adoption of procurement policy. KLC established a competitive selection process. Approval of the Executive Board is required for any purchase over $50,000.

Adoption of compensation process. KLC's Executive Board will have oversight. There will be required use of pay data and analysis. Documentation will be required.

Complaints. KLC's Board officers will be responsible for receiving and investigating complaints. There will be an online process for receiving complaints.

Training. KLC Board member training was provided in June and July. There will be training on legal, financial, and fiduciary obligations. Ongoing annual training will be provided.

Adoption of a code of ethics. Conflicts of interest and standards of conduct, financial disclosure, nepotism, and gratuity policies have all been adopted

Annual audits. KLC and affiliates have received annual audits for years. KLC insurance services are audited and regulated by the Kentucky Department of Insurance.

Financial information. Online and searchable database of all expenditures and budget and audit information posted online will be fully operational by January 1, 2011. KLC has also integrated its "open door" on its website to promote transparency

Mayor Paxton discussed KLC's response to the State Auditor's report.

KLC will have new limits on reimbursable expenses, rigid documentation requirements, use the federal per diem for travel, and prohibit spouse travel.

KLC will limit use of credit cards and there will be a by-laws task force to look at its corporate structure. Retention bonuses have been eliminated.

KLC has adopted a policy to govern disposition of surplus property. Harassment policies have been updated to ensure Executive Board is informed the event of any claims. KLC has adopted a whistleblower policy.

Purchase of vehicles will be overseen by the finance committee. Assignment of vehicles will be based on need for travel. NewCities funding will be evaluated.

Mayor Walker told the committee that KLC has found a new executive director who will start November 1, 2010. Jon Steiner is the former New Hampshire Local Government Center Deputy Director of Membership and a former elected official. She concluded by stating the desire on KLC's part to be an affective representative of cities and its desire to work in an open and transparent manner.

Representative Crimm told the mayors that he appreciates the work they have done to comply with SB 88 and the State Auditor's recommendations. In response to a question from Representative Crimm, Mayor Walker said current board members were required to take the training, and Mayor Paxton said he hopes the board members will volunteer to take the training that KLC will offer each year.

Senator Thayer said he appreciated KLC's report and thanked them for working with Representative Riggs, Senator Kerr, and State Auditor Crit Luallen in a collaborative fashion. In response to a question from Senator Thayer, Mayor Walker said regarding expenses noted in the Auditor's report with no business purpose, there was not appropriate documentation and the funds were repaid by the employee.

In response to a question from Senator Thayer relating to loans extended, forgiven, and granted without executive board authorization, Mayor Walker explained that the retention loans were made to employees to buy time into the retirement system and that the loans were not required to be repaid. The loans were an incentive to keep them on for a certain amount of time.

Senator Thayer commented that people in the real world do not have that opportunity. State employees have to buy that time.

In response to a question from Senator Thayer regarding "golden parachutes" received by the former leaders, Mayor Walker said that new employment contracts will be used. In reference to the retention loans, Mayor Paxton said procedures are in place so those loans will not be made anymore.

Senator Thayer told the mayors to remember that KLC is paid for with taxpayer money, and it has a long way to go because people are still very angry and upset.

Mayor Paxton stated that KLC's desire not to repeat past mistakes is why it did a nationwide search for an executive director.

Mayor Walker expressed her thanks for the KLC's Executive Board's and staff's work.

Senator Thayer said he appreciates KLC staff for their hard work.

Representative Riggs announced that the new executive director of KLC will be at the committee's next meeting. The committee members will still want to work closely with KLC's board members and leaders, not just the employees.

Representative Wayne suggested that KLC use an external entity to watch over reforms such as the whistleblower policy and prepare annual reports. KLC could report to the Local Government Committee for external oversight for compliance with reform efforts. Mayor Walker stated the Board now has responsibilities regarding whistleblower allegations and KLC would be willing to work with the committee.

Representative Simpson thanked the mayors for their excellent report, and indicated that he was pleased with the direction KLC was going in. He did not want to stand in judgment and noted that mistakes were made and aggressive action has been taken in response. He felt that it was not necessary that KLC report to the Local Government Committee.

Senator Carroll told the mayors that their report was excellent and that he had full confidence in both mayors. It needs to be said, however, that there were failures but not all were with KLC—but the result was that the system works. He commended KLC for its work in reforming the organization.

Representative Riggs next introduced KACo President-Elect Chris Harris and Judge John Wilson, KACo First Vice President.

Magistrate Harris told the committee that it was the goal of KACo to comply with SB 88 and the State Auditor's recommendations. It was a shame that the actions of a few and a lack of Board oversight hurt the entire agency.

Magistrate Harris said that former KACo president Mike Foster, upon assuming office in 2008 asked the executive director to adopt written board and staff travel policies. The board had adopted those policies in 2009. When the State Auditor first published the list of recommended policies for nonprofit boards, the KACo board adopted those policies and additional policies relating to credit card use and employee business expense guidelines. The board then began a 3 year process to develop a comprehensive plan and to perform a management review to make recommendations concerning its internal structure which included the hiring of additional personnel. In September 2009, a search began to replace the executive director, and in January 2010, the new executive director was in place. In March of 2010, KACo held its first board training and orientation class.

Magistrate Harris said that KACo and its affiliate organizations are complying with SB 88. He pointed out that a packet that the members received at the meeting contains details regarding procurement policies, a detailed equitable personnel policy, code of ethics policy, all of which have been adopted, and copies of annual financial disclosure statements for board members, officers, and management personnel, and a policy on the employment of persons related to members and officers and employees of the organization.

Judge Wilson said that KACo had supported the passage of SB 88 from the outset. The bill affirms KACo's compliance with open meetings and open records which has been tradition at KACo to include a schedule of regular meetings required by the Open Meetings Act. Referring to the packet that was distributed at the meeting, Judge Wilson continued to say that KACo had adopted a procurement policy that includes a transparent competitive bidding selection process for licensed professional services and bond underwriting and bond counsel services and financial products and services. KACo has adopted personnel and compensation policies and a pay scale that reflect the state protocols. Board member and employee ethics policies have been adopted which include a conflict of interest form and financial disclosure form to be completed annually by board members and management personnel. SB 88 expanded KACo's existing policies relating to the policies for employment of individuals relating to members, officers, and employees, and it is now in compliance with the SB 88 requirements. There is also a process to receive, analyze, and process concerns about KACo which is located on the KACo website and has been since July, 2010. SB 88 also requires KACo to include facilities for the public to review substantive financial data. This system is required to be completed by the first of the year, and KACo is preparing to have it ready by Christmas. The bill also included a provision to have KACo audited every year by a Certified Public Accountant. KACo has been audited every year of its existence since 1974.

Magistrate Harris noted that the goal was not only to comply with SB 88 and the auditor's recommendations, but to take it further to avoid the appearance of improprieties, and to set a new standard for transparency and financial accountability and responsibility.

In response to a comment from Senator Schickel, Magistrate Harris said the use of government travel rates was a good recommendation for integration into KACo's travel policy and that KACo would take a look at it. Judge Wilson noted that rates are negotiated with the hotels for a conference. Senator Schickel pointed out that sometimes travel does not include attending a conference.

In response to a question from Senator Schickel, Magistrate Harris said the $50 reimbursement policy for dinner required receipts. Senator Schickel said $50 seemed excessive to him. Magistrate Harris said KACo is keeping a close eye on all of the expenses and the Board had entertained long discussions on the rates. Senator Schickel pointed out the government rate could be applied for reimbursement of meals, which would be a better use of taxpayer money. Judge Wilson said KACo would take that recommendation back to the board.

Representative Wayne suggested KACo, like KLC, get outside review of its policies and get the State Auditor to audit them periodically, and also that KACo should report to the Local Government Committee or another outside group suggesting it would add credibility to its reform.

In response to a question from Representative Riggs, Magistrate Harris said the acceptance of exotic travel opportunities or gifts by persons selecting vendors would be a violation of KACo's ethics policy and would have to be disclosed.

Representative McKee congratulated KACo and KLC for their efforts in reforming. He hoped it would be continued and the committee would hear from them again. Representative McKee urged both groups to make their credit card use policies stricter.

Representative Hoffman thanked the co-chairs for having KACo and KLC appear before the committee. He also thanked both groups for their presentations and reform efforts. He hoped that both groups continue to remember their mission statements and how they came to be and know why they exist. Both organizations are imperative to local governments.

Senator Schickel said KACo should review the use of moneys for advertising its organization. Judge Wilson said all advertising has been eliminated except for some charitable advertising. Senator Schickel thanked KACo for its efforts and said charity advertising should not be the role of KACo using taxpayer money.

In response to a question by Senator Webb relating to the whistleblower policy, Magistrate Harris said all policies were reviewed by its general counsel and had been sent to the State Auditor.

Senator Thayer thanked the representatives of KACo for supporting SB 88 early on. He urged them to seriously consider Senator Schickel's suggestions.

In a response to a question by Senator Thayer regarding "golden parachutes," Judge Wilson said new employment contracts are in place and the "payout" provision included in previous directors' contracts has been removed so that will never happen again.

Senator Thayer told the gentlemen that KACo has a way to go. The committee wants to maintain a working relationship with KACo.

Senator Blevins thanked Denny Nunnelley, KACo Executive Director, and Carolyn Belcher, KACo Chief Financial Officer, for their efforts, and commented that both groups are needed. Mistakes were made but KACo and KLC are moving forward.

Representative Riggs announced that the next meeting of the committee would be on November 17th.

There being no further business, the meeting was adjourned at 11:45 a.m.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

Minutes of the 5th Meeting of the 2010 Interim

October 7, 2010

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, October 7, 2010, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., 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, Ray S. Jones II, Bob Leeper, Dorsey Ridley, John Schickel, Katie Kratz Stine, and Gary Tapp; Representatives Hubert Collins, Tim Couch, Keith Hall, Stan Lee, Reginald Meeks, Don Pasley, Marie Rader, Ancel Smith, Fitz Steele, Jim Stewart III, and Jill York.

Legislative Guest:Representative Fred Nesler

Guests: Bruce Scott, Kentucky Department of Environmental Protection; Lloyd Cress and Bill Bissett, Kentucky Coal Association; Cam Metcalf, Lissa McCracken, and Don Douglas, Kentucky Pollution Prevention Center; Colonel Keith Landry, Sarah Devasher, Carol Labashosky, Lee Anne Devine, Jim Townsend, and William James, United States Army Corps of Engineers; David Cobb, Armstrong Coal; Sean Alteri, Millie Ellis, Kentucky Division of Air Quality; Sandy Gruzesky, Kentucky Division of Water; and Bruce Williams, Kentucky Conservation Committee.

LRC Staff: Stefan Kasacavage, Biff Baker, and Kelly Blevins

The committee had a quorum. Minutes from the September 2, 2009 meeting were approved.

Update on Coal Permitting in Kentucky relative to Conductivity Issues

Representative Gooch welcomed Bruce Scott, Commissioner of the Kentucky Department for Environmental Protection (KY EPA), and two representatives from the Kentucky Coal Association-- Bill Bissett, President and Lloyd Cress, General Counsel.

Commissioner Scott identified the three major coal mining permits--federal surface mining and reclamation permit (SMCRA), 402 and 404--issued under the Federal Clean Water Act. This testimony will focus on the 402 permit which regulates discharges of waste water. Commissioner Scott described the 2009 memorandum of understanding (MOU) between Office of Surface Mining (OSM), United States Army Corps of Engineers (USACE), and the United States Environmental Protection Agency (USEPA) which escalated review of mountaintop mining in six Appalachian states and the resultant guidance document which establishes a benchmark of 300-500 microsiemens per centimeter for water conductivity. The guidance document prompted litigation by the National Mining Association, and there may be litigation by individual states. West Virginia has already filed suit against US EPA.

Commissioner Scott described the new 90 day permit review process and stated some permits are receiving formal objections by US EPA. He then discussed the reissuance of a state general permit and described the permit's term and allowable coverages. Commissioner Scott then described the individual permits and the individual permit process and US EPA's role in making objection letters on those permits. Commissioner Scott explained that for new or expanded operations, there will continue to be general permit coverages, but all other must get individual 402 permits. If the state is unable to resolve US EPA's objections, then the permits will be federalized, and Kentucky will have no jurisdiction over the mining operation in Kentucky. A federalization of a mining permit is a very rare occurrence nationally.

In response to a question about when the Clean Water Act passed, Commissioner Scott stated that it passed in 1972 and has been amended since then. During the past year, there has been a significant change in US EPA's perspective towards coal operations in Appalachia. In response to remarks that US EPA has refused to attend the committee meeting and to explain how to address the regulatory agency's concerns over mining operations, Commissioner Scott replied that KY EPA has expressed those same concerns to Washington. The US EPA asserts it is making a new interpretation of existing law. The KY EPA will need the full 90 days to response to US EPA; however, the federal government is not under prescribed time frames.

Bill Bissett, President of the Kentucky Coal Association, explained that there is a tremendous investment in making the permits, and US EPA is not communicating with the applicants. US EPA is making decisions under the aegis of political ideology rather than law. Lloyd Cress added that the availability of general permits is critical because the state assumes final authority for those permits. This has allowed business to continue although in an impaired manner. The National Mining Association has filed suit in the District of Columbia for a preliminary injunction from further enforcement of the guidance document. The motion should be heard next month. The state of West Virginia has filed suit in US District Court, and the Kentucky coal industry is reviewing recent objections and anticipating a decision on a course of action.

In response to a question about whether the rules are applied discriminatorily and whether Kentucky will file suit, Mr. Cress stated that they are. The rules are applied to six states in Appalachia and only to the coal industry. Commissioner Scott added a lawsuit is under consideration.

Coal Permitting under the jurisdiction of the United States Army Corps of Engineers

Colonel Landry, Commander Louisville District ACE, discussed the regulatory program and requested the written remarks be entered into the formal record. He described the impact of coal on the Kentucky economy and USACE regulatory mission under section 404 of the Clean Water Act. Nationwide, 21 permits were suspended, and states went to individual permits. USACE-Louisville is the final decision maker on approval for 404 permits. If there are potential water problems, the US EPA may veto part of the permit.

In response to questions about what interests prompted the MOU signed between the various jurisdictional agencies, Colonel Landry stated he did not know who the parties were at the higher levels. In response to a question regarding the flow process between US EPA and USACE with the 404 permit, Colonel Landry said there is some overlap with the 402 permit. The US EPA may comment on the 404 permit. The US EPA can, if concerned about USACE decision on a 404, use its 404 veto power to stop it. In response to a question about how many permits are under review, Colonel Landry stated there are 316 permit applications under review. In response to a question regarding permissible alternative land uses after mining, Colonel Landry stated mitigation in-lieu does not address stream loss. Historically, USACE has allowed a small percentage to be in lieu due to alternative uses of the land.

In response to several questions on US EPA veto power over USACE final authority on 404 permits, Colonel Landry said this relates to the interpretation of the Clean Water Act, and that is what the lawsuits are about. Authority exists in the federal rules for USEPA to put a check on my decisions. Of the 43 permits under USACE, none has been vetoed by US EPA. In response to remarks that the US EPA and the USACE have overstepped federal legal authority, Colonel Landry said he had not read the guidance document and it does not influence his decisions.

Kentucky Pollution Prevention Center Environmental Sustainability Technical Assistance Programs

Cam Metcalf, executive director of the Kentucky Pollution Prevention Center (KPPC), University of Louisville described the Center and its mission. The center provides environmentally sustainable cost savings solutions to industry. Thirteen missions to promote energy savings have been identified for the center's customers and KPPC has served industries in all counties of the Commonwealth. Pollution prevention means source reduction directly or via efficiency or protection of resources. Kentucky's definition of pollution prevention only covers hazardous waste and toxic chemicals and that definition needs to be changed.

Mr. Metcalf also discussed the Kentucky Energy Efficiency Program (KEEPS) for schools and described the seven districts working with energy managers. Finally, Mr. Metcalf discussed the Energy Renewable Consortium and the projects awarded by the consortium. Several legislative proposals were offered. The first involved changing the definition of pollution prevention. The second was changing the Hazardous Waste Fund statute. Twenty percent of the Hazardous Waste Fund is supposed to go to KPPC, but some additional language added in Senate bill 69 allows some of the money to be diverted. The statute should be amended to tighten up the language to ensure that all of the 20 percent is received by the center. Finally, the statutes governing KPPC's membership need to be amended so that ex-officio members are required to attend meetings.

In response to a question about energy consumption of schools, Mr. Metcalf acknowledged there are many energy inefficient practices in schools and higher rates. Both have caused the 100 percent increase in energy usage by schools.

After a motion and a second, Representative Gooch adjourned the meeting.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 4th Meeting of the 2010 Interim

October 27, 2010

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on State Government was held on Wednesday, October 27, 2010, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Mike Cherry, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Damon Thayer, Co-Chair; Representative Mike Cherry, Co-Chair; Senators Ernie Harris, Alice Forgy Kerr, John Schickel, Elizabeth Tori, Johnny Ray Turner, and Robin Webb; Representatives Eddie Ballard, Dwight Butler, John "Bam" Carney, Larry Clark, James Comer Jr., Tim Couch, Danny Ford, Derrick Graham, Mike Harmon, Charlie Hoffman, Jimmie Lee, Brad Montell, Sannie Overly, Darryl Owens, Tom Riner, Carl Rollins II, Steven Rudy, Sal Santoro, Kent Stevens, John Tilley, Jim Wayne, and Brent Yonts.

Guests: Fred Nelson and Joe Cowles, Personnel Cabinet; Marcheta Sparrow, Tiffany Yeast, and Gerry van der Meer – Tourism, Arts and Heritage Cabinet; Sharon Clark, D. J. Wasson, and William Nold – Department of Insurance (DOI).

LRC Staff: Judy Fritz, Kevin Devlin, Brad Gross, Alisha Miller, Karen Powell, Bill VanArsdall, Greg Woosley, Sean Donaldson, and Peggy Sciantarelli.

Correspondence and Announcements

Representative Cherry noted that the meeting materials included a copy of an October 5 letter to Randy Overstreet, Chairman of the Board of Trustees of Kentucky Retirement Systems (KRS), from State Auditor Crit Luallen regarding her office's plans to perform a review to evaluate the oversight and operation of KRS. Representative Cherry said that Auditor Luallen will be available at a future date to discuss the audit findings with the Committee.

Senator Thayer expressed appreciation to Representative Cherry for agreeing to meet jointly with the Local Government Committee in September at the Toyota Motor Manufacturing facility. He also thanked the members who were able to attend the joint meeting.

Approval of Minutes

The minutes of the September 22 meeting were approved without objection.

Kentucky Employees' Health Plan

Guest speakers from the Personnel Cabinet's Department of Employee Insurance were Fred Nelson, Commissioner, and Joe Cowles, General Counsel. They gave an overview of rates and benefits for the Kentucky Employees' Health Plan (KEHP) for the 2011 plan year.

Mr. Cowles spoke about challenges, principles, and goals for the 2011 plan year. He said that the Commonwealth budget did not provide for an increase in the employer contribution for 2011 and that health plan inflation continues to be high. He said that there is a continued need to improve member tools and education and to increase participation in wellness and disease management programs. Federal health care reform mandates applicable to the 2011 plan have presented a challenge. These include the expansion of dependent eligibility, which has added about $25 million in additional cost to KEHP. However, because it has grandfathered status, KEHP can exclude dependents who have employer-sponsored health care on their own. Though pre-existing condition clauses were eliminated in the federal law for children under the age of 19, this did not have a significant financial impact on the plan. KEHP had to comply with specified limits on changes in plan design and employee contributions in order to maintain grandfathered status. In addition, a state mandate (HB 159, enacted in 2010) to increase the annual benefit for treatment of autism for children through age 21 will cost the plan about $15 million in 2011.

The Kentucky Group Health Insurance Board has approved the following guiding principles for KEHP: to provide uniform coverage across the Commonwealth, plan alternatives that are accessible for retirees, preventive care at little or no cost, a quality PPO option, and plans with unlimited lifetime maximums; encourage wellness and healthy lifestyles; improve chronic disease care; educate members about plans appropriate for their health needs; and strive to hold down costs for families and dependents. KEHP's subsidy for single coverage ranks in the top 10 percent nationally, while the subsidy for family coverage ranks closer to the middle.

Goals for the 2011 plan year are: maintain a low cost plan option, including a zero dollar plan for singles; offer the same four plans offered in 2010; maintain unlimited lifetime maximums; keep premiums and benefits unchanged in the Commonwealth Standard Plan—the lower cost PPO option; offer options for health and wellness and for consumer-driven health care; keep premiums competitive with other states; require use of the Benefits Analyzer; provide preventative care at little or no cost; maintain benefits comparable to the 2010 plan; and maintain medical benefits and contribution increases within grandfathered limits. In conclusion, Mr. Cowles said that KEHP covers approximately 285,000 Kentuckians and has the continuing unwritten goal to create the best plan possible with the dollars that are budgeted.

Mr. Nelson reviewed premium rates and benefits for the 2011 plans, as outlined in the KEHP Benefits Selection Guide. Focusing on the non-smoker rates, Mr. Nelson said that both the employee and employer contributions for the Standard PPO plan will not change, and single coverage will still be offered for a zero dollar employee contribution. Because of the inflationary trend, the employee contribution for each of the dependent coverages (Parent Plus, Couple, and Family) in the Maximum Choice, Capitol Choice, and Optimum PPO plans will increase by nine percent. The strategy in formulating rates was to keep dependent coverage premiums as low as possible because they are becoming so expensive that many people cannot afford them. Premium increases for single and family-cross-reference coverage were greater than nine percent and range from $17.00 to $25.00 per paycheck. Since those coverages have been heavily subsidized in the past, it was felt that the higher premiums would be affordable. Feedback thus far from employees who choose single and family-cross-reference coverage is that most are grateful for the past subsidy and feel that they can handle the increase.

Regarding "Smoker" rates, in the past the premium surcharge was $24.00 per month for single coverage and $48.00 per month for dependent coverages. In 2011, the single premium surcharge will increase by $2.00 and the dependent coverage surcharge by $4.50.

Financial challenges created by budget constraints and the additional costs incurred for the autism benefit and raising the dependent age to 26 made it necessary to adjust benefits somewhat. Benefits were not decreased in the Standard PPO plan, and out-of-network benefits were improved by lowering the maximum out of pocket. In order to maintain grandfathered status, increases in copays, deductibles and annual out-of-pocket maximum for the Maximum Choice, Capitol Choice, and Optimum PPO plans had to be kept within the maximum limits allowed by the federal health reform law. The law did not permit an increase in coinsurance percentages, and they will remain the same for 2011. Deductibles and annual out-of-pocket maximums have increased by about 15 percent. The increased copays for 2011 are competitive with private sector plans. Copays for prescription drugs were increased to the grandfathered limits.

The Optimum PPO plan has the highest percentage of members. Although the single premium has increased, it is still considerably less than traditional PPO options offered to public employees in Tennessee and Indiana. Despite the rate and benefit changes, according to PricewaterhouseCoopers, KEHP's actuarial consultant, the plans are in line with, or better than, those offered by most private businesses.

Open enrollment has been extended to October 29 and, to date, 92 percent of members have enrolled. To conform with federal law, there is also is a special enrollment period for planholders wanting to enroll dependent children. Fifteen benefit fairs were conducted throughout the state, and online enrollment was available at 11 locations. Seven locations also included health screenings and flu shots.

Mr. Nelson concluded by explaining the Benefits Analyzer. He noted that in 2010, only about 14 percent of those enrolling used the Benefits Analyzer. For 2011, the Benefits Analyzer is integrated into web enrollment, and it appears that its use has at least doubled.

Responding to a question from Representative Cherry about the possibility of increased funding for the 2012 plan, Mr. Nelson said that under the federal health insurance reform law there is a program—the Early Retiree Reinsurance Program (ERRP)—which has a $5 billion fund administered by the U. S. Department of Health and Human Services (HHS) to reimburse programs that have early retirees. KEHP has approximately 50,000 early retirees and is one of 2,000 programs nationwide that will be competing for this pool of money. KEHP applied early, and the application has been approved by HHS. Claims can be submitted within the next month or two for early retirees who have at least $15,000.00 in claims during the 12-month period beginning January 1, 2010. The program will reimburse claims as high as $90,000.00 per early retiree. KEHP will be requesting reimbursement for probably $8 million per month. However, it is possible that the pool of funds may be depleted in one or two months.

Responding to a concern raised by Representative Carney regarding availability of network providers, Mr. Nelson said KEHP encourages Humana to include as many providers as possible in its network. Less than three percent of total claims are out of network. He acknowledged that finding a network provider is an issue of concern in some parts of the state, particularly along the borders. Mr. Cowles said that they will be glad to advise Humana of Representative Carney's concern.

When Representative Clark asked about the additional cost to the plan for treatment of autism, Mr. Nelson said that the $15 million reflects pure cost, based on figures cited by proponents of the autism legislation. Representative Clark also said he had the impression that some money had been earmarked in the budget to cover that cost.

Responding to a question from Representative Butler about University of Louisville physicians being excluded from Humana's provider network, Mr. Nelson said that the University Physicians Associates (UPA) physicians are still outside the network but that negotiations are continuing. KEHP members who are already patients of those physicians will be allowed to continue that care for two or three months if needed. Waivers have also been granted to treat UPA physicians as "in network" if they are the only specialists of their kind in the Louisville area. There were no further questions, and Representative Cherry thanked the speakers.

Privatization of State Parks

Guest speakers from the Tourism, Arts and Heritage Cabinet were Secretary Marcheta Sparrow; Department of Parks Commissioner Gerry van der Meer; and Tiffany Yeast, Executive Director of Personnel. They were present to answer questions regarding the Department of Parks' proposed use of concessionaires for some state park operations, and to follow up on previous discussion of this issue at the Committee's July 2010 meeting.

Representative Clark expressed concern about privatization causing a loss of jobs, especially in remote areas of the state. He said he does not believe it will save much money in the long term, that the Commonwealth would probably be better served by strengthening park management, and that he hopes the agency will reconsider and decide not to privatize. Secretary Sparrow said she appreciates the comments and understands the concern, since concessioning would be a major change in the way the parks operate. She said that the agency is continuing to look at concessioning of various park operations, in accord with recommendations in the Kentucky State Parks Strategic Plan, but that no decision has been made at this time.

Representative Wayne said he shares Representative Clark's concerns. When he asked whether the agency would be open to considering a management audit, Secretary Sparrow said they are always open to looking at ways to operate more efficiently and better serve the people of Commonwealth.

Responding to a question from Representative Owens, Secretary Sparrow said that the State Government Committee and legislators that have parks in their districts will be informed when the decision has been made whether to proceed with privatization. Information about anticipated cost savings will also be available.

Senator Webb requested that, prior to making the decision, the Cabinet provide information about the statewide contract with Adecco for temporary services and who would benefit from it; the immediate and projected cost savings and the cost/benefit analysis system that is being used; and criteria to justify the move. She said she knows the Cabinet would not make such a change lightly but that if it is not done in a cost efficient and humanitarian manner, she will do everything in her power to stop it.

Secretary Sparrow said the Department of Parks staff statewide is tremendously dedicated, and she apologized for any anguish that employees might be feeling. She said merit system employees in the state parks system should not be concerned about their jobs if they are performing according to standard. Whether to privatize certain park operations is still in the investigative stage. Kentucky has the largest state government-run parks system in the United States. It is also the most successful state parks system, with only 35 percent of revenue provided through the General Fund. The agency consistently falls $5 million below the projected budget, but it is felt that the gap can be closed this year. In closing, she said the Cabinet does not take its responsibility lightly and will base its decision on what is good for everyone involved.

Senator Kerr complimented the Cabinet on its work relating to the World Equestrian Games. Secretary Sparrow thanked her and also expressed appreciation for the work of her own staff, the General Assembly, and everyone involved in support of the event. There were no further questions, and Representative Cherry thanked the speakers.

Health Insurance Reform

The following representatives of the Kentucky Department of Insurance testified: Commissioner Sharon Clark; William Nold, Director, Health and Life Division; and D. J. Wasson, Legislative Liaison. Ms. Clark and Mr. Nold gave the following overview of federal health insurance reform and its implementation in Kentucky, as outlined in their slide presentation.

The new health insurance reform legislation has greatly increased DOI's responsibility and workload. To avoid putting the Commonwealth in financial jeopardy, Kentucky opted for the federal government to operate the temporary high risk pool—the "preexisting condition insurance plan"—in lieu of state operation. A major reason for this decision was that, during its first three years of operation, claims costs for the Kentucky Access insurance program were approximately $65 million, while only $63 million had been allocated for that period.

Grandfathered plans are defined as those existing on March 23, 2010, when the health insurance reform legislation was signed into law. Grandfathered plans can raise premiums to reasonably keep pace with health care costs; make some changes in benefits; increase deductibles and other out-of-pocket costs within limits; and continue to enroll new employees and new family members. The insurer—or employer if self-funded—is required to provide notice in any plan materials indicating whether the plan is a grandfathered plan. Because any new plans issued after September 23, 2010, have to be regulated differently than grandfathered plans, DOI is charged with two methods of regulation until January 1, 2014.

Many of the immediate market reforms for consumer protection are currently addressed in Kentucky's insurance code. The code will have to be revised to address some reforms, such as extension of dependent coverage until age 26 and coverage in new plans for preventive health services without cost-sharing. The rate review process requires Health and Human Services, in conjunction with the states, to develop a process for annual review of unreasonable premium increases for health insurance coverage. DOI thus far has not been able to obtain some of the information it needs from HHS, such as a definition of "unreasonable premium increases." One goal of the rate review process is to increase transparency.

The health reform bill specifies that in the large group market 85 cents of every dollar must be spent for medical costs, with only 15 cents going toward administrative costs. In the small group and individual market the ratio is 80/20. Congress charged the National Association of Insurance Commissioners (NAIC) with responsibility for defining "medical loss ratio." NAIC finalized the process at its national meeting and on October 21 transmitted its recommendations to HHS for review. This will serve as the defining standard whether an insurance company is meeting provisions of the health reform bill and whether they will have to rebate premium dollars on the basis of the calculation. Calculation of medical/loss ratio has been an arduous task, with a lot of lobbying, mainly from consumer groups. To comply with the requirement for uniform explanation of coverage documents and standardized definitions, NAIC is developing a glossary of health insurance, medical terms, and standard definitions.

Kentucky was awarded a premium review grant of $1 million on August 16. The funds will be used for the gathering of new data, for DOI's additional responsibilities relating to rate filing, to develop a publication to explain the rate review process in plain language, and to conduct surveys and hold open meetings for consumers. Kentucky was also awarded a $215,784.00 Consumer Assistance Program Grant on October 19 and has also become eligible for an additional $270,280.00 supplemental grant.

Kentucky was awarded a $1 million Exchange Planning Grant on September 30. The exchange, which is an organized marketplace for the purchase of health insurance, must be operational by January 1, 2014. At that time Kentucky's high risk pool will end because there will be guaranteed issue for any person, regardless of preexisting conditions. Kentucky has approximately 600,000 uninsured, and DOI must find out who these people are. Exchange planning will be a collaborative effort between DOI and the Cabinet for Health and Family Services. It will involve county-level market research, stakeholder input, and discussions with other states. DOI will be conducting town tours around the end of November to meet with consumer groups, employers, health care providers, and any interested parties. It was the consensus of every group that met with DOI that Kentucky should opt for a state-operated, rather than federally-operated, exchange. This would give Kentucky the flexibility to do what is best for its population.

Ms. Clark said there have been preliminary conversations with Tennessee and West Virginia regarding creation of a multi-state regional exchange. She is not in favor of this because she feels that the board making decisions for Kentucky should be comprised solely of Kentuckians. A state-operated exchange, however, could probably be structured to allow state-to-state transfer of plan offerings. DOI will be making recommendations in the 2011 regular session for legislative changes needed to conform Kentucky's insurance laws to the federal provisions. Representative Lee said that he, too, does not favor a multi-state exchange, and he emphasized that legislation to create infrastructure for the exchange needs to be ready for the 2011 session. Ms. Clark agreed that it should not be delayed until 2012. She said DOI has been asked to draft language for introduction in 2011 and that Kentucky has to be able to demonstrate by January 1, 2013, that the state is capable of operating the exchange.

Responding to questions from Representative Lee, Ms. Clark and Mr. Nold explained that the federal legislation permits states to enter into compacts. It also requires that the federal Office of Personnel Management, which oversees health insurance at the federal level, to offer two plans that would be available across state lines. DOI is consulting with other states, and the goal is to have as much flexibility as possible. HHS is aware of the states' need for regulations, but it is the federal government's policy not to release regulations until they are finalized. HHS's priority list appears to be in line with what Kentucky needs to know in order to implement the reforms. Ms. Clark said she feels very comfortable with the process so far and that Kentucky will be ready.

Senator Thayer said that the only thing that will eliminate his frustration is total repeal of the health insurance reform legislation.

Representative Carney said that some small businesses in his district have indicated they will stop offering health insurance in 2014 and opt instead to pay the penalty, which he assumes will be paid directly to the federal government. Mr. Nold confirmed that the penalty fee will go to the federal government, to be administered through the federal tax code. He added that the complaints of small business are being heard in Washington and that there is talk of "tweaking" the bill to address their needs.

Subcommittee Report

Senator Thayer, Co-Chair of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs, read the subcommittee report of the Task Force's September 28 and October 26 meetings. His motion to adopt the report passed by unanimous voice vote.

Business concluded, and the meeting was adjourned at 2:50 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Minutes of the 3rd Meeting of the 2010 Interim

October 26, 2010

Call to Order and Roll Call

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 26, 2010, 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., Alice Forgy Kerr, John Schickel, Elizabeth Tori, and Johnny Ray Turner; Representatives Larry Clark, James R. Comer Jr., Joseph M. Fischer, Mike Harmon, and Mary Lou Marzian.

Guests: Katie Gabhart, General Counsel of the Kentucky State Board of Elections; Robert Neace, Boone County Attorney.

LRC Staff: Judy Fritz, Karen Powell, Terisa Roland, Bill VanArsdall, and Greg Woosley.

Approval of Minutes

Upon motion by Representative Mike Harmon and second by Senator Alice Forgy Kerr, the minutes of the September 28, 2010 meeting were approved without objection.

Review of Election Contest, Recanvass, and Recount Procedures

Katie Gabhart, General Counsel of the Kentucky State Board of Elections, gave the Task Force a review of current election contest, recanvass, and recount procedures. Ms. Gabhart also summarized several recent recounts in Kentucky counties, as well as Kentucky Supreme Court and United States Court of Appeals' opinions on what votes are required to be counted in a recount process. Ms. Gabhart distributed a handout summarizing the current Kentucky procedures and mentioned Legislative Research Commission Research Report No. 158, 1979, which studied Kentucky's election contest and recount procedures and gave recommended changes. Senator Thayer asked that a copy of the Report be distributed to all members of the Task Force.

A copy of the handout summarizing the current Kentucky procedures can be found in the Legislative Research Commission library.

Additionally, Robert Neace, Boone County Attorney, gave the Task Force a report on his experience with an election recount in the May 2010 primary for Boone County Judge Executive. Mr. Neace offered his opinions on what worked well in the recount process and a few areas to be considered by the Task Force for potential future legislation. Specifically, Mr. Neace stated that the recount verified that the machines recorded the vote very accurately, but he noted that the Boone Circuit Court judge had his clerks do the majority of the counting and that the process took too long.

Several members of the Task Force posed questions and voiced their opinions and concerns, as well as asked both Ms. Gabhart and Mr. Neace for suggested changes. The primary change recommended by Ms. Gabhart was to establish some defined parameters that would govern a recount and establish that all votes would be counted in a recount rather than only selected precincts or votes.

Business concluded, and the meeting was adjourned at 2:30 p.m.

TASK FORCE ON MEDICAID COST CONTAINMENT

Minutes of the 7th Meeting of the 2010 Interim

October 18, 2010

Call to Order and Roll Call

The 7th meeting of the Task Force on Medicaid Cost Containment was held on Monday, October 18, 2010, at 1:00 PM, in Room 131 of the Capitol Annex. Senator Katie Kratz Stine, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Katie Kratz Stine, Co-Chair; Representative Jimmie Lee, Co-Chair; Senators Tom Buford, Julie Denton, Denise Harper Angel, Bob Leeper, and David L. Williams; Representatives Tom Burch, and Rick Rand.

Guests: Patty Dempsey for the ARC of Kentucky; Jim McWilliams for the Governor's Office of Policy and Management; Eric Clark for the Kentucky Association of Health Care Facilities; Tony Sholar for Norton's; Mary Begley for the Cabinet for Health and Family Services, Office of Inspector General; Bill Doll and Marty White for the Kentucky Medical Association; Toni Miles for the University of Louisville; Charles George for the Kentucky Chamber; and Sarah Nicholson for the Kentucky Hospital Association.

LRC Staff: Miriam Fordham, Pam Thomas, Cindy Murray, Mike Clark, DeeAnn Mansfield, Frank Willey, and Cindy Smith.

Approval of Minutes

The minutes from the September 21, 2010, meeting were approved without objection.

Discussion of Medicaid Fraud and Abuse Detection

Mitchel Denham, Executive Director, Office of Medicaid Fraud and Abuse Control, Office of the Attorney General, and David Johnstone, Assistant Attorney General, Office of the Attorney General discussed the Office of Medicaid Fraud and Abuse Control. Mr. Denham said all states are required to have a Medicaid fraud control unit that must be separate from their Medicaid agency. It is funded in part by a federal grant, in part by the state, and must have a certain professional staff of attorneys, investigators, and auditors. The jurisdiction of the Medicaid fraud control unit is provider fraud and abuse, neglect, and exploitation of patients in Medicaid funded facilities.

Mr. Johnstone discussed the fraud cases involving average wholesale price (AWP) for prescription drugs. There have been lawsuits filed against 47 pharmaceutical companies from 2003 to 2004. There were allegations that they were reporting inflated prices to Medicaid so providers would receive greater reimbursement. Drug companies would in turn get more profits and a larger market share. There were three successful jury trials in 2009. Total AWP Medicaid recoveries, including jury verdicts, fines and settlements to date were $75,564,226.50.

Mr. Denham spoke about global recoveries. Teams from the National Association of Medicaid Fraud Units negotiate on behalf of the states. They review the agreement and have the opportunity to sign on. Two Kentucky members are on the current global teams. Cases include kickback, off-label marketing, rebate, and nominal price schemes. In regard to pending civil suits, it was reported that there is a pending suit against the Wyeth company for allegedly engaging in a nominal pricing scheme surrounding its proton pump inhibitor drugs. There is also a suit against Johnson and Johnson for allegedly engaging in a kickback scheme with Omnicare to increase the market share of an atypical antipsychotic drug.

Sources of criminal complaints include utilization reviews from the Department for Medicaid Services; the Office of Inspector General; the Medicaid fraud control unit hotline; the website of the Attorney General; internal findings; federal government; professional boards; and providers. In preliminary cases, there is a fraud investigative support team that provides data analysis, on site record and chart reviews, policy reviews, and meetings with Cabinet personnel. In a full investigation and prosecution, an investigator conducts a thorough investigation into allegations. An attorney provides legal advice and determines whether or not the case is a viable prosecution. If it is viable, the case is presented to the Grand Jury. From 2008 through 2010, there have been 18 new indictments, resulting in 16 convictions and restitution of $2,059,039.58 was ordered.

In response to a question from Representative Lee, Mr. Johnstone said there have been no settlements appealed, one jury verdict was appealed, and one case was settled.

In response to a question by Senator Denton, Mr. Johnstone said that there have been no AWP lawsuits filed since 2005.

In response to a question by Senator Denton, Mr. Johnstone said Kentucky could negotiate through a buying consortium.

In response to a question by President Williams, Mr. Johnstone said that there have been no additional lawsuits filed because there were three lawsuits filed with 47 defendants, and there have been two amended complaints to correct party situations.

In response to a question by President Williams, Mr. Johnstone said there has been $75 million recovered, all by private counsel, which was selected through a request for proposal (RFP).

In response to a question by President Williams, Mr. Denham said that the $75 million came from jury verdicts, fines, and settlements.

In response to a question by President Williams, Mr. Johnstone said that the lawsuits were filed when Speaker Stumbo was Attorney General and settled during Attorney General Conway's term.

In response to a question by Representative Burch, Mr. Johnstone said that most providers knew that pharmacy companies were inflating costs for more reimbursement to benefit them.

In response to a question by Senator Buford, Mr. Johnstone said that since Wyatt was purchased by Pfizer, Pfizer will be the responsible party in the lawsuit.

In response to a question by Representative Lee, Mr. Denham said his office can run the numbers on the number of cases that are not related to pharmacy.

In response to a question by Representative Lee, Mr. Denham said in order to change what is being done, there needs to be a comprehensive look at Medicaid fraud, and a historical criminal case should be done after it has occurred. These are the most difficult types of cases to prove and prosecute.

Mary Begley, Inspector General, Cabinet for Health and Family Services, discussed the Office of Inspector General Audits and Investigations. Stephanie Hold and Lee Guice were present from the Office of Inspector General to answer questions. Inspector General Begley said there are two investigations against providers and also investigations against recipients. The majority of both provider and recipient complaints are received through the Office of Inspector General Medicaid welfare fraud hotline. There have been 18,074 hotline calls in SFY 2010. Hotline callers include recipients, other providers, patients, border state program integrity units, and the general public. Other source referrals include the Department for Medicaid Services; the Office of the Attorney General; the Medicaid Fraud Control Unit; other state agencies such as the Department of Revenue; the Office of Inspector General; Cabinet contractors; and licensure boards. Fraud detected by KASPER can reveal a provider who is overprescribing for a Medicaid recipients and can reveal a Medicaid recipient who is doctor shopping and/or diverting prescription drugs. Common provider fraud allegations include upcoding, excessive billing, duplicate billing, unbundling, and billing for services not rendered.

In a preliminary investigation, there is a review of claims data, a policy review, a patient record review, patient interviews, provider employee interviews, provider interviews, and identifying any resulting overpayment. When a provider investigation is unsubstantiated, there is an investigative report sent to Medicaid. Medicaid Services may refer the case to other investigative agencies such as the Revenue Cabinet or licensure boards. Common recipient allegations include unreported household members, unreported income, unreported resources, reported household members not in the home, client not working as required, and receiving benefits in two states. The Office of Inspector General investigative process includes reviewing all pertinent benefits case records; interviewing neighbors, landlords, employers and recipients; obtaining written statements; securing documents such as bank records, court records, school records and wage records, and working with the Department of Community Based Services, Medicaid, and Child Care, to determine loss. Common non-eligibility allegations include Medicaid cared sharing and overutilization of benefits.

In response to a question by Senator Stine, Ms. Hold said that for the emergency room personnel to get a report from the KASPER personnel, they need to go through the system and the data base, and can get the report back in 15 seconds.

In response to a question by President Williams, Ms. Hold said tracking non-scheduled drugs can be done through the MMIS system.

In response to a question by President Williams, Ms. Hold said that triggers for investigation include calls of complaints and concerns from the public, and also referrals of cases from DCBS.

In response to a question by Representative Burch, Ms. Hold said they cannot data mine for certain doctors through the KASPER system. It has to be done due to a complaint against a doctor.

In response to a question by Senator Harper Angel, Ms. Guice said that in the Division of Audits and Investigations there are 62 full time positions, but resources are tight and they could use more staff.

In response to a question by President Williams, Ms. Guice said they do not have the numbers available on what the returns would be if additional employees were on staff.

In response to a question by Representative Lee, Inspector General Begley said she is not sure if the Kentucky Choices card offers cash back, but she would check into that and report back to the committee.

Van Knowles, Analyst, Program Review and Investigations Committee, Legislative Research Commission, discussed fraud and abuse among providers. He said there was massive fraud against private insurers in 2005. In preventing or recovering fraud and abuse, post payment review is essential. Fraud can be hard to detect because perpetrators try to hide their actions, and thus unintentional abuse may be easier to detect. Information systems assist in fraud and abuse prevention and recovery and must be adaptable. Individuals are essential for the review of suspended claims before payment and for post payment review. Sophisticated fraud is hard to detect and may involve large sums over time. People involved with fraudulent providers know what is going on. Insider information is essential, and therefore hotlines exist, but offer no incentive, but false claims acts can provide an incentive. He recommended that the General Assembly consider a Kentucky False Claims Act. Saving money can be expensive as reviewers and investigators are costly. Medicaid should focus on the greatest return on investment in its fraud and abuse efforts. The program has to spend money to save money. Limited resources must be targeted for the greatest impact. Measuring outcomes is essential, and thus he recommended that cost effectiveness be measured for all initiatives. The Medicaid program needs comprehensive planning as the program is large and complex with many vendors and agencies contracted help. Mr. Knowles recommended that Medicaid has a program integrity plan covering all vendors and agencies involved in fraud and abuse and that there is a staffing plan for Medicaid, DCBS, and other vendors and agencies. Cost recovery opportunities have been lost. For instance, supporting records may be destroyed after five years and some providers move, retire, or close. The result is that when Medicaid cannot keep up with the claims records, older overpayment become uncollectable because of age and provider changes.

When faced with restrictions, providers may threaten to end their participation in the Medicaid program which jeopardizes Medicaid's mandate for access to care. In order to prevent that situation, Medicaid's fraud and abuse efforts should be balanced and fair. Mr. Knowles recommended using an aggressive a fraud and abuse program as possible, balanced with quality of care and the concerns of providers.

In response to a question by President Williams, Mr. Knowles said that it is up to the people making up the standards for electronic health records to set the standards. There is potential for abuse of electronic health records to commit fraud.

Brandon Clark, Principal, Frogue-Clark, LLC, discussed the impact of health care reform and options to reduce waste, fraud, and abuse. In 2014 when states are required to expand coverage to individuals under 133 percent of poverty, a Heritage Foundation study showed that there will be an additional 294,373 Medicaid enrollees which will be a $508 million increase in Kentucky Medicaid spending. The Kaiser Foundation Study showed there will be an additional 329,000 additional Medicaid enrollees in 2019, and will be an additional $515 million increase in Kentucky Medicaid spending. Kentucky's median household income is $49,801. With the five percent income disregard the effective eligibility would be 138 percent of poverty, which Mr. Clark said was more than the federal poverty level income of $53,000 for a family of four. In Kentucky, 28.1 percent of Kentuckians are below 133 percent of the federal poverty level. Mandated Medicaid expansion will add more than $500 million to Kentucky's already difficult budget. The maintenance of eligibility requirement limits options to balance the Medicaid budget. Options for reducing fraud include: modeling the credit card industry by validating claims prior to paying for Medicaid services; facilitating better data sharing across departmental jurisdictions and with local government agencies; avoiding the failed pay and chase model; contracting with private firms to audit data to identify potential cases of fraud for further reviews; asking Health and Human Services and Congress for a waiver of the 60 day rule; posting all claims online for public access in order to better identify outlier or fraudulent billing. Other cost containment options include expanding managed care plans; expanding use of the benchmark coverage plans; offering premium assistance; improving enforcement of payer of last resort; and offering disease management incentives. He recommended allowing beneficiaries choice of competing health plans based on publicly available quality ratings, performance ratings, benefits, programs, cost, and providers and offering financial incentives to Medicaid beneficiaries who follow prescribed treatment plans.

In response to a question by President Williams, Mr. Clark said that DSH policy needs to be changed before it is implemented and there is still a need for DSH payments to hospitals.

In response to a question by President Williams, Mr. Clark said that crowd out is based on past experience and based on CHIP numbers.

In response to a question by President Williams, Mr. Clark said there is unlikely to be a repeal of the legislation before 2013, but some changes will probably be made.

The meeting was adjourned at 3:50 p.m.

TASK FORCE ON THE PENAL CODE AND CONTROLLED SUBSTANCES ACT

Minutes of the 5th Meeting of the 2010 Interim

October 19, 2010

Call to Order and Roll Call

The 5th meeting of the Task Force on the Penal Code and Controlled Substances Act was held on Tuesday, October 19, 2010, at 1:00 PM, at the Capital Plaza Hotel, Frankfort KY. Representative John Tilley, Chair, called the meeting to order, and the secretary called the roll, and the minutes of the previous meeting were approved by voice vote.

Present were:

Members: Senator Tom Jensen, Co-Chair; Representative John Tilley, Co-Chair; Secretary J. Michael Brown, Tom Handy, Chief Justice John D. Minton, Jr., J. Guthrie True, and Hon. Tommy Turner.

Guests: Caroline Mudd, Kentucky Parole Board; Christy May, Eastern Kentucky University; Bill Doll, Kentucky Medical Association; Morgain Sprague, Kentucky State Police; Rodney Ballard, Department of Corrections; Emily Koyagi, Justice and Public Safety Cabinet; and Carl Boes, Kentucky Association of Retired Persons.

LRC Staff: Norman Lawson Jr., Jon Grate, Joanna Decker, Ray Debolt, Jr., Kyle Moon, and Rebecca Crawley.

Jason Newman, PEW Center on the States, presented the results of a PEW Center poll on Public Attitudes on Crimes and Punishment. The poll was the result of bipartisan policy research by Public Opinion Strategies (a Republican polling organization) and Benenson Strategy Group (which had done polling for Senator Obama, unions and nonprofit organizations). Following the use of focus groups, the poll was conducted as a national survey of 1,200 registered voters in March 2010. Twenty percent of those polled were the victim or had a family member who was a victim of violent crime, 48 percent were victims of a nonviolent crime, 17 percent were law enforcement households, 43 percent were conservative, and 20 percent were liberal. The respondents indicated a strong public safety system keeps communities and people safe, holds offenders accountable and has consequences for illegal activities, and is possible while reducing the size and cost of the prison system.

Meghan Guevara, Crime and Justice Institute, gave a presentation relating to performance and accountability in sentencing and corrections. Ms. Guevara said the absence of measured outcomes handicaps policymakers and others who wish to assess the overall performance of correctional and alternative programs and limits the ability of corrections executives to effectively manage their staff and resources. A performance measurement system addresses the many tasks that community corrections agencies are responsible for, including tracking performance at multiple levels and examining both process and outcome measures. Selecting a few key measures allows for transparency of system processes and outcomes on reducing recidivism, reducing risk, and reducing substance abuse. Costs and savings need to be calculated, and annual reporting on progress toward implementation of goals through evidence-based evaluations is helpful.

Ms. Guevara discussed how similar programs have been effectively used in Texas, Georgia, Ohio, and other states. One of the more effective tools has been performance incentive funding based on savings from programs. Prison costs $19,000 per year while probation or parole costs $960 per year, so programs which reduce recidivism and treat criminal needs can save money and increase public safety at the same time. Incentive funding aids in making the programs work. Whether the programs have worked depends in large part on evidence-based performance and accountability reviews.

Charles Zoeller, a private citizen, commented on a situation in Pennsylvania where a judge with a financial interest in a private organization operating a treatment program ordered defendants to the program and thereby benefitted financially. He urged transparency and accountability in relationships with programs to ensure there is no conflict of interest. Rodney Ballard, Department of Corrections, said a portion of savings from community programs should be returned to the Department to strengthen these programs. Senator Jensen observed the General Assembly must ultimately decide where any monetary savings will be redistributed.

Senator Jensen commended task force member Chief Justice John D. Minton, Jr. on being named a 2010 Toll Fellow by the Council of State Governments.

The meeting recessed until 9:00 a.m. on Wednesday, October 20, 2010.

The meeting was called to order by Representative Tilley, the roll was called, and a quorum was present.

Meghan Guevara, Crime and Justice Institute, gave a presentation on evidence-based policy options for pretrial supervision, sentencing, and corrections. She said a comprehensive approach to evidence-based practices can reduce recidivism up to 30 percent, translating into significant cost savings, and decades of corrections research provides guidance for effectively reducing recidivism and improving public safety. Incarceration can increase the likelihood of recidivism on release, targeted community supervision and behavioral interventions can reduce recidivism, offender risk can be measured, and interventions help reduce risk, but ongoing measurement and evaluation is essential to insure programs are working.

Ms. Guevara said Kentucky recidivism rates and technical parole violations have been increasing. Kentucky has a high arrest rate and a low rate of probation, an increasing prison population, and current demand for treatment and intervention programs outstrips their availability in prisons, jails, and communities. The Administrative Office of the Courts has adopted and implemented a validated pretrial release risk assessment instrument, and the Department of Corrections has adopted a nationally accepted integrated risk/needs assessment and case management system. Recovery Kentucky and expanded halfway house capacity have increased community-based placements.

Some policy options for Kentucky include expanding use of the pretrial risk assessment instrument to include the release of mid-level offenders prior to trial with community monitoring and GPS monitoring. The current pretrial release monitoring program has a 99 percent success rate in that releasees did not commit new crimes while on release and returned for trial, and 85 percent of the releasees complied with the conditions of release imposed by the courts. Persons released with GPS monitoring are responsible for the cost of the monitoring. Ms. Guevara cautioned that GPS monitoring may not prevent a releasee from committing a new crime, but allows for easier detection and prosecution, and she recommended consolidating the currently authorized GPS monitoring program under one program with a single statewide vendor. County Judge-Executive Turner asked whether consideration was being given to granting prison time credit to persons on home incarceration or GPS monitoring. Chief Justice Minton responded this is not the current practice and jail time credit is given only for time spent in jail prior to trial. County Judge-Executive Turner urged consideration of giving credit against the defendant's sentence for successful completion of a monitoring program. Senator Jensen observed that GPS technology is constantly improving and may provide a viable supervision tool in more Kentucky counties in the future. Mr. Handy urged adoption of criteria for providers of monitoring services to ensure that conflicts of interest do not occur and adoption of monitoring standards.

Ms. Guevara said most low risk offenders do well without supervision and intensive supervision is counterproductive and expensive. Intensive supervision should be reserved for medium and high-risk offenders and should be relaxed upon continued compliance with the conditions of release. Mr. True asked Ms. Guevara to provide the task force with information on sentence credit for time spent on pretrial release and what other states are doing.

There was discussion of utilizing the information in the pretrial release report as a tool for evaluating sentencing options. Chief Justice Minton observed that courts view the pretrial release reports as confidential. One problem cited by several persons is that under current practice, most cases are decided by plea bargains between the prosecution, the defense, and the defendant, and most judges approve the plea bargain as a matter of course with little consideration for a presentence investigation or a risk/needs assessment of the defendant. Mr. True observed a risk/needs assessment can be very subjective depending on the evaluator, and the report should not be used to restrict the judge's discretion. Mr. True said most judges recognize what a defendant's treatment needs are but the lack of treatment programs is a major problem, so the court's only option may be to send the defendant to prison. Senator Jensen cautioned that the risk/needs assessment should not prejudice the defendant's constitutional rights.

Ms. Guevara recommended the validated risk/needs assessment currently used by the Department of Corrections be incorporated in the presentence report provided to the judge prior to a defendant's sentencing, and the reports be provided to the prosecution, defense, and the judge when plea negotiations are conducted, to give all parties reliable information as to the defendant's risks and needs, as a guide to which interventions will work best for the defendant and ensure public safety. She said after an offender is probated, the detailed terms of supervision and monitoring of the probationer should be the responsibility of the Department of Corrections. Additional recommendations included authorizing the probation and parole officer to use administrative caseloads for low risk offenders, and focusing on the probationer's financial obligations and not committing a new crime, changing supervision levels presumptively or on review, and allowing compliance credits to reduce the level of supervision for good behavior or allowing early termination of the probation.

For medium and high risk offenders, more intensive supervision is appropriate with case plans structured to the offender's needs, with the use of motivational and cognitive techniques, and swift and certain administrative sanctions for violations, such as two days in jail ordered by the probation officer after the defendant admits the violation, or a change in the level of supervision and other needed programs and interventions. Ms. Guevara indicated this change needs judicial support because presently the judge must hold a hearing and determine the sanctions which delays the sanctions and increases judicial supervision time. Ms. Guevara discussed the Project HOPE program in Hawaii where judges can order immediate interventions for probation violations within 72 hours of the incident. Violations might include failing a drug test, missing appointments, failure to attend programs or counseling and other similar problems. Drug treatment is ordered only after repeated drug test failures where short terms of incarceration or other interventions have failed. The Hawaii program has resulted in a 50 percent reduction in new arrests and failed drug tests.

Chief Justice Minton said many judges are frustrated by the lack of community treatment programs and other community supervision options, and that significant judicial education on sentencing practices, monitoring, and other matters will be necessary for these programs to succeed.

Ms. Guevara said the Department of Corrections is now using a validated risk/needs assessment prior to parole or release determinations. Ms. Guevara asked if this should be made a statutory requirement. Secretary Brown felt this should be an executive branch decision and should not be micromanaged by legislation.

Ms. Guevara indicated the same type of earned-time credit used in prison could be authorized for parolees who comply with the provisions of parole. Credit would be earned to reduce the time of parole supervision and provide an incentive for the parolee to increase the level of program completion and compliance with the conditions of parole. Also, for most offenders a lesser level of supervision is appropriate which focuses on payment of restitution, no new arrests and no violations of parole provisions, and rewards this behavior with administrative supervision rather than active supervision at higher and more costly levels, which may actually be counterproductive. Options for higher level offenders include increased levels of supervision, use of GPS monitoring, halfway houses, and similar programs. Representative Tilley observed these measures have worked well in other states. Ms. Guevara said the Department of Corrections is now using a National Institute of Corrections validated program designed to have a graduated set of sanctions for use with parole violators which focuses on targeted interventions and programs which avoid sending technical violators back to prison and the department's programs are currently being evaluated by Eastern Kentucky University on a continuing basis. Senator Jensen urged the Department of Corrections to work with the Court of Justice to expand this type of supervision arrangement to persons on probation. In response to a question from Mr. True, Ms. Guevara said the average parole officer caseload is 92 parolees.

Professor Robert Walker, University of Kentucky Center on Drug and Alcohol Research, presented a report on Kentucky's substance abuse treatment capacity, costs, and persons served. Professor Walker said Kentucky has 1,040 licensed treatment beds, with approximately 600 beds for men, 441 for women, and an average utilization rate of 91 percent. He said there are 290 inpatient psychiatric beds for adolescent substance abuse treatment, but only 84 non-medical beds for adolescent substance abuse treatment. There are no recovery center beds for adolescents. In addition to the licensed treatment beds, there are 1,772 Recovery Center beds, of which 950 are for men and 772 for women. He said 48 beds are funded by the Department of Corrections for detoxification only. Professor Walker observed funding for substance abuse treatment programs has not been increased in 14 years.

Professor Walker's report detailed each facility's programs, beds, and treatment programs. In 2009, 28.8 percent of substance abuse clients were served by inpatient centers and 13,671 clients were served by outpatient centers at 130 sites in the state. Professor Walker observed that criminal justice cases take longer for treatment but generally have more successful outcomes than voluntary admission cases. If additional state funding is provided, federal matching money could be available. The cost of treatment nationally is $3,000 to $7,000 per client per episode, but the average cost in Kentucky is $1,860. Professor Walker said the relationship with the Department of Corrections is sometimes difficult but could be corrected by more concise contract negotiations. Professor Walker said strict drug court judges who carefully monitor participants have better client outcomes than judges who do not. Professor Walker's report indicated there is no capacity to increase residential or outpatient treatment at this time. He said expanding community based services would cost about $2,000 per client, and residential treatment with outpatient aftercare services would cost between $6,000-$7,000 per year per client, which is still far less than the cost of incarceration.

Discussion then turned to use of mental health courts, mental health and mental retardation centers, and the number of persons with mental health problems in prisons rather than in a hospital setting. Professor Walker said mental health facilities feel these persons are criminals and need to be in prison, while corrections officials feel these persons have mental health problems which are best addressed in a hospital setting. Professor Walker observed that one-third of these persons have traumatic brain injury and others have thought disorders such as depression, post traumatic stress disorder, and drug and alcohol problems. Programs must focus on the patient's immediate needs but also need to focus on other problems such as unemployment, transportation to treatment programs, and more frequent treatment contacts. Chief Justice Minton observed there are two successful pilot mental health court programs in the state, but the Courts are unable to implement another statewide court program due to budget restraints.

Dr. James Austin, JFA Institute, gave a presentation on preliminary data from the drug offense file case review requested by the task force. The detailed review involved 233 cases and showed 40 percent of prison admissions are for drug crimes and on any given day, approximately 4,000 prisoners are in the Kentucky correctional system for drug crimes. He discussed the length of incarceration for drug offenses, demographics of the offenders, level of custody, number with prior misdemeanor and felony convictions, the charges and amount of drugs at the time of arrest, and other statistical information. In summary, most were white males, unemployed, unmarried with no children, with mental health or medical problems, a large percentage had prior misdemeanor convictions but few felony convictions, most acted in concert with others, violence and victim injury were relatively rare, and the amount of drugs involved in the crime was small in both trafficking and possession cases.

Members of the task force requested additional information about charges versus convictions, plea bargaining, the number of persistent felony offender charges, felony enhancements that were dropped to obtain the conviction, and further information relating to the length of sentences.

The meeting adjourned at 1:00 p.m.

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

Minutes of the 3rd Meeting of the 2010 Interim

October 14, 2010

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, October 14, 2010, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Tanya Pullin, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Vernie McGaha, Joey Pendleton, Kathy W. Stein, and Jack Westwood; Representatives Linda Belcher, Tom Burch, Dwight D. Butler, Larry Clark, Tim Couch, Ron Crimm, Robert R. Damron, Myron Dossett, Bill Farmer, David Floyd, Jeff Greer, Terry Mills, Tim Moore, Fred Nesler, Tom Riner, Sal Santoro, and Charles Siler.

Guests: Ron Spriggs, Executive Director, Ron Spriggs Exhibit of Tuskegee Airmen (RSETA), and President of Brigadier General Noel F. Parrish Chapter of Tuskegee Airmen, Inc.; Nancy Albright, Director, Division of Maintenance, Transportation Cabinet; Charles Wells, Personnel Cabinet; and Margaret Plattner, Deputy Commissioner, Kentucky Department of Veterans Affairs.

LRC Staff: Erica Warren, Clint Newman II, Mustapha Jammeh, Tiffany Opii, and Rhonda Schierer.

Minutes

Co-Chair Tori asked members to review the September 9th meeting minutes for approval. Co-Chair Pullin moved to amend the minutes with the addition of the word "been." Representative Burch seconded the motion. A motion was made to adopt the minutes as amended and seconded, and they were adopted by a voice vote.

Resolutions

Representatives Butler and Siler read resolutions for fallen soldiers: 1st Lieutenant Eric D. Yates and Lance Corporal Timothy M. Jackson. A motion was made and seconded to adopt the resolutions, and they were adopted by a unanimous voice vote.

Tuskegee Airmen

Ron Spriggs, Executive Director, Ron Spriggs Exhibit of Tuskegee Airmen (RSETA), and President, Brigadier General Noel F. Parrish Chapter of Tuskegee Airmen, Inc., gave a power point presentation on the history of the Tuskegee Airmen. Mr. Spriggs introduced special guests, Tuskegee Airman, Frank Weaver and chapter member Donald Goodwin. Mr. Spriggs discussed some little known facts about Kentucky Tuskegee Airmen and recognized Colonel Noel Parrish, born in Lexington, Kentucky, a commanding officer of cadet training at Tuskegee; Willa Beatrice Brown, born in Glasgow, Kentucky, was a co-sponsor and driving force to create an aviation training program for black pilots and the first black female to receive a U.S. issued pilots license and mechanics license. Ms. Brown was commissioned a lieutenant in the Civil Air Patrol. The combat plane "Miss Kentucky State," a P51 Mustang, was named by S/Sgt Marcellus Smith, a Louisville native. Bomber pilot training was established at Godman Field, Kentucky, near Louisville, to train black crews to fly the B-25 Mitchell twin engine bomber under the 477th Bomber Group. Mr. Spriggs is keeping the history for the Tuskegee Airmen alive through student rap-sessions, lectures, keynote speaking, newsletters, touring exhibitions, a website, and multimedia presentations. Mr. Spriggs noted that in 2007, Kentucky became the first state to officially name a roadway honoring the black fliers who made history more than 60 years ago. The Tuskegee Airmen Memorial Airmen Trail is a stretch of I-75 which started in Fayette County because the state aviation museum is located there and several of the airmen were from Central Kentucky.

In response to Representative Floyd's question about student membership to the Chapter of the Tuskegee Airmen, Mr. Spriggs stated that students up to the age of 25 are given a card for identification of membership, a press kit, research for scholarships, and guidance to advance any aviation dreams they may have.

Representative Moore stated that he recruits candidates on behalf of the Air National Guard and is interested in Mr. Spriggs contacting him when he has students interested in aviation. Mr. Spriggs thanked Representative Moore and stated he would take note of his contact information.

Purple Heart Trail and Tuskegee Airmen-HJR 67

Nancy Albright, Director, Division of Maintenance, Transportation Cabinet, presented a Power Point slide to show a map of the locations of the Purple Heart Trail and the Tuskegee Airmen Trail on Kentucky interstates and highways.

TRICARE

Charles Wells, Personnel Cabinet, gave a power point presentation on TRICARE for Joe R. Cowles, as he could not attend the meeting. Mr. Wells stated that questions could be directed to Joe R. Cowles, Personnel Cabinet, Deputy Executive Director, Office of Legal Services, for written response at a later date. Mr. Wells provided Mr. Cowles's email address and phone number.

There being no further business, the meeting adjourned.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 3rd Meeting of the 2010 Calendar

October 29, 2010

Call to Order and Roll Call

The 3rd meeting of the Capital Planning Advisory Board was held on Friday, October 29, 2010, at 10:00 AM at the Kentucky State University Center for Sustainability of Farms and Families in Franklin County. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Melvin Henley, Co-Chair; Representative Ron Crimm, David Buchta, John Esham, Carole Henderson, John Hicks, Bill Hintze, Mark Overstreet, Katie Shepherd, and Laurel True.

Guests testifying before the Board: Dr. Mary Evans Sias, President, Kentucky State University (KSU); Jack McNear, Associate Vice President of Capital Planning, Construction, and Facility Operations, KSU; Robert L. King, President, Council on Postsecondary Education (CPE); Sherron Jackson, Assistant Vice President, EEO & Finance, CPE; Sam Ruth, Commissioner of Facilities and Support Services; Paul Kaplan, Senior Advisor and Director, Green Bank of Kentucky Program; and Paul Gannoe, Director, Division of Engineering and Contract Administration, Finance and Administration Cabinet; John Hicks, Deputy State Budget Director, Governor's Office for Policy Management; Greg Dunbar, Manager, District Facilities Branch, Department of Education; Ken Seibert, President of CMTA; Dr. Robert Tarvin, Executive Director, School Facilities Construction Commission; and Larry Owsley, Vice President for Business Affairs, University of Louisville.

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

Welcoming New Members

Chairman Westwood welcomed two new Board members. Mr. Mark Overstreet, an attorney with Stites and Harbison in Frankfort, will replace William May, whose term expired in October. Mr. John Esham is a Chief Deputy Policy Advisor in the Governor's Office, and will replace Edmund Sauer, who has moved out of state.

Approval of Minutes June 10, 2010 and August 27, 2010

There was a motion made by Representative Henley, seconded by Mr. Hicks and adopted by voice vote to approve the minutes of the June 10, 2010 and August 27, 2010 meetings.

Discussion of Kentucky State University Capital Projects

Dr. Sias welcomed the Board to the university's new building, and then discussed several university capital projects involving the General Fund. She said the Expand and Renovate Betty White Nursing Building project would renovate and reallocate space to the nursing program since the current space is inadequate and not well designed for the program's needs. The project is anticipated to cost $7,825,000.

The $2,200,000 Construct Pedestrian Bridge project would entail construction of a walkway across US60 from Hathaway Hall to the south campus. Rather than students having to cross the very busy and dangerous highway or having to use the dimly lit and hazardous tunnel, they would utilize the walkway. The university hopes to receive federal funds for this project.

The Construct Business and Technology Center project would construct a new building for the School of Business and a Performing Arts Center in Bradford Hall. The project will cost $79,842,000. The VFA Condition Assessment and Space Study found Bradford Hall to be a substandard space for the Music/Theatre programs and suggested that both the Performing Arts Center and the School of Business, which is also located in Bradford Hall, would be better served in new facilities.

The Replace Boiler and add Pollution Control project will construct a new central steam heating plant with a central warehouse and facilities maintenance offices on the south campus. The current facilities are located on the north campus in an area designated by the Master Plan for academic growth. This $24,414,000 project will extend the steam and chilled water tunnel system from Hathaway Hall to the new central plant.

Dr. Sias said there are $1 million of roof repairs on the campus that need to be completed and, even though some federal funding is available, additional funds are still needed.

In response to a question from Senator Westwood, Dr. Sias said the university has $325,000 in federal funds for roof repairs and infrastructure improvements to deteriorated buildings on campus.

In response to questions from Senator Westwood, Mr. McNear stated that the roofs in need of repair are 15 years old. He said the university would like to see them last another five years if possible, but money still needs to be earmarked for repairs that need to be done. Mr. McNear stated that the Jordan Building was constructed in 1937.

In response to a question from Senator Westwood, Dr. Sias stated that she could find out and let members know which projects are utilizing federal stimulus money. Mr. McNear added that the Pedestrian Bridge project is not utilizing federal stimulus dollars because it is not a shovel-ready project at this point.

Status Report on Senate Bill 189

Mr. Jackson discussed a status report on Senate Bill 189. This bill was passed by the 2008 General Assembly, and directed the Finance and Administration Cabinet and CPE to prepare two separate reports recommending a process for funding deferred maintenance of state facilities. The Office of the State Budget Director was to help in preparing both reports. The bill was based on a recommendation made by the Capital Planning Advisory Board in its 2008-2014 Statewide Capital Improvement Plan.

Mr. Jackson briefly discussed the first three report recommendations: establish a long-term financing commitment/strategy supported by the legislative and executive branches and the postsecondary institutions to annually spend a recurring amount of dollars for asset preservation; balance the desire for new construction with the need to provide funds for asset preservation and renovation; and invest in capital construction and asset preservation starting with the 2012-2014 biennial budget.

The fourth recommendation called for developing a statewide policy on long-term asset preservation that clarifies the financial responsibility of the state and the institution. Mr. Jackson said knowing who is responsible for the maintenance and operation of the facilities will also help CPE and the institutions to better prepare budget recommendations for the General Assembly's consideration.

In response to a question from Senator Westwood, Mr. King said the decision to renovate a building or tear it down is in part determined by how often the space is utilized.

Mr. Hicks noted that during the 1998 and 2000 sessions, it was established that if the General Assembly would set aside funds for deferred maintenance, the institutions would match those funds. Mr. King added that the long-term plan should include a financing mechanism as to who will be responsible for the funding of these projects and in what proportions.

In response to a question from Mr. True, Mr. Jackson stated that institutions annually create a maintenance type pool based on fund balances much like the maintenance pools created in the Appropriations Act for state agencies.

Next, Commissioner Ruth and Mr. Hicks updated members on the implementation of Senate Bill 189. Mr. Hicks said the Governor's Office for Policy Management has polled other states to determine how they handle deferred maintenance needs. These states included Florida, Illinois, Indiana, Ohio, Tennessee, Virginia, and Utah. Mr. Ruth added that determining deferred maintenance should be viewed as a cost avoidance expenditure. As an example, he said $3,000 was spent to rebuild a distribution pan on the cooling system at the Kentucky History Center in Frankfort. By not completely replacing the cooling system, the Commonwealth saved $100,000.

Update on Energy Efficiency in State and School Facilities

Mr. Kaplan and Mr. Gannoe updated the Board on the Finance Cabinet's efforts to implement 2008 House Bill 2, which deals with the efficient use of energy. Among other things, HB 2 established the High Performance Building Advisory Committee (committee) and directs that all public construction or renovation projects funded 50 percent or more with state funds meet high performance building standards established by the committee.

Mr. Kaplan said all new construction and major renovation projects between $600,000 and $5 million must be designed and built using the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system. Mr. Gannoe then presented a list of state-funded projects that will seek or have already achieved LEED certification.

In response to a question from Ms. Henderson, Mr. Gannoe said there is a minimal increase in cost for a facility that is LEED certified. He said initially, there was an increase cost in the consultants' fees, but that has gradually gone away. The additional cost can now be attributed to the additional paperwork required for certification. Mr. Kaplan added that the cost reflects the experience of the builder and the engineering firm.

In response to a question from Mr. Hicks, Mr. Kaplan stated that LEED certified buildings are different than normal construction projects in that more collaboration is required between the engineers and architects. Also, energy usage in a LEED certified building must be tracked for up to two years after construction is complete. Mr. Gannoe added LEED certified buildings use recycling of gray water and runoff water also.

In response to a question from Representative Crimm, Mr. Kaplan stated that LEED standards are some of the most recognized in the nation. He added that the federal government has also adopted LEED standards for its construction program.

In response to a question from Senator Westwood, Mr. Kaplan stated that geothermal heat is not required in LEED facilities.

Senator Westwood thanked representatives of the Finance Cabinet for their presentation. He then introduced staff from the Department of Education and the School Facilities Construction Commission to discuss ongoing efforts to reduce energy usage in Kentucky's K-12 school facilities.

Mr. Dunbar said Kentucky has approximately 300 schools with geothermal heating systems and 60 Energy Star rated schools. He said all new school facilities are now designed to be Energy Star schools.

Mr. Seibert then discussed the opening of two new net zero energy schools in Kentucky in 2010. Richardsville Elementary in Warren County opened in September 2010 and Turkey Foot Middle in Kenton County opened up last fall. A net zero energy facility is defined as a facility that produces as much energy on site as it would consume off the electrical grid. According to the latest energy codes for Kentucky's climate zone, a K-12 building can use 73 units of energy (measured as kBtus) per square foot per year. In addition to using geothermal HVAC systems, ways to save energy in these schools include utilizing natural/day lighting systems and energy efficient kitchen equipment, and wireless computer systems with moveable laptop carts, which eliminate computer classrooms.

Senator Westwood commented that Turkeyfoot Elementary students were involved in the architectural designing of the school and that has been a great educational benefit to the students.

Senator Westwood next introduced Mr. Owsley, who discussed energy efficiency saving measures being implemented by the University of Louisville (UL). UL recently initiated an Energy Savings Performance Contract (ESPC) for work on the Belknap Campus with Siemens Building Technologies, Inc. In October 2009, Siemens began work with the university that will reduce the Belknap campus' $8.4 million utility budget by 26 percent annually. The scope of work includes heating, ventilation and air-conditioning upgrades; lighting retrofits; building and facility improvements; and water-conservation measures. The project will impact over 4.3 million square feet in 69 buildings on Belknap campus.

It is estimated that upon completion of the ESPC, UL will reduce Belknap campus' electricity use by more than 20 percent and reduce its heating fuel consumption by about 30 percent annually. This savings equates to over $2.3 million annually and the university estimates that the project will pay for itself in 13.5 years. The work is scheduled for completion in early 2011.

The total cost of the ESPC is $21.7 million. Of this amount, $20.4 million will be financed over a 13.5-year period at an interest rate of 4.79 percent. An additional $200,000 allowance is included in the contract for unforeseen construction costs. As a result of this project the university received a $373,000 cash rebate for reducing its electricity consumption. The rebate is available through a Commercial Rebate Program run by LG&E and Kentucky Utilities Company to encourage customers to replace aging equipment.

Senator Westwood said there were five Information Items included the member's packets: an Update on Kentucky's Credit Ratings; 2010 Debt Medians; Appropriation-supported debt and debt restructurings; Pew Center Study on Kentucky's increasing prison population; and the 2012-2018 Capital Planning Process Schedule.

Next Meeting

Senator Westwood stated that the next meeting would be in May or June of 2011.

Adjournment

With there being no further business to discuss, the meeting was adjourned at 12:39 PM.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

October 19, 2010

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, October 19, 2010, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Susan Westrom, 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: Jim Host and William Summers V, Louisville Arena Authority; Harold Workman and Laura Chandler, Kentucky State Fair Board; Anthony Mathis, M.A. Mortenson Company; Joe Wise, Building Trades of Louisville; Elizabeth Baker, University of Kentucky; John Hicks, Governor's Office of Policy and Management; Sandy Williams, Kentucky Infrastructure Authority; Katie Smith, Cabinet for Economic Development; and Tom Howard, Office of Financial Management.

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

Approval of Minutes for September 21, 2010

Representative Wayne made a motion to approve the minutes of the September 21, 2010, meeting. The motion was seconded by Senator Leeper and approved by voice vote.

Information items

Representative Westrom asked Kristi Culpepper, Staff Administrator, to discuss information items. Ms. Culpepper said members' folders contained several information items. The first three items were the quarterly status reports on capital projects from the Finance and Administration Cabinet and the universities that manage their own capital construction programs; the quarterly status report on court facility construction and renovation projects from the Administrative Office of the Courts; and the quarterly status report on information technology from the Commonwealth Office of Technology.

The fourth information item was the Semi-Annual Report of the Kentucky Asset/Liability Commission regarding the state's investments and debt.

The fifth information item was an update regarding Murray State University's proposed new bond issue. At the last committee meeting, the committee approved a new bond issue for Murray. Murray rejected the bids for that bond sale because interest rates were not favorable at the time for funding the escrow account.

The sixth information item was a staff memorandum providing background information on the Louisville Arena project.

Ms. Culpepper said the last items of information were the staff and bond market updates.

Presentation by Jim Host, Chairman, Louisville Arena Authority

Representative Westrom asked Mr. Host to make a presentation to the committee on the Louisville Arena (arena). Mr. Host introduced Harold Workman, President and CEO, Kentucky State Fair Board (KSFB); Joe Wise, Executive Director, Building Trades of Louisville; Anthony Mathis, M.A. Mortenson Co., Construction Manager-at-Risk for the Arena; and William Summers V, member of the Louisville Arena Authority (LAA). Mr. Host said the cost of the Arena was $238,000,000 and includes 32,000 square feet of public meeting space.

Next Mr. Host presented statistics on the overall hours worked to construct the arena, minority participation, overall work force, and taxes withheld for Louisville and the state. Mr. Host then showed the committee a video on the Construction Pipeline project, which is a local program that trains unemployed individuals in various trades. He said the program was utilized in constructing the arena.

Mr. Host provided the committee with the current cash flow projections of the arena, which included Type A revenues (debt service obligated funds) and Type B revenues (general operating revenues). Mr. Host then discussed rating agency Standard and Poor's stress tests for LAA revenues.

Finally, Mr. Host presented to the committee the estimated cash flow projections for Fiscal Year 2011, which includes the Louisville Metro minimum of $6,533,000 and estimated tax increment financing (TIF) revenues of $1,000,000.

Committee Member Questions regarding the Louisville Arena

Senator Leeper asked what the impact will be on Freedom Hall in Louisville. Mr. Workman said the agreement between the LAA and the KSFB requires LAA to establish a reserve account to reimburse the KSFB for lost revenue and pay $750,000 annually to the account until June 2014. In January 2014, the two parties will determine the arena's actual impact on Freedom Hall's revenue with the intention to compensate KSFB for revenue lost from events that relocated to the arena.

In response to another question from Senator Leeper, Mr. Workman said he anticipates it will take about three years for Freedom Hall to attract other events to make up for lost revenue.

In response to a question from Senator Carroll, Mr. Host said the seating capacity is 22,000 for UL Basketball games, which is 3,000 more seats than Freedom Hall.

Senator Carroll asked what the KSFB staffing would be for the arena. Mr. Workman said KSFB currently has 29 employees assigned to the arena only and 10 employees assigned to the arena 50 to 75 percent of the time.

In response to another question from Senator Carroll, Mr. Workman said the parking revenues attributed to the UL basketball are included in the reimbursement from LAA to KSFB. He said parking at the Expo Center is anticipated to be down, but the KSFB parking garages downtown will make up for that.

Representative Wayne asked if LAA would be able to make debt service payments in future years if TIF revenues continue to underperform. Mr. Host said the Louisville Metro Government has pledged a maximum guarantee, which is $3,000,000 more than the minimum guarantee. Mr. Host said that according to the bond indenture, the Louisville Metro Government must include the maximum guarantee in their budget.

Representative Wayne asked if the LAA will be negatively impacted by other TIF projects in the downtown Louisville area. Mr. Host said LAA calculated the other seven TIF projects in the area into account in their revenues projections.

Representative Wayne asked if LAA has heard from Moody's in regards to a possible change in the rating of the bonds. Mr. Host said LAA met with Moody's recently and they indicated no reason to downgrade the bonds at the present time. He said Moody's will return in May 2011 and will re-examine the LAA's credit on a continual basis.

Representative Damron asked for an estimate of the revenues the arena is generating for the city of Louisville. Mr. Host said the LAA estimated there would be $490 million additional property being built or renovated in the area in the 30 year period, as well as two new hotels. He said Mr. Workman will be commissioning a study in the upcoming year that will include the economic impact of the arena on the city.

Representative Damron asked Mr. Workman to provide the committee with the report once it is published. Mr. Workman responded affirmatively.

In response to questions from Senator Tori and Representative Westrom, Mr. Host said that the Construction Pipeline project program help candidates to be accepted into an apprenticeship program.

In response to a question from Representative Rudy, Mr. Host said NCAA Final Four would not be able to be held at the arena because of seating; however, NCAA regional finals will be held at the arena.

Report of Purchase of Unbudgeted Medical Equipment from the University of Kentucky

Representative Westrom asked Elizabeth Baker, Planning Director, University of Kentucky (UK), to present an item related to medical equipment. Ms. Baker said that UK has used available restricted funds totaling $4,405,820 to acquire five items of medical equipment. Purchases of unbudgeted equipment must be reported to the Committee. No action was required.

Scope Increase from the Finance and Administration Cabinet

Next, Representative Westrom asked John Hicks, Deputy Director, Governor's Office of Policy and Management, to present an item related to a scope increase. Mr. Hicks said that the Finance and Administration Cabinet is requesting a scope increase for the Department of Military Affairs Construct 25-meter Rifle Range project at the Wendell H. Ford Regional Training Center. The scope increase is $140,000 for a revised scope of $750,000. The project is 100 percent federally funded. The increase was necessary because of anticipated construction change orders.

Senator Buford made a motion to approve the scope increase. The motion was seconded by Senator Leeper. Seven members voted "yes" and one member voted "no." The motion passed.

Kentucky Infrastructure Authority Fund A Loans

Representative Westrom asked Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority (KIA), to present several items related to loans and grants. Ms. Williams said the first items were two Fund A loan interest rate corrections for Lexington Fayette Urban County Government. In June 2010, the committee approved two Fund A loan requests for $10,500,000 and a $3,928,375. The projects are being resubmitted to the committee to correct the interest rate. The correct interest rate is two percent.

Senator Buford made a motion to approve the two Fund A loan interest rate corrections. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

KIA Fund B Loan

Ms. Williams said the next loan request was a $1,246,754 Fund B loan for the City of Marion in Crittenden County to replace the existing cast iron waterline along Main Street. The loan term is 20 years with an interest rate of one percent.

Senator Carroll made a motion to approve the Fund B loan. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

KIA 2020 Grant

Next Ms. Williams said the McLean County Fiscal Court, on behalf of the McLean County DAWN Consortium, is requesting a $150,000 grant from the 2020 Water Service Account Fund Program for a water needs assessment. The 2020 Program was authorized by the 2000 General Assembly for $50 million as the Water Resources Development Bond Program.

Senator Carroll made a motion to approve the 2020 grant. The motion was seconded by Senator Buford and passed unanimously by roll call vote.

KIA Fund B Grant Amendment

Ms. Williams said the City of Owingsville in Bath County requested a $50,000 Fund B grant to upgrade its existing telemetry system in January 2007. However, the telemetry project was not needed. The city will now use the grant funds to replace a damaged waterline.

Senator Carroll made a motion to approve the Fund B grant amendment. The motion was seconded by Senator Tori and passed unanimously by roll call vote.

KIA Grants

Ms. Williams indicated 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.

Economic Development Bond (EDB) Projects

Representative Westrom asked Katie Smith, Deputy Commissioner, Department of Financial Incentives, Cabinet for Economic Development, to present two items related to EDB grants. Ms. Smith said the first item was an EDB pool grant – Base Realignment and Closure (BRAC) project. The 2010 General Assembly (Extraordinary Session) authorized $38,495,000 in HB 1 (2010-2012 Budget) of General-Fund supported bond funds for BRAC projects. The grant request was $3,000,000 for the City of Shepherdsville to provide a wastewater interceptor line between Shepherdsville and southern Bullitt County. The project is necessary to accommodate growth in the area adjacent to Fork Knox.

Representative Wayne asked if the City of Shepherdsville and Bullitt County have coordinated the project details with the Metropolitan Sewer District (MSD). He said that there is talk about MSD managing Bullitt County's sewer and storm water in the future. Ms. Smith said she would provide the information to committee staff.

Senator Buford made a motion to approve the EDB BRAC project. The motion was seconded by Senator Carroll and passed unanimously by roll call vote.

Ms. Smith said the second item was an EDB grant in the amount of $500,000 for the City of Franklin for the benefit of Tractor Supply Company. The grant proceeds will offset the cost of constructing and equipping an approximately 840,000 square foot regional distribution center at the Sanders Interstate Industrial Park in Simpson County. Pursuant to the EDB grant, Tractor Supply Co. will be required to create 216 new, full-time jobs within three years. Additionally, the company will be required to pay the 216 new jobs an average hourly wage of not less than $12.94, excluding benefits.

Representative Rudy asked why a company that generates over $3 billion in revenues needs a $500,000 grant from the state. Ms. Smith said it was part of a package that was negotiated with the company to attract them to the state.

Senator Leeper asked what other economic development incentives the company has received. Ms. Smith said that Tractor Supply Co. received approval for tax incentives under the Kentucky Business Investment Program of $2.9 million, which are corporate income tax credits and wage assessments. Additionally, the company received $940,000 under the Kentucky Enterprise Initiative Act for sales tax refunds.

Representative Wayne commented that this is not the type of economic incentive the state should be offering.

Senator Buford made a motion to approve the EDB grant for Tractor Supply Co. The motion was seconded by Senator Leeper. Six members voted "yes" and two members voted "no." The motion passed.

New Bond Issues from the Office of Financial Management

Representative Westrom asked Tom Howard, Executive Director, Office of Financial Management, to present two items related to bonds. Mr. Howard said the first item was a new bond issue; State Property and Buildings Commission (SPBC) Revenue Bonds, Project No. 99 Series A, B, and C. Proceeds from this bond issue will provide financing for projects authorized in the current and previous budget bills and other appropriation bills. The par amount of the bonds is $322,535,000.

Senator Carroll made a motion to approve the new bond issue for SPBC. The motion was seconded by Senator Leeper and passed unanimously by roll call vote.

Mr. Howard presented the second new bond issue; Kentucky Economic Development Finance Authority (KEDFA) Solid Waste Refunding Revenue Bonds (Republic Services, Inc. Project) Series 2010A and Series 2010B. Proceeds from this conduit bond issue will refund bonds used to finance landfill facilities and equipment in Williamstown, Beaver Dam, Louisville, Stanford, and Sulfur. Gross proceeds for this bond issue are not to exceed $47,000,000.

Senator Buford made a motion to approve the conduit bond issue for KEDFA. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

School Bond Issues

Mr. Howard reported eight new bond issues with School Facilities Construction Commission (SFCC) debt service participation for Boyd County, Campbellsville Independent (Taylor County), Covington Independent (Kenton County), Elizabethtown Independent (Hardin County), Estill County, Madison County, Russell Independent (Greenup County), and Whitley County.

Senator Buford made a motion to approve the eight new bond issues with SFCC participation. The motion was seconded by Representative Rudy and passed unanimously by roll call vote.

Representative Damron asked if OFM has examined a report attributed to the Wall Street Journal that cites Kentucky as the worst run state. Mr. Howard said that OFM has not formally examined the report; however, in his view it appears that the report does not adequately address a number of issues. He also noted that the report seemed to place a lot of emphasis on poverty-based issues as opposed to financial management issues. Mr. Howard noted a report published by Moody's that would have more accurate information concerning the financial management of the state.

In response to another question from Representative Damron, Mr. Howard said OFM will work with the Governor's Office of Economic Analysis to provide an analysis of the Wall Street Journal report.

Representative Westrom asked Ms. Culpepper to report one new local school bond issue. Ms. Culpepper reported one new local school district bond issue with 100 percent local debt service support for Anderson County.

With there being no further business, Representative Rudy made a motion to adjourn the meeting. The motion was seconded and the meeting adjourned at 2:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October Meeting of the 2010 Interim

October 12, 2010

Call to Order and Roll Call

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 12, 2010, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Alan Pauw, Kentucky Judicial Retirement System; Dinah Bevington, Personnel Cabinet; Tamela A. Biggs, Kentucky Teachers' Retirement; Rob Carter, Devon Hankins, Ricky Haven, Randy Justice, Gary Morris, Bruce Nix, Don Richardson, Department of Revenue; Steve Bullard, Kentucky Department of Military Affairs, Matt Frohlick, Junior Wright, Andrew Hartley; Department for Local Government; Jonathan Buckley, David Cox, Robert W. Fentress, James E. Manning, State Board of Licensure for Professional Engineers and Surveyors; Becky Klusch, Board of Physical Therapy; Angela Evans, Jeff Boler, Frances Short, Harold Glen Williams, Board for Proprietary Education; Margaret Everson, Karen Waldrop, Department of Fish and Wildlife Resources; Steve Lynn, Ky Law Enforcement Council; Clay Lamb, Allen Larson, Education and Workforce Development Cabinet; Sandra Chapman, DJ Wasson, Department of Insurance; Shaun T. Orme, Chris Thompson, Department of Financial Institutions; Patricia J. Cooksey, Marc A. Guilfoil, Susan B. Speckert, Kentucky Horse Racing Commission; Dawn Bellis, Tim House, George Mann, Richard Moloney, Department for Housing, Buildings, and Construction; Virginia Carrington, Elizabeth Caywood, Justin Dearinger, Department for Community Based Services; David England, Rebecca Johnston, Kim Martin, Horsemen; Mindy L. Coleman, Jeff Johnston, Jockeys' Guild, Inc.; Martin Maline, KHBPA.

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

The Administrative Regulation Review Subcommittee met on Tuesday, October 12, 2010, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Kentucky Judicial Form Retirement System: System

4 KAR 1:010. General compliance and federal tax laws. Alan Pauw, attorney, represented the Kentucky Judicial Form Retirement System.

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

4 KAR 1:020. Minimum distribution.

4 KAR 1:030. Rollovers and transfers to other plans.

4 KAR 1:040. Limitation on benefits.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a statutory citation; and (2) 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.

PERSONNEL CABINET: Personnel Cabinet, General

101 KAR 5:015 & E. Furloughs. Dinah Bevington, general counsel, represented the cabinet.

In response to questions by Representative Ford, Ms. Bevington stated that the furlough requirements applied to all Executive Branch employees in the Commonwealth of Kentucky. Public comments were not submitted to the cabinet during the public comment period.

FINANCE AND ADMINISTRATION CABINET: Kentucky Teachers' Retirement System: General Rules

102 KAR 1:320 & E. Qualified domestic relations orders. Tamela Biggs, staff attorney, represented the system.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1, 2, 3, 6, and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:330 & E. Travel and administrative expenses.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: Office of Sales and Excise Taxes: Forms

103 KAR 3:020. Sales and telecommunications forms manual. Robert Carter, tax research consultant; Ricky Haven, director, Division of Sales and Use Tax; and Gary Morris, policy advisor, represented the office.

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 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.

Office of Income Taxation: Income Tax; Withholding

103 KAR 18:070. Supplemental wages and other payments subject to withholding. Randy Justice, general counsel, Education and Workforce Development Cabinet, appeared in support of this administrative regulation.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 4, 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.

DEPARTMENT OF MILITARY AFFAIRS: Military Family Assistance Trust Fund Board: Kentucky Veterans' Program Trust Fund

106 KAR 2:020. Military Family Trust Fund. Colonel Steve Bullard, director of administrative services, represented the board.

In response to a question by Representative Ford, Colonel Bullard stated that this administrative regulation was being amended in response to statutory changes to more quickly help families get funds in an emergency and to allow the board to change discretionary funding for multiple-member applications.

Subcommittee staff stated that the suggested amendments corrected the typographical errors noted on the Staff Review form.

A motion was made and seconded to approve the following amendments: to amend Section 3 to correct typographical errors. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Department for Local Government: County Budget

109 KAR 15:020. County Budget Preparation and State Local Finance Officer Policy Manual. Andrew Hartley, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

State Board of Licensure for Professional Engineers and Land Surveyors: Board

201 KAR 18:150. Standards of practice. Jonathan Buckley, general counsel, and David Cox, executive director, represented the board.

In response to a question by Representative Ford, Mr. Cox stated that this administrative regulation was amended to include new technology options, such as GPS for boundary surveys; written disclosure requirements; and changes to material options.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 8, 9 10, 12, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy: Board

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

201 KAR 22:053. Code of ethical standards and standards of practice for physical therapists and physical therapist assistants.

A motion was made and seconded to approve the following amendment: to amend Section 5 to correct an internal reference. Without objection, and with agreement of the agency, the amendment was approved.

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board for Proprietary Education: Board

201 KAR 40:040. Commercial driver license training school curriculum and refresher course. Angela Evans, assistant attorney general; Frances Short, executive director, Office of Occupations and Professions; and Harold Glen Wilham, board member, represented the board.

In response to questions by Senator Givens, Ms. Evans stated that public comments were not submitted during the public comment period. The changes to these administrative regulations included grammatical and technical changes, as well as a substantive change that allowed commercial driver license training schools to use certain equipment that was still safe to use. The language regarding requirements for a criminal background check was deleted because that requirement was already established by statute.

Co-Chair Tori stated that these administrative regulations did not include fee increases and included one (1) fee that was decreased.

201 KAR 40:050. Application for license for commercial driver license training school.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to comply with the formatting requirements of KRS Chapter 13A; and (2) to amend the application incorporated by reference to list the same fees as are listed in the administrative regulation. Without objection, and with the agreement of the agency, the amendments were approved.

201 KAR 40:060. Application for renewal of license for commercial driver license training school.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to comply with the formatting requirements of KRS Chapter 13A; and (2) to amend the application incorporated by reference to list the same fees as are listed in the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 40:070. Commercial driver license training school instructor and agent application and renewal procedures.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the application incorporated by reference to list the same fees as are listed in the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 40:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver training schools, and advertising and solicitation of students by commercial driver license training schools.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 40:100. Standards for Kentucky resident commercial driver training school facilities.

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

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers. Margaret Everson, assistant attorney general, and Karen Waldrop, director, Wildlife Division, represented the department.

JUSTICE AND PUBLIC SAFETY CABINET: Kentucky Law Enforcement Council: Council

503 KAR 1:170. Career Development Program. Steve Lynn, assistant general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, 15, 16, 18, and 25 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance

787 KAR 1:090. Unemployed worker's reporting requirements. Clay Lamb, staff attorney, and Allen Larson, director, Unemployment Insurance, represented the office.

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

PUBLIC PROTECTION CABINET: Department of Insurance: Agent Licensing Division: Agent, Consultants, Solicitors and Adjusters

806 KAR 9:030. Adjusters, apprentice adjusters; licenses, restrictions. Sandra Chapman, acting director, Agent Licensing Division, and D. J. Wasson, staff assistant, represented the division.

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

Department of Financial Institutions: Non-Depository Division of Financial Institutions: Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:002. Definitions for 808 KAR Chapter 12. Shaun T. Orme, assistant general counsel, and Chris Thompson, branch manager, represented the division.

A motion was made and seconded to approve the following amendment: to amend Section 1 to insert a definition. Without objection, and with agreement of the agency, the amendment was approved.

808 KAR 12:021. License and registration.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to delete superfluous language; and (2) to amend Sections 1 and 4 through 8 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 12:022. Examination and investigation fees.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting and format requirements of KRS Chapter 13A; and (2) to amend Section 1 for clarification. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 12:023. Recordkeeping.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and 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.

808 KAR 12:024. Change of address, name, control, or agent for service of process.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 12:026. Procedures for distributing and using funds from the Mortgage Fraud Prosecution fund.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 12:066. Repeal of 808 KAR 12:065.

808 KAR 12:076. Repeal of 808 KAR 12:075.

808 KAR 12:086. Repeal of 808 KAR 12:085.

808 KAR 12:096. Repeal of 808 KAR 12:095.

Department of Housing, Buildings and Construction: Division of Building Code Enforcement: Kentucky Building Code

815 KAR 7:110. Criteria for expanded local jurisdiction. Dawn M. Bellis, general counsel; George Mann, deputy commissioner; and Tim House, acting director, Division of Heating, Ventilation and Air Conditioning, and director, Division of Plumbing, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 1 through 4, and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Heating, Ventilation and Air Conditioning Contractors: Heating, Ventilation and Air Conditioning Licensing Requirements

815 KAR 8:035. Reciprocal licensing requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:050. Continuing education requirements for heating, ventilation, and air conditioning (HVAC) license holders.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1, 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.

Division of Plumbing: Plumbing

815 KAR 20:032. Continuing education requirements for plumbers.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, 3, 5, and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:040 & E. Procedures for determining initial and continuing education. Virginia Carrington, branch manager, and Elizabeth Caywood, internal policy analyst IV, represented the division.

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

Food Stamp Program

921 KAR 3:030 & E. Application process.

In response to questions by Representative Ford, Ms. Caywood stated that pursuant to the National Voter Registration Act, applicants for the food stamp program could register to vote as an ancillary part of the application process. The application form was amended for compliance with federal law. Other agencies were not required to provide voter registration opportunities as part of an application process for other programs. The cabinet was subject to litigation and corrective action from the federal government if the application form was not amended to comply with the National Voter Registration Act requirements.

In response to a question by Senator Givens, Ms. Caywood stated that the change to the form involved including a checkbox the applicant could use to indicate that the applicant was either already registered or did not wish to register to vote.

The following administrative regulations were deferred to the November 9, 2010, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Dentistry: Board

201 KAR 8:007E. Repeal of 201 KAR 8:006, 8:015, 8:070, 8:130, 8:135, 8:140, 8:150, 8:160, 8:170, 8:180, 8:185, 8:190, 8:220, 8:225, 8:230, 8:240, 8:250, 8:260, 8:265, 8:270, 8:277, 8:280, 8:290, 8:310, 8:320, 8:330, 8:340, 8:345, 8:350, 8:355, 8:400, 8:420, 8:430, 8:440, 8:450, 8:460, 8:70, and 8:490.

201 KAR 8:390E. General anes-

thesia, deep sedation, and conscious sedation by dentists.

201 KAR 8:500 & E. Board organization.

201 KAR 8:510 & E. Advisory opinions.

201 KAR 8:540 & E. Dental practices.

Board of Veterinary Examiners: Board.

201 KAR 16:030 & E. License, renewal notice, exemption.

Board of Licensed Professional Counselors: Board

201 KAR 36:060. Qualifying experience under supervision.

201 KAR 36:070. Education requirements.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Public Water Supply

401 KAR 8:100. Design, construction, and approval of facilities.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Motor Carrier: Division

601 KAR 1:018 & E. Special overweight or overdimensional permits.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: School Administration and Finance

702 KAR 3:246. School council allocation formula: KETS District Administrative System Chart of Accounts.

Pupil Transportation

702 KAR 5:110. Vocational pupils, reimbursement for.

Office of Instruction

704 KAR 3:305. Minimum requirements for high school graduation.

Department of Workforce Investment: Office of Vocational Rehabilitation: Administration

781 KAR 1:040. Rehabilitation technology services.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:009 & E. Jockeys and apprentices. Patricia Cooksey, director of public relations; Marc A. Guilfoil, deputy executive director; and Susan B. Speckert, general counsel, represented the commission. Mindy L. Coleman, counsel, Jockey's Guild, Incorporated; David England, horse trainer; Jeff Johnston, regional manager, Jockey's Guild, Incorporated; Rebecca Johnston, horse trainer; Martin Maline, executive director, Kentucky Horsemen's Benevolent and Protective Association, Incorporated; and Kim Martin, horse exerciser, appeared in opposition to these administrative regulations.

In response to a question by Senator Kerr, Ms. Speckert stated that jockeys were present at the Subcommittee meeting, but that the commission had not received a request from the Jockey's Guild to defer consideration of these administrative regulations.

In response to questions by Representative Lee, Ms. Speckert stated that these administrative regulations were filed as emergencies because the vest requirements protected horsemen and jockeys and was an issue of public safety. Research was still being conducted in 2008 when the commission first began to consider amending standard vest requirements. The commission waited until the vests were produced and available from manufacturers to promulgate the new requirements. The commission did not have statistics indicating that previous vest requirements were inadequate based on recorded injuries. Ms. Speckert stated that the Jockey's Guild had requested that the commission promulgate new vest standards. The commission did not believe that a financial hardship to horsemen existed because stakeholders had known these changes were coming since 2008. Additionally, an overwhelming number of jockeys in Kentucky also rode in Indiana, where the vests requirements were already in place. Therefore, the commission did not think there would not be a financial hardship as most jockeys already had the new vests in order to comply with Indiana's requirements. If these administrative regulations had not been filed as emergencies, the requirements would not be effective until January, 2011, which would be after the Breeder's Cup.

Ms. Cooksey stated that jockeys were initially against any administrative regulations requiring safety vests, but now they almost all complied. She stated the new vest provisions required a better, safer vest. The vests were tested and certified.

In response to a question by Representative Lee, Ms. Cooksey stated that the commission did not have data indicating how many injuries had occurred due to unsafe or inadequate vests, but that the Jockey's Guild probably had that information.

Representative Lee stated that his objection was not to the safety requirements themselves, but because the requirements were established by emergency administrative regulations without giving stakeholders an opportunity to prepare or comment.

Ms. Speckert stated that the requirements being established by emergency administrative regulations may prevent catastrophic injury.

In response to a question by Senator Kerr, Ms. Martin stated that the newly required vests were cumbersome and did not provide enough coverage for safety, including failing to cover the collar bone and the lower abdomen. These vests were not as safe for pony or horse exercisers.

Ms. Johnston stated that the newly required vests did not provide enough protection, including failing to cover the ribcage and the lower spine. She requested that stakeholders be allowed to wear a vest of their own choosing.

Mr. England stated that he represented horsemen, not jockeys, and that newly required vests did not allow horsemen to do their jobs. He cited the failure of the vests to protect the shoulder area and stated that almost every horseman in Kentucky opposed the newly required vests. The only communication made to Turfway Park regarding the new requirements came only four (4) days prior to the effective date of the emergency administrative regulations. Manufacturers were still in the development phase and have indicated some problems with the newly required vests. The process seemed to be rushed.

Mr. Maline stated that the vest requirements should not have been promulgated as emergency administrative regulations. Public input was circumvented because the emergency administrative regulations became effective prior to the public comment period. Concerns were not appropriately addressed by the commission once stakeholders did make comments. The commission refused to defer consideration until stakeholders had more time to communicate their concerns.

Ms. Coleman stated that the Jockey's Guild did ask for safety improvements; however, the guild also requested an injury database for jockeys. The database needed to have preceded safety improvement administrative regulations in order to determine the best safety requirements. In July 2010, there was a welfare and safety summit at Keeneland in order to evaluate vest safety. There had been an increase in paralyzation and fractured vertebrae in the last two (2) years. Research and information processing needed to continue before the new vest requirements were put into place. Manufacturers had modified products since the new requirements, and there were already newer, safer vests available. The speed that the new requirements were put into place caused financial struggles for many horsemen. Indiana had enacted a vest rule; however, jockeys in Indiana had losing-mount payments and health provisions that Kentucky jockeys and horsemen did not have to offset costs.

Mr. Johnston stated that the Jockey's Guild did not approach Association of Racing Commissioners International (ARCI); ARCI approached the guild to discuss vest standards. The guild agreed that the vest standards needed to be updated; however, it should not have been done by emergency administrative regulations and requirements should have been broader to include more vest options. Recent research had shown that the newer vests may be less effective than older versions under higher temperatures. The injury database was needed.

Ms. Coleman stated that the advertising restrictions were set to fail. Sponsors were not interested in dealing with the cumbersome rules. Because the administrative regulations were filed as emergencies in order to get the vest requirements in place quickly, the advertising requirements were also put into effect immediately. Jockeys had the right to fulfill existing, long-term contracts, which could not be fulfilled under the emergency administrative regulation advertising requirements. A single-race cost could not be determined in many instances if an existing, long-term contract was in place.

In response to questions by Representative Lee, Mr. Johnston stated that data collection regarding injuries to jockeys and horsemen was currently being done through tests in laboratories. There seem to have been more spinal injuries since the new vest requirements. The vests needed to provide both flexibility and impact protection. Injury data may even be able to be collected from past years. One (1) to two (2) years of studies and data collection would be necessary to develop a useful database.

In response to questions by Senator Givens, Mr. Maline stated that the guild and the HBPA knew that there had been ongoing discussion regarding the new vest standards; however, the organizations thought that they would be included in the requirement development process. Their input was not sought by the commission. Mr. Maline stated that Ms. Cooksey told him that the concern was much ado about nothing and that the requirements would only broaden vest options.

In response to a question by Senator Givens, Subcommittee staff stated that deferring consideration of these administrative regulations would not affect the status of the emergency administrative regulations that would still be in effect unchanged.

In response to questions by Co-Chair Tori, Ms. Speckert stated that the commission would agree to defer consideration of these administrative regulations to the November Subcommittee meeting. Ms. Speckert directed members to the timeline, which showed input opportunities from horsemen and jockeys, beginning in 2008. She stated that any claim that a stakeholder was blindsided by the administrative regulations was patently false. Ms. Speckert asked why there had not been complaints from jockeys and horsemen regarding the vest requirements in Indiana because the same jockeys race in Kentucky.

Ms. Cooksey stated that a number of vests not subject to the stakeholders' complaints were in compliance with the newly required standards. These administrative regulations gave more and safer vest options; however, the perfect vest for everyone did not exist.

Representative Lee stated that everything should be done to protect the safety of those who ride horses. The problem was that these administrative regulations were filed on an emergency basis unduly because the commission was unable to provide evidence of accidents related to inadequate vests.

Senator Givens stated that it was important during the administrative regulation process to keep emergency administrative regulations within the scope of statutory requirements. Government agencies were held to a higher standard and needed to provide more than the minimum requirements for stakeholder input. Senator Givens stated his desire that the commission meet with stakeholders and consider their concerns.

Co-Chair Combs stated that the commission should be prepared in November to describe the vest requirements of states other than Kentucky and Indiana, such as New York, California, and Florida.

Co-Chair Tori stated that the commission and stakeholders should work together. She stated that these administrative regulations should not have been promulgated by emergency administrative regulations.

A motion was made and seconded to approve the following amendments: (1) to amend Section 15(4) to delete the new provisions which require disclosure of advertising agreement terms to the commission; (2) to amend the advertising request form, KHRC 009-001, in conformity; (3) to amend Section 14 to specify that a safety vest shall have a tag, stamp, or similar identifying marker indicating that it meets one (1) of the required safety standards; and (4) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 14 through 17 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

A motion was made and seconded to defer consideration of this administrative regulation to the November meeting of the Subcommittee. With the agreement of the agency, this administrative regulation, as amended, was deferred.

810 KAR 1:026 & E. Racing associations.

A motion was made and seconded to approve the following amendments: (1) to amend Section 31 to specify that a safety vest shall have a tag, stamp, or similar identifying marker indicating that it meets one (1) of the required safety standards; and (2) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 21, 28, 30, 31, 36, and 37 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 defer consideration of this administrative regulation to the November meeting of the Subcommittee. With the agreement of the agency, this administrative regulation, as amended, was deferred.

Department of Housing, Buildings and Construction: Division of Plumbing: Plumbing

815 KAR 20:100. Joints and connections.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Adult and Child Health Improvement: Kentucky Early Intervention System

902 KAR 30:141. Repeal of 902 KAR 30:140 and 30:170.

The subcommittee adjourned at 3:15 p.m. until November 9, 2010.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

October 12, 2010

Call to Order and Roll Call

The Education Assessment and Accountability Review Subcommittee met on Tuesday, October 12, 2010, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Jack Westwood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Kent Stevens, Co-Chair; Senators Vernie McGaha and Ken Winters; Representatives Bill Farmer and Harry Moberly Jr.

Guest Legislators: Representatives Teddy Edmonds and Derrick Graham.

Guests: Keith White, Office of Education Accountability; Clyde Caudill, Kentucky Association of School Administrators; and Sue Cain, Council on Postsecondary Education.

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

Approval of Minutes

Upon motion by Representative Farmer, seconded by Senator Winters, the minutes of the June 14, 2010, meeting were approved by voice vote.

2009-2010 Assessment Results

Terry Holliday, Commissioner, Kentucky Department of Education (KDE); and Ken Draut, Associate Commissioner, Office of Assessment and Accountability, KDE; provided information on the assessment results. A copy of the PowerPoint presentation was provided to committee members.

Commissioner Holliday said in-depth information on the assessment results is available on KDE's Open House statewide longitudinal data system. The system with reports down to the school level may be accessed by legislators, parents, the media and the general public. The Website has information on the status of each district and school under No Child Left Behind (NCLB), the Kentucky Core Content Tests (KCCT) results for combined reading and math proficiency, ACT reports, and other assessment and accountability information. KCCT results show that although steady progress is being made in reading and math in grades 3-8, middle schools improved slightly and high schools had a decrease in math scores. Commissioner Holliday said that transitioning to end-of-course assessments will help identify gaps in instruction and hold teachers and students more accountable. Science results were similar to reading and math, showing some improvement at the elementary level, a decrease at the middle school level, and no change in high school. Social studies showed a drop at the elementary level, slight improvement at the middle school level, and a drop at the high school level. There was significant improvement at the elementary level in writing, but only slight improvement at the middle and high school levels. The "Gap to Goal" information related to results for various demographic groups showed slight improvement for some of the groups. This measurement will help districts focus on specific groups of students that need greater attention.

College readiness rates showed that 12,896 of the 40,528 graduates met the Council on Postsecondary Education (CPE) benchmarks on the ACT. This year Kentucky's seniors will be provided access to COMPASS®, which is a computer-adaptive college placement test, and KYOTE, which is the Kentucky Online Testing Examination, to predict college readiness. Career readiness rates showed that 718 seniors achieved national industry certifications. WorkKeys, vocational aptitude battery assessments for the Armed Services, and other key industry certifications may be provided to this year's senior class. Overall, 34 percent of the 2010 graduating class were college or career ready based on testing and certifications.

Commissioner Holliday said thirteen districts did not make adequately yearly progress for several consecutive years and KDE is currently prioritizing those districts to see which districts will be audited and provided support and assistance. Although there are 93 districts in various phases of consequences, KDE only has the resources and staff to provide assistance to five out of the lowest thirteen districts and ten of the lowest achieving schools. In the 2011-2012 school year, KDE will intervene in twenty of the lowest achieving schools and ten of the lowest achieving districts. There are 61 non-Title I schools in their first year of eligibility for state assistance and 107 in year two for a total of 168 based on the requirements set forth in 2010 House Bill 176.

Senator Winters said he is very concerned that many of the ten schools identified for needing assistance are in the same district. Commissioner Holliday said that KDE will announce on November 5th the five districts in which intervention will be provided and a subsequent announcement will identify the ten lowest achieving schools in which intervention will occur. Senator Winters asked that information be provided to committee members on the lowest achieving districts and schools when the final decision is made.

In response to questions from Representative Farmer, Commissioner Holliday said that a small, medium, and large district will be included in the five lowest achieving districts. He said that the combined reading and math assessment result is the only legitimate factor that can be used to select districts and schools for intervention.

In response to questions from Representative Moberly, Mr. Draut said the assessment results are from the second year of the interim assessment period. The KCCT will be administered in the current year and then the new assessment mandated by 2009 Senate Bill 1 will be administered in spring 2012 and based on newly adopted common core standards. Commissioner Holliday said approximately 1,000 teachers and 200 principals and instructional supervisors are now meeting monthly to develop a model curriculum framework for the newly adopted common core standards, which will be in place prior to beginning of the 2011 school year. Since Kentucky did not receive Race to the Top Funding, existing resources had to be redirected to establish a curriculum framework with lesson plans, model assessments, and links to online resources which can be used in the classrooms so that teachers and students will be successful with the new, more rigorous math common core standards.

Representative Moberly said the assessment results were dismal, especially at the high school level, and that providing resources is not the only issue that needs to be addressed, since some high poverty schools have produced successful results with effective leadership and dedicated staff. Commissioner Holliday said the recently adopted Kentucky Board of Education strategic plan outlines a systematic approach to improving education and includes holding districts accountable, changing the ways teachers and principals are evaluated, improving professional development, and assessing non-tested subjects through program reviews.

In response to a question from Senator Westwood about achieving career and college readiness, Commissioner Holliday said the Governor's Task Force on Transforming Education will issue a report that includes recommendations to elevate and integrate career and technical education programs; increase dual credit and virtual learning access and allowing middle school students to participate; improve early childhood education by assessing kindergarten readiness and insuring that each student is reading on grade level by the end of third grade; and school calendar recommendations because of the negative impact that summer vacations have on the learning gap.

In response to a question from Senator Winters about revision of core content for other subjects, Commissioner Holliday said that new core content will be available for science in approximately one year and for social studies in approximately a year and a half. He said Arts and health and physical education organizations are doing similar work that will be endorsed by the Council of Chief State School Officers.

Kentucky School Districts' General Fund Balance Reserves Study

Ms. Marcia Seiler, Director, Office of Education Accountability (OEA), and Sabrina Olds, Legislative Analyst, OEA, presented an overview of the School Districts' Fund Balance Study. Members were provided a copy of the draft report and a copy of the PowerPoint presentation.

Ms. Olds said almost all of the school districts met the 2 percent minimum fund balance reserve requirement and about half of the districts had reserves beyond an amount recommended by school financial experts. Although the districts provided legitimate reasons for maintaining large reserves, appropriate codes need to be used to improve transparency. General Funds are the primary source of monies that districts use to pay salaries and operating expenses. The report also provides information on other fund balances used by districts. A combined fund balance for the state for 2009 was $774 million, which represented 14 percent of the $5.5 billion General Fund appropriation to districts. Ms. Olds said it is important when reviewing data to consider not only the dollar amount but also the percent fund balances. For example, Jefferson County's 2009 fund balance was $124 million or 13 percent compared to West Point Independent's fund balance which was $682,000 representing a 50 percent fund balance.

Ms. Olds said a common justification for the reserve is for rainy day funds. Districts are required to maintain a 2 percent minimum fund balance but there is no maximum balance required. Prior to 2001, the maximum amount was 10 percent and anything beyond that amount had to be set aside for school facility construction projects. The maximum percentage was removed by the legislature because districts raised concerns about being unable to save for other projects, such as athletic fields, central offices, bus garages, and related school needs.

The Southern Regional Education Board provided information that general fund balances in four states had to have a minimum 3 percent reserve or an equivalent of one month's operating expenses and four other states had maximum reserves of 10-15 percent. There are no national standards although the Government Finance Officers Association recommends that districts keep a minimum of two months of General Fund reserves and the three major bond rating companies recommend 5-10 percent minimums.

Data showed that at the end of FY 2009, two districts had less than 2 percent reserve, 18 had 2-5 percent, and over 100 districts had balances of 11 percent or higher. Appendix D provides a breakdown of each individual district's General Fund balance and percentages. General Fund percentages for most of the state remained relatively stable from 2005 to 2009 at about 12-15 percent, except the fund balances in Jefferson and Fayette County school districts almost doubled during the same period. Fayette County has set aside $13 million in restricted funds for facility projects and another $5 million because of pending litigation. Jefferson County's year end reserve is not truly indicative of fund balances since the county experiences fluctuating cash flow related to property tax revenue. Districts that receive most of their revenue from the General Fund's Support Education Excellence in Kentucky (SEEK) allocations do not have cash flow issues since the payments are received on a monthly basis and spread out evenly across the year. Statewide district fund balances grew from approximately $523 million in FY 2005 to $774 million in 2009, although Jefferson County's grew by $77 million and Fayette County's grew by $45.5 million.

Appendix F of the OEA study includes responses from superintendents and finance officers on district plans for utilizing the reserve funds, which included saving for construction projects that are on the School Facilities Construction Commission's (SFCC) priority list; for non-priority construction, such as ball fields, central offices, and bus garage repairs; as a cushion for unexpected cash flow problems; and for emergency repairs that may be needed because of antiquated equipment. A survey of superintendents with 100 percent responding showed that 142 districts prefer to keep at least 5 percent or higher in reserve funds.

Ms. Olds said that although reserving a certain amount of unrestricted fund balance for unanticipated expenditures or rainy day funds is legitimate, the lack of transparency regarding those funds is problematic. Only 21 percent of the districts in the state actually were using the appropriate accounting codes from KDE's Chart of Accounts to identify the funds. OEA found approximately $10.4 million coded to unknown codes and therefore KDE had not included the funds in their fund balance calculations. Also one of KDE's object codes restricted for net assets is not recognized by the federal National Center for Education Statistics. Ms. Olds said that it is an OEA recommendation that a few additional codes be added to KDE Chart of Accounts to allow districts to account for reserves, which will be transparent to the public.

Ms. Olds said that another troubling issue is that some districts showed a negative fund balance in some of the other major funds at the end of the fiscal year, which is unlawful. KRS 160.550 and Regulation 702 KAR 3:050 prohibit a superintendent or board from knowingly approving expenditures in excess of the adopted budget. Also KDE does not appear to have a uniform process for identifying and intervening to prevent negative fund balances.

Ms. Olds said the report also contains several recommendations. It is recommended that KDE review the 2 percent minimum balance requirement which appears to be too low compared to the norm in other states. KDE should mandate that districts use restricted or reserve object codes when balances are over 12 percent or over two months worth of General Fund expenditures. Even though KDE has been revising its chart of accounts, other object codes need to be added to capture technology and other instructional needs and fund balance reporting to ensure transparency of those funds. KDE should also ensure that each district's prior year-end and beginning balances match and that a uniform process be used for establishing district funding watch and deficit lists.

In response to questions from Representative Farmer, Ms. Olds said that OEA found that some districts ended a fiscal year with a negative balance which was not reflected in the beginning year balance for the next fiscal year. Each district reports financial data to their respective local boards on a monthly basis but KDE requires only a fiscal year-end report from each district.

In response to a question from Senator Westwood, Ms. Olds said that a large portion of Jefferson County's school revenue is from local taxes, which has an impact on the cash flow issues the district experiences, compared to poorer districts which are primarily funded with SEEK monies. Ms. Olds provided further information on accounting practices used by districts and said that KDE needs to add codes to its chart of accounts so district reporting will be consistent and transparent.

In response to questions from Senator McGaha, Ms. Olds said that information contained in the report on planned uses for reserve funds was provided by district personnel. Districts may actually expend the funds for other purposes which should be captured under chart of accounts codes although there are coding discrepancies. She explained that "on behalf payments" refers to employee health insurance, transportation for vocational education, SFCC funds, and Kentucky Teacher Retirement System contributions if the teacher is paid with state grant funding.

In response to a question from Senator Westwood, Ms. Olds said some superintendents expressed an opinion that districts should be able to keep more than a 10 percent reserve and that the maximum reserve amount was removed by the legislature approximately ten years ago.

Commissioner Holliday said that

KDE agrees that transparency is important and local school boards need to be accountable to their electorate. He said limited KDE staff is working diligently to provide oversight and monitoring of expenditures of all funds.

Hiren Desai, Associate Commissioner, KDE Office of Administration and Support, said that KDE generally agrees with the OEA report. Some of the recommendations were already being implemented and the chart of accounts will be updated to include additional codes to capture various data. He said some of the issues arise when there are changes in district finance personnel and because accounting methodologies used by districts vary. Commissioner Holliday said he informed the superintendents that the study would be discussed and provided them with some of the highlights in the study. Senator Westwood encouraged KDE to continue working with the districts on transparency issues.

Senator Winters said that Appendix C of the report should be examined in detail in relationship to the assessment results.

In response to a question from Senator Westwood, Ms. Seiler said that nothing substantive would be changed although minor editing may be done to address KDE concerns before the report is finalized. Senator McGaha made a motion to adopt the report. Representative Farmer seconded the motion and the motion was approved by voice vote.

Adjournment

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

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

October 12, 2010

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, October 12, 2010, 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 Brad Montell and Brent Yonts.

Guests: Melissa Mendick, Patricia Hall, Kevin Mudd, Dennis Taulbee, Sarah Levy, Ron Carson, Andy Barber, David Waldner, Mike Hill, Julia Roberts, Kyna Estes, Beth Brinly, Clay Lamb, Renee Close, Virginia Carrington and David Gayle.

LRC Staff: Kim Eisner, Holly Harrod and Becky Brooker.

A motion was made by Senator Carroll to approve Minutes of the September meeting of the committee. Senator Tori seconded the motion, which passed without objection.

DEFERRED ITEM

A motion was made by Senator McGaha to disapprove the following contract with the Justice Cabinet, 1000004171, AIT Laboratories due to the vendor currently being a non-registered foreign corporation with the Secretary of State. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator McGaha seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Adams Stepner Woltermann & Dusing, 1100001037.

CORRECTIONS, DEPARTMENT OF:

Center for Effective Public Policy, 1100000736; Kimberly Hoagland Morris, Attorney-At-Law, 1100000784.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

OWL d/b/a Opportunity for Work & Learning, 1100000757.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Third Rock Consultants, LLC, 1100000111; Petroleum Tank Training Institute, 1100000630; Petroleum Tank Training Institute, 1100000712.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Primary Care Associates of Southern Kentucky, PLLC, 1000003981; Theracare Alliance, 1100000080; Crown Services Incorporated, 1100000096; Med Care Pharmacy, LLC, 1100000171; Kentucky Partnership for Families & Children Incorporated, 1100000203; Pharmacy Systems Incorporated, 1100000633.

DEPARTMENT FOR NATURAL RESOURCES:

Tichenor & Associates, 1100000202.

DEPARTMENT FOR PUBLIC HEALTH:

Healthcare Education & Registration Training, 1000001956; Community Health Clinic of Hardin Larue Counties, 1000003044; Volunteers of America of Kentucky Incorporated, 1000003491; Volunteers of America of Kentucky Incorporated, 1100000264; AIDS Volunteers of Lexington, 1100000265; Matthew 25 Aids Services, 1100000266; Heuser Hearing Institute Incorporated, 1100000650.

EDUCATION, DEPARTMENT OF:

Research Foundation of SUNY (State University of New York), 1100000753.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Sherman Carter Barnhart, 1100000599; CMTA Incorporated, 1100000603; Luckett & Farley Architects Engineers & Construction Managers Incorporated, 1100000714.

HISTORICAL SOCIETY, KENTUCKY:

Solid Light Incorporated, 1100000658.

INFRASTRUCTURE AUTHORITY:

Peck Shaffer & Williams, LLP, 1100000635.

JUSTICE CABINET:

Wellman, Nichols, and Smith, PLLC, 1100000809.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Macomb Community College, Engineering & Advanced Technology, 480.

LEGISLATIVE RESEARCH COMMISSION:

Robert L. Linn, 10/11-4; Jeffrey Nellhaus, 10/11-5; Ron Hambleton, 10/11-6; Pat Roschewski, 10/11-7; Daniel Koretz, 10/11-8; Edvantia Incorporated, 10/11-9.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

The Singer Group Incorporated, 1000004144.

MURRAY STATE UNIVERSITY:

McClain Firm, PSC, 010-11.

OFFICE OF INSPECTOR GENERAL:

Michael L. Gunn, 1100000386; Donnie Ray Woosley, 1100000387.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Friends of L&N Depot Incorporated, 1100000790; Welcome House of Northern Kentucky Incorporated, 1100000883.

STATE POLICE, DEPARTMENT OF:

Law Enforcement Services Incorporated, 1100000913.

TRANSPORTATION CABINET:

Strand Associates Incorporated, 1100000573; QK4, 1100000706; Third Rock Consultants, LLC, 1100000710; HMB Professional Engineers Incorporated, 1100000715; Wilbur Smith Associates Incorporated, 1100000718; HRV Conformance Verification, 1100000720; Entran PLC, 1100000786; J. M. Crawford & Associates Incorporated, 1100000815; WMB Incorporated, 1100000817; URS Corporation, 1100000861.

UNIVERSITY OF KENTUCKY:

Universal System Technologies, K11-166; Donna S. Gunter & Associates Incorporated d/b/a Rossa Rossa & Associates, K11-167; Herald & Herald Attorneys-At-Law, K11-168; Extra Medium Incorporated, K11-169; Perkins & Will, K11-170.

UNIVERSITY OF LOUISVILLE:

Greenwood/Asher & Associates Incorporated, 11-009; Baker & Associates, LLC, 11-074; Academic Search Incorporated, 11-075; Environmental Safety Technologies Incorporated, 11-082.

VETERANS AFFAIRS, DEPARTMENT OF:

Appalachian Regional Healthcare, 1000002428; Veterans of Foreign Wars, 1100000607.

WESTERN KENTUCKY UNIVERSITY:

Learning Curve Educational Consulting, 101124; Linda Jensen Sheffield, 101126; The Regents of the University of California, 101128; Wilson-Bennett Technology Incorporated, 101130; Kentucky Association of Radon Professionals, 101132; Brandeis University, 101225; Ross Tarrant Architects, 101226.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Metropolitan Education & Training Services for Corporate Learning, 0900012907.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Tetra Tech Incorporated, 0600002009; Tetra Tech Incorporated, 0600002657; Paul G. Fouts, 1000001747.

EDUCATION, DEPARTMENT OF:

Lotts Creek Community School, 0900011491; Roger Barnett, 1000002464; William Powers Auty, 1000002470; Boys & Girls Club of Greater Cincinnati, 1000002607; John Thompson, 1000002687; Carol A. Klaber, 1000002697; R.C. Durr YMCA, 1000002754; Tristan Pierce, 1000003023.

FINANCE AND ADMINISTRATION CABINET:

Blue & Company, LLC, 1000002965.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Lucas Schwering Architects, 0700003164; Kersey & Kersey Incorporated, 0700003358; Roger Cunningham Consultants, 0700006169; Omni Architects, 0800011282; GRW Engineers Incorporated, 1000000839; HDR Engineering Incorporated, 1000000939; Ault Clark & Associates, C-05228068-1; Voelker Blackburn Niehoff Architect, C-05329596-1.

FINANCIAL INCENTIVES, DEPARTMENT OF:

Aecom Technical Services Incorporated, 1000003236; Blue & Company LLC, 1000003241.

MEDICAL LICENSURE, BOARD OF:

Multi, 1000002739.

NORTHERN KENTUCKY UNIVERSITY:

Alt & Witzig Engineering, 2011-521; Beacon Global Services, 2011-543.

PERSONNEL-OFFICE OF THE SECRETARY:

First Onsite, LLC, 1000003548.

TRANSPORTATION CABINET:

Hall Harmon Engineers Incorporated, 0700004926; Quest Engineering Incorporated, 0700004974; Entran PLC, 0800010580; WMB Incorporated, 0800010585; Southern Traffic Service, 0900011564; BTM Engineering Incorporated, 0900013199; URS Corporation, 0900013207; Entran, PLC, 1000000125; V. E. Group, LLC, 1000000685; Tooms & Dunaway PLLC, 1000002299; Tooms & Dunaway PLLC, 1000002410; Palmer Engineering Company, C-01079886-5; Florence and Hutcheson, C-01209283-2; Palmer Engineering Company, C-02259587-2; DLZ Kentucky Incorporated, C-05395270.

UNIVERSITY OF LOUISVILLE:

Luckett & Farley Architects, 07-095.

WESTERN KENTUCKY UNIVERSITY:

Ross Tarrant Architects, 101116.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

City of Winchester, 1100000457.

DEPARTMENT FOR INCOME SUPPORT:

State of Rhode Island Department of Human Services, 1100000694.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky, 1100000652.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Cabinet for Economic Development, 1100000693.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Waterfront Development Corporation-Belle of Louisville, 1100000670.

EDUCATION, DEPARTMENT OF:

Bowling Green Independent Board of Education, 1100000134; Franklin County Board of Education, 1100000142; Henderson County Board of Education, 1100000144; Jefferson County Board of Education, 1100000145; Treasurer Marshall County Board of Education, 1100000152; Scott County Board of Education, 1100000158; Hazard Independent Board of Education, 1100000400; University of Kentucky Research Foundation, 1100000592; University of Kentucky Research Foundation, 1100000598; University of Kentucky Research Foundation, 1100000606; Eastern Kentucky University, 1100000654; Fayette County Board of Education, 1100000723; University of Kentucky Research Foundation, 1100000745; Lewis County Board of Education, 1100000826; Garrard County Board of Education, 1100000828; Pendleton County Board of Education, 1100000829; Knox County Board of Education, 1100000831; NKU Research Foundation, 1100000842; Green River Regional Education, 1100000843; Fayette County Treasurer Board of Education, 1100000844; Clay County Board of Education, 1100000866; Martin County Board of Education, 1100000868; Pike County Board of Education, 1100000869; Covington Independent Board of Education, 1100001000; Jackson County Board of Education, 1100001010; Central Kentucky Educational Cooperative, 1100001025.

FISH & WILDLIFE, DEPARTMENT OF:

University of Louisville Stream Institute, 1000003357; University of Louisville Research Foundation, 1000003358; University of Kentucky Forestry, 1000003365; University of Louisville Stream Institute, 1000003366.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1100000669.

NORTHERN KENTUCKY UNIVERSITY:

Central Campbell Fire District, 2011-417.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Appalachian Artisan Center of Kentucky Incorporated, 1100000583; Carroll County Fiscal Court, 1100000657; City of Frankfort, 1100000662; City of Cadiz, 1100000665; City of Millersburg, 1100000697; City of Mount Sterling, 1100000700; Pendleton County Fiscal Court, 1100000769; City of Fulton, 1100000773; Knott County Fiscal Court, 1100000777; City of Olive Hill, 1100000780; Larue County Fiscal Court, 1100000781; Kentucky River Community Care, 1100000782; Leslie County Fiscal Court, 1100000785; Caldwell County Fiscal Court, 1100000788; Daviess County Fiscal Court, 1100000789; Green River Area Development District, 1100000791; Estill County Board of Education, 1100000792; Greenup County Fiscal Court, 1100000802; City of Warsaw, 1100000806; Hopkins County Fiscal Court, 1100000846; Housing Authority of Henderson, 1100000881; Hope Center, 1100000919; Ravenna City Treasurer, 1100000933; Lincoln County Fiscal Court, 1100000958.

STATE POLICE, DEPARTMENT OF:

University of Kentucky Medical Service, 1100000755.

TRANSPORTATION CABINET:

Mammoth Cave Resource Conservation & Development Area Incorporated, 1100000622; Kentucky Association of Chiefs of Police, 1100000680; Kentucky Crime Prevention Coalition, 1100000685; Kosair Children's Hospital, 1100000686; Kentucky Association of Chiefs of Police, 1100000688; Kentucky Association of Chiefs of Police, 1100000690; Kentucky Crime Prevention Coalition, 1100000696.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

University of Kentucky Research Foundation, 0900012888; UK Research Foundation, 0900012900; University of Kentucky Research Foundation, 1000000797.

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602; Feeding America, Kentucky's Heartland, 1000001128; God's Pantry Food Bank Incorporated, 1000001150; Dare To Care Food Bank, 1000001151; Purchase Area Development District, 1000001218.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:

University of Kentucky Research Foundation, 1000003406.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Pennyrile Allied Community Services Incorporated, 1000002773; University of Kentucky Research Foundation, 1000003601; University of Louisville Research Foundation, 1000003633.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Daviess County Public Schools, 0900013109; Owsley County Board of Education, 0900013149.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Ohio Valley Education Coop, 1000001561; Morehead State University, 1000003914; Eastern Kentucky University, 1000003918.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

National Energy Education Development Project, 1000000141; Department of Local Government, 1000000781.

EDUCATION, DEPARTMENT OF:

Boone County Board of Education, 0800007941; Covington Independent Board of Education, 0800007964; Jefferson County Board of Education, 0800008315; Lewis County Board of Education, 0800008323; Lyon County Board of Education, 0800008326; Madison County Board of Education, 0800008328; Middlesboro Independent Board of Education, 0800008331; Monroe County Board of Education, 0800008332; Washington County Board of Education, 0800008363; Whitley County Board of Education, 0800008365; Harlan County Board of Education, 0800008401; Hart County Board of Education, 0800008403; Jackson Independent Board of Education, 0800008834; Jefferson County Board of Education, 0900013105; Kentucky Valley Educational Cooperative, 1000002254; Calloway County Board of Education, 1000002313; Grayson County Board of Education, 1000002672; Letcher County Board of Education, 1000002725; Pulaski County Board of Education, 1000002751; Larue County Board of Education, 1000003500; Eastern Kentucky University, 1000003501; Jessamine County Board of Education, 1000003735; Bath County Board of Education, 1000003785; Bowling Green Independent Board of Education, 1100000041.

FISH & WILDLIFE, DEPARTMENT OF:

Nature Conservancy,

1000002589; UK Research Foundation, 1000003353; Eastern Kentucky University, 1000003371.

INFRASTRUCTURE AUTHORITY:

Letcher County Fiscal Court, 0900012843; Letcher County Fiscal Court, 0900012845; Letcher County Fiscal Court, 0900012856; Lawrence County Fiscal Court, 1000000201; Lawrence County Fiscal Court, 1000002169.

JUVENILE JUSTICE, DEPARTMENT OF:

Department of Military Affairs, Youth Challenge Division, 1000002870.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Morgan County Fiscal Court, 1100000024; Campbell County Public Library, 1100000025; Bath County Public Library, 1100000182; Carroll County Public Library, 1100000186; Bullitt County Public Library, 1100000188; Elliott County Fiscal Court, 1100000193; Fleming County Public Library, 1100000195; Grant County Public Library, 1100000213; McCreary County Public Library, 1100000216; Menifee County Public Library, 1100000218; Bell County Public Library, 1100000227; Nelson County Public Library, 1100000231; Daviess County Public Library, 1100000236; Pulaski County Public Library, 1100000240; Robertson County Public Library, 1100000242; Greenup County Public Library, 1100000257; Metcalfe County Public Library, 1100000258; Wolfe County Public Library, 1100000263; Lexington Public Library, 1100000267; Oldham County Public Library, 1100000275; Boyle County Public Library, 1100000282; Pulaski County Public Library, 1100000292; Clark County Public Library, 1100000356; Rowan County Public Library, 1100000359; Lawrence County Public Library, 1100000361; Lincoln County Public Library, 1100000362.

MILITARY AFFAIRS, DEPARTMENT OF:

Lexington Fayette Urban County Government, 0800011152; City of Bradfordsville, 0800011164; Multi, 0800011286; Hopkinsville Surface & Storm Utility, 1000000056; Hopkinsville Surface & Storm Utility, 1000000072; Hopkinsville Surface & Storm Utility, 1000000073; Bullitt County Fiscal Court, 1000000398; City of Radcliff, 1000001195; Fort Knox Schools Food Service, 1100000569.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Owsley County Fiscal Court, 0700005398; Fairview Independent Schools, 0800010724; Carter County Fiscal Court, 0800011115; Carter County Fiscal Court, 0800011140; Knott County Fiscal Court, 0900012957; Knott County Fiscal Court, 0900013188; City of Midway, 1100000640; Jessamine County Fiscal Court, M-06000548.

WORKFORCE INVESTMENT, OFFICE OF:

Eastern Kentucky University, 1000003836.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Crown Services Incorporated, 1100000016; Guardian Healthcare Providers, 1100000017. Melissa Mendick, Patricia Hall and Kevin Mudd discussed the contracts with committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Montell seconded the motion, which passed unanimously.

POST SECONDARY EDUCATION, COUNCIL ON:

Legacy Consulting Group, LLC, 1100000738; Dean Dorton & Ford, PSC, 1100000742. Dennis Taulbee, Sarah Levy and Ron Carson discussed the contracts with the committee. A motion was made by Senator McGaha to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

TRANSPORTATION CABINET:

Cultural Resource Analysts Incorporated, 1100000722; Wilbur Smith Associates, 1100000724. Andy Barber, David Waldner and Mike Hill discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed unanimously.

WESTERN KENTUCKY UNIVERSITY:

Lori Bland, 101223; Linda Sheffield, 101224. Julia Roberts 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 McGaha voting NO.

WORKFORCE INVESTMENT, OFFICE OF:

ICF Incorporated, LLC, 1100000102. Kyna Estes, Beth Brinly and Clay Lamb discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed with Senator McGaha and Representative Montell voting NO.

WORKFORCE INVESTMENT, OFFICE OF:

Maher & Maher, 1100000461. Kyna Estes, Beth Brinly and Clay Lamb discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

TRANSPORTATION CABINET:

Wilbur Smith Associates, 0800007893. Andy Barber, David Waldner and Mike Hill discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Pennyrile Allied Community Services Incorporated, 1100000766; University of Kentucky Research Foundation, 1100000767. Renee Close, Virginia Carrington and David Gayle discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR PUBLIC HEALTH:

Lincoln Trail Area Development District, 1000001756. A motion was made by Senator McGaha to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

EDUCATION, DEPARTMENT OF:

Campbellsville Independent Board of Education, 0800007948; Clinton County Board of Education, 0800007962. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:12 AM.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

November 9, 2010

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, November 9, 2010, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Vernie McGaha, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Vernie McGaha, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Carroll Gibson, and Elizabeth Tori; Representatives Brad Montell and Brent Yonts.

Guests: Robert Nowell, Connie Lester, Charlie Harmon, Jon Gassett, Steven Dobey, Margaret Everson, Eileen Cackowski, Steve Hohmann, Ken Schwendeman, George Mann, Cebert Faulkner, Michael Miller, Mary Rudd, Lisa Gross and Sheila Vaughan.

LRC Staff: Kim Eisner, Matt Ross and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the October 2010 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

DEFERRED ITEM:

A motion was made by Representative Yonts to defer the following contract to the December 2010 meeting of the committee: Morehead State University, 11-016, STAMATS. Representative Horlander seconded the motion, which passed without objection.

NOVEMBER 2010 DEFERRED LIST:

At the October 12, 2010 meeting of the committee, contract 1000004171, AIT Laboratories with the Justice Cabinet was disapproved due to the vendor being a non-registered foreign corporation with the Secretary of State. On October 13, 2010, the Finance and Administration Cabinet informed the committee the vendor was registered under the name American Institute of Toxicology Incorporated. A motion was made by Representative Yonts to reconsider the previous vote to disapprove the contract and approve without objection. Representative Horlander seconded the motion, which passed unanimously.

A motion was made by Representative Yonts to approve the following contracts: Department of Education, 0800008195, Education Innovations, LLC; Western Kentucky University, 101117, The National Center for Drug Free Sport Incorporated; Department of Fish & Wildlife, 1000002941, Outdoor Sales & Marketing Group Incorporated; Transportation Cabinet, 0600003033, Northrop Grumman Commercial Systems Incorporated; Transportation Cabinet, 0700005206, Northrop Grumman Commercial Systems Incorporated.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Littler Mendelson, 1100001232.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

Theracare Alliance, 1100000062; Registry of Physician Specialists, 1100000114.

DEPARTMENT FOR PUBLIC HEALTH:

Mayo Medical Laboratories, 1000003076.

EDUCATION, DEPARTMENT OF:

Multi, 1100001039.

FINANCE AND ADMINISTRATION CABINET:

Hurt, Crosbie & May, PLLC, 1100001162.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION:

BLX Group, LLC, 11-009.

MOREHEAD STATE UNIVERSITY:

Amelia L. Confides, 11-015.

STATE POLICE, DEPARTMENT OF:

Law Enforcement Services Incorporated, 1100001185.

TRANSPORTATION CABINET:

Florence & Hutcheson, 1100001049; Jordan Jones & Goulding Incorporated, 1100001184; J M Crawford & Associates Incorporated, 1100001188; Palmer Engineering Company, 1100001196; GRW Engineers Incorporated, 1100001198; Collins Engineers Incorporated, 1100001201; BTM Engineering Incorporated, 1100001221; GRW Engineers Incorporated, 1100001222.

UNIVERSITY OF KENTUCKY:

Jeffrey L. Ashley & Associates, LLC, K11-171.

UNIVERSITY OF LOUISVILLE:

Patriot Engineering, 11-085.

VETERANS AFFAIRS, DEPARTMENT OF:

American Legion, 1100000600.

WESTERN KENTUCKY UNIVERSITY:

Williams-Stackhouse Incorporated, 101133; EDI Limited, 101228.

WORKFORCE INVESTMENT, OFFICE OF:

Maher & Maher, 1100000682.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Alexander Thompson Arnold, PLLC, 1100000244.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Chase Environmental Group, 1100000056.

DEPARTMENT FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES & ADDICTION SERVICES:

AMS Temporaries Incorporated, 1000002836; Crown Services Incorporated, 1000002837; Guardian Angel Staffing Agency, 1000002838; Guardian Healthcare Providers, 1000002839; Day Group Kentucky, LLC, 1000002840.

DEPARTMENT FOR NATURAL RESOURCES:

Bowser Morner Associates Incorporated, 0900012877; R. M. Johnson Engineering Incorporated, 1000000937; HMB Professional Engineers Incorporated, 1100000075.

EDUCATION, DEPARTMENT OF:

Edgar Pete Miller, 1000002535; Connie Wilcox, 1000002551; Sarah Hill, 1000002676; Robert L. Falk, 1000002677; Hands On Therapy, PSC, 1000002681; One Plus Services, 1000002693; Robin B. Johnson, 1000002699; Jewe S. Jee, 1000002832; Linda Martin, 1000002996; Multi, 1000003010; Nancy Toelle, 1000003232.

FINANCE AND ADMINISTRATION CABINET:

VanAntwerp, Monge, Jones, Edwards & McCann, LLP, 1000004105.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Omni Architects, 0600000391; Kersey & Kersey Incorporated, 0700003358; EOP Architects, PSC, 0700005000; Omni Architects, 0800011282; Collignon & Nunley, 0900011347; Amec Earth & Environmental, 0900012816; Third Rock Consultants, LLC, 0900013200; Brown & Caldwell, 1000001566; Bravura Corporation, 1000001623; Myers Jolly Architects, C-05199883-1; Barnette Bagley Architects, C-06012536.

JUVENILE JUSTICE, DEPARTMENT OF:

Gateway Juvenile Diversion Project Incorporated, 1000002969; Methodist Home of Kentucky Incorporated, 1000002970.

MEDICAL LICENSURE, BOARD OF:

Multi, 1000002739.

MURRAY STATE UNIVERSITY:

RubinBrown, LLP, 001-11.

NORTHERN KENTUCKY UNIVERSITY:

Goody Clancy, 2011-511.

TRANSPORTATION CABINET:

Burgess & Niple Incorporated, 0700003885; American Engineers Incorporated, 0800008311; Stantec Consulting Services Incorporated, 0800010430; Florence & Hutcheson, 0800010613; Stantec Consulting Services Incorporated, 0800011041; Greenman-Pedersen Incorporated, 0800011200; Greenman-Pedersen Incorporated, 0800011249; URS Corporation, 0900012389; Palmer Engineering Company, 1000000423; URS Corporation, 1000000823; PB Americas Incorporated, C-00124747-1; Palmer Engineering Company, C-99005626-9; Florence & Hutcheson, M-06239477.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1100001230.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Lexington Fayette Urban County Government, 1100000656; University of Louisville, 1100001008.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky, 1100000957; Multi, 1100001181; Department of the Interior, 1100001197.

DEPARTMENT FOR PUBLIC HEALTH:

K-VA-T Food Stores Incorporated, 1000002983.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

University of Kentucky Research Foundation, 1000004215; Western Kentucky University Research Foundation, 1100000797; University of Kentucky Research Foundation, 1100000836.

EDUCATION, DEPARTMENT OF:

Jefferson County Board of Education, 1100000482; Research Foundation of SUNY (State University of New York), 1100000764; Johnson County Board of Education, 1100000867; Boyle County Board of Education, 1100000955; Washington County Board of Education, 1100001199.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1100000456; City of Elizabethtown, 1100000751; City of Versailles, 1100001041.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Wheelwright, 1100000853; City of Mount Vernon, 1100000897; Trigg County Hospital Incorporated, 1100001007; McLean County Fiscal Court, 1100001011; Lee County Fiscal Court, 1100001013; Breathitt County Board of Education, 1100001016; City of Greenville, 1100001021; City of Mount Washington, 1100001026; Bell County Fiscal Court, 1100001030; Owsley County Fiscal Court, 1100001034; Owsley County Fiscal Court, 1100001035; Union County Fiscal Court, 1100001036; Union County Fiscal Court, 1100001038; Boyle County Fiscal Court, 1100001058; Henderson County Fiscal Court, 1100001084; Harlan County Fiscal Court, 1100001129; Harlan County Fiscal Court, 1100001130; Harlan County Fiscal Court, 1100001131; Harlan County Fiscal Court, 1100001137; City of Harrodsburg, 1100001139; City of Guthrie, 1100001146; Knox County Fiscal Court, 1100001149; Muhlenberg County Fiscal Court, 1100001178.

VETERANS AFFAIRS, DEPARTMENT OF:

Volunteers of America of Kentucky Incorporated, 1100001042.

WORKFORCE INVESTMENT, OFFICE OF:

Department of Corrections, 1100000117; Council On Postsecondary Education, 1100000518; Independence Place, 1100000798; Center for Accessible Living, 1100000946; Disability Resource Initiative Incorporated, 1100000956.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

UK Research Foundation, 1000000036.

AGRICULTURE, DEPARTMENT OF:

Multi, 0900011602.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Floyd County Board of Education, 0900013112.

DEPARTMENT OF WORKPLACE STANDARDS:

U.S. Department of Labor OSHA, 1000001248.

EDUCATION, DEPARTMENT OF:

Hart County Board of Education, 1000004135; Covington Independent Board of Education, 1000004136; Corbin Independent Board of Education, 1000004208.

FAIR BOARD:

Louisville Fire Department, 1100000453.

FISH & WILDLIFE, DEPARTMENT OF:

Attorney General, 1000003222; University of Kentucky Research Foundation, 1000003368.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Campbellsville, 0600003119; Franklin County Fiscal Court, 0800010790; Perry County Fiscal Court, 0800010963; Perry County Fiscal Court, 0800010964; Perry County Fiscal Court, 0800010964; Perry County Fiscal Court, 0800010969; Perry County Fiscal Court, 0800010971; Perry County Fiscal Court, 0800011020; Reach Incorporated, 1000000713; Federation of Appalachian Housing Enterprises, 1000000714; Beattyville Housing & Development Corporation, 1000000719; Pennyrile Housing Corporation, 1000000734; Purchase Area Housing Corporation, 1000000751; City of Bardstown, 1000000778; City of Bardwell, 1100000489.

WORKFORCE INVESTMENT, OFFICE OF:

University of Kentucky Research Foundation, 1000003595.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR MEDICAID SERVICES

Fox Systems, LLC, 1100000681. Robert Nowell discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senator Gibson and Representative Montell electing to abstain (PASS).

EDUCATION, DEPARTMENT OF

Multi, 1100001022. Connie Lester and Charlie Harmon discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed unanimously.

FISH & WILDLIFE, DEPARTMENT OF

McBrayer, McGinnis, Leslie & Kirkland, 1100001048. Jon Gassett and Margaret Everson discussed the contract with the committee. A motion was made by Representative Yonts to disapprove the contract and for the contract to be referred to the Attorney General's office for any appropriate investigation. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Homeless & Housing Coalition of Kentucky, 1000001527; Ohio Valley Education Cooperative, 1000001575; Project Unite, 1000001576. Eileen Cackowski discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Montell seconded the motion, which passed unanimously.

DEPARTMENT FOR NATURAL RESOURCES

Amec Earth & Environmental, 1100000438. Steve Hohmann discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING PERSONAL SERVICE CONTRACTS FOR $10,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF

Ronald H. Traenkle, 1100001002. Ken Schwendeman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senator McGaha voting NO.

DEPARTMENT OF HOUSING, BUILDING, AND CONSTRUCTION

Sunnyside Consulting, LLC, 1100000460. George Mann and Cebert Faulkner discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF

Clark County Board of Education, 1100000820; Clay County Board of Education, 1100000823; Lincoln County Board of Education, 1100000832; University of Kentucky Research Foundation, 1100001001. Charlie Harmon, Michael Miller and Mary Rudd discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed unanimously.

THE FOLLOWING MEMORANDA OF AGREEMENTS FOR $50,000 AND UNDER WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF

Anderson County Board of Education, 1100000882; Augusta Independent Board of Education; 1100000884; Ballard County Board of Education, 1100000885; Bardstown Independent Board of Education, 1100000886; Barren County Board of Education, 1100000888; Bath County Board of Education, 1100000889; Bell County Board of Education, 1100000890; Boone County Board of Education, 1100000891; Bourbon County Board of Education, 1100000892; Bowling Green Independent Board of Education, 1100000893; Boyd County Board of Education, 1100000894; Boyle County Board of Education, 1100000895; Bullitt County Board of Education, 1100000896; Butler County Board of Education, 1100000898; Campbell County Board of Education, 1100000899; Carroll County Board of Education, 1100000900; Carter County Board of Education, 1100000901; Christian County Board of Education, 1100000902; Clark County Board of Education, 1100000903; Clay County Board of Education, 1100000904; Clinton County Board of Education, 1100000905; Cloverport Independent Board of Education, 1100000906; Crittenden County Board of Education, 1100000907; Cumberland County Board of Education, 1100000909; Edmonson County Board of Education, 1100000910; Elliott County Board of Education, 1100000911; Estill County Board of Education, 1100000912; Fayette County Board of Education, 1100000915; Franklin County Board of Education, 1100000917; Fulton Independent Board of Education, 1100000920; Garrard County Board of Education, 1100000921; Grant County Board of Education, 1100000922; Graves County Board of Education, 1100000923; Grayson County Board of Education, 1100000924; Hancock County Board of Education, 1100000925; Hardin County Board of Education, 1100000926; Harlan County Board of Education, 1100000927; Harrison County Board of Education, 1100000928; Henderson County Board of Education, 1100000929; Hickman County Board of Education, 1100000930; Jackson County Board of Education, 1100000931; Jackson Independent Board of Education, 1100000932; Johnson County Board of Education, 1100000936; Kenton County Board of Education, 1100000937; Knott County Board of Education, 1100000938; Knox County Board of Education, 1100000939; Larue County Board of Education, 1100000940; Laurel County Board of Education, 1100000941; Lawrence County Board of Education, 1100000942; Leslie County Board of Education, 1100000943; Letcher County Board of Education, 1100000944; Lincoln County Board of Education, 1100000945; Livingston County Board of Education, 1100000947; Lyon County Board of Education, 1100000948; Madison County Board of Education, 1100000949; Magoffin County Board of Education, 1100000950; Marion County Board of Education, 1100000951; Marshall County Board of Education, 1100000952; Mason County Board of Education, 1100000953; McCreary County Board of Education, 1100000959; McLean County Board of Education, 1100000961; Menifee County Board of Education, 1100000962; Metcalfe County Board of Education, 1100000963; Monroe County Board of Education, 1100000966; Montgomery County Board of Education, 1100000967; Muhlenberg County Board of Education, 1100000969; Murray Independent Board of Education, 1100000970; Oldham County Board of Education, 1100000971; Owen County Board of Education, 1100000972; Owsley County Board of Education, 1100000973; Pendleton County Board of Education, 1100000974; Perry County Board of Education, 1100000975; Pike County Board of Education, 1100000976; Powell County Board of Education, 1100000977; Pulaski County Board of Education, 1100000978; Robertson County Board of Education, 1100000979; Rockcastle County Board of Education, 1100000980; Rowan County Board of Education, 1100000983; Russell County Board of Education, 1100000984; Russell Independent Board of Education, 1100000986; Russellville Independent Board of Education, 1100000987; Scott County Board of Education, 1100000988; Simpson County Board of Education, 1100000989; Todd County Board of Education, 1100000990; Trigg County Board of Education, 1100000991; Trimble County Board of Education, 1100000992; Union County Board of Education, 1100000993; Washington County Board of Education, 1100000994; Wayne County Board of Education, 1100000995; Webster County Board of Education, 1100000996; Whitley County Board of Education, 1100000997; Wolfe County Board of Education, 1100000998; Woodford County Board of Education, 1100000999. Charlie Harmon and Lisa Gross discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Horlander seconded the motion, which passed unanimously.

FISH & WILDLIFE, DEPARTMENT OF

USDA Animal & Plant Health Inspection Service, 1000003362. Jon Gassett, Margaret Everson and Steven Dobey discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed unanimously.

EXEMPTION REQUESTS:

TRANSPORTATION CABINET:

The Transportation Cabinet requested exemption from the committee's routine review process for the KYTC's Aviation Economic Development Grant Agreements and will provide quarterly reports. A motion was made by Representative Yonts to approve the request to December 31, 2011. Senator Carroll 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 the committee's routine review process for all Purchase Orders (Master Agreements) issued as instruments of obligation for grant funds awarded by the CMRS Board and will provide quarterly reports. A motion was made by Representative Yonts to approve the request to December 31, 2011. Senator Carroll seconded the motion, which passed unanimously.

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment Cabinet requested the following exemption from the two year contracting restrictions and an exemption from the committee's routine review process for Division of Abandoned Mine Lands Waterline Memoranda of Agreements and will provide quarterly reports. Sheila Vaughn and Steve Hohmann discussed the exemption request with the committee. A motion was made by Representative Yonts to approve the request to December 31, 2011. Senator Carroll seconded the motion, which passed unanimously.

With no further business before the committee, the meeting adjourned at 11:30 AM.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

October 14, 2010

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, October 14, 2010, 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; Representative Kelly Flood, Co-Chair; Senators Jimmy Higdon, Vernie McGaha, R.J. Palmer II, Joey Pendleton, Dan "Malano" Seum, Brandon Smith, and Katie Kratz Stine; Representatives Dwight D. Butler, Terry Mills, Rick Rand, and Arnold Simpson.

Guests: John Mok, Chief Executive Officer, Cincinnati/Northern Kentucky International Airport; Charles T. "Skip" Miller, Executive Director, Louisville International Airport; Bob Whitmer, Executive Director, Owensboro-Daviess County Airport; Richard Roof, Manager, Barkley Regional Airport; Brian Ellestad, Deputy Director of Air Service & Community Relations, Blue Grass Airport; and James Parsons, Of Counsel, Covington, Taft Stettinius & Hollister.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek, Christopher Hall, Colleen Kennedy, Van Knowles, Lora Littleton, Jean Ann Myatt, Sarah Spaulding, Cindy Upton, and Stella Mountain, Committee Assistant.

Approve Minutes for September 9, 2010

Upon motion made by Representative Simpson and seconded by Representative Mills, the minutes of the September 9, 2010 meeting were approved by voice vote, without objection.

Staff Report: Air Service at Kentucky's Commercial Airports

Rick Graycarek gave an overview of the report, which describes air service in Kentucky and the United States and incentives for air service that have been provided by airports, local governments, private entities, and state governments.

Commercial airports, the focus of the report, provide regularly scheduled air service and have at least 2,500 passenger boardings annually. The five primary commercial airports in Kentucky are Cincinnati/Northern Kentucky International, Louisville International, Blue Grass in Lexington, Barkley Regional in Paducah, and Owensboro-Daviess County Regional.

Mr. Hager said the first of the report's six major conclusions summarizes proposals from the Northern Kentucky, Louisville, and Lexington airports to increase air service.

Their first proposal is to establish a tax increment financing (TIF) program for development of air service. Statutory requirements are that TIF projects be capital projects with minimum capital requirements for a project ranging from $10 million to $200 million. State tax revenues that may be pledged are specified. These do not include all tax revenues that would be generated by increased air service. The three airports note that the existing TIF programs are not appropriate for increasing air service. Mr. Hager said that increases in aircraft fuel tax revenues would be limited by a statute that caps an air carrier's aircraft fuel tax payment at $1 million per fiscal year.

Their second proposal is that the state should establish a revolving loan fund by issuing bonds.

Their third proposal is for authority to establish separate operating units to provide aeronautical services that airlines now typically provide for themselves such as baggage handling. The airports suggest that services could be provided for a lower cost through a private company instead of governmental employees who would participate in the Kentucky Retirement Systems.

The second conclusion is that the air transportation industry has undergone significant changes such as high fuel prices, the recession, airline bankruptcies, and airline mergers, which in turn affect the public and airports.

Mr. Graycarek said the third conclusion is that for Kentucky's five commercial airports, from 2000 to 2009, total flights decreased by more than 25 percent, the number of passenger boardings declined by nearly half, and the number of available seats decreased by 49 percent. Most of the decreases were at the Cincinnati/Northern Kentucky airport. Passenger boardings over this period were down approximately 18 percent at the Louisville airport and 11 percent at the Lexington airport, but the number of flights increased at both. Average air fares were higher at Kentucky's commercial airports than the national average.

The fourth conclusion is that Federal Aviation Administration (FAA) policies restrict the use of airport revenues. Airport owners and operators are prohibited from using airport revenues for purposes unrelated to airport and for direct airline subsidies. Waiving or discounting landing fees for a limited period is allowed but must be offered to all users of the airport.

Airport operating revenues come from many sources. Landing and terminal arrival fees (fees paid by airlines) account for a large portion of Kentucky's airport revenues, but so does parking and ground transportation.

Federal revenue is an important source of funding but is mostly for capital projects. Through the Airport Improvement Program, Kentucky airports received $32.2 million in Fiscal Year 2009. Examples of projects are runway improvements and planning. The Essential Air Service Program provides a subsidy to airlines providing service to smaller communities. Currently, Paducah receives $570,000 and Owensboro $1.1 million. The Small Community Air Service Development Program (SCASDP) is a federal program that can be used to provide incentives to airlines to help smaller communities enhance air service. Since 2002, seven communities in Kentucky received grants.

The fifth conclusion is that airport-airline use agreements can affect an airport's ability to provide incentives. Use agreements establish rights, privileges, and obligations between airport and airline tenants. A residual agreement gives airlines greater control over airport finances, but poses less financial risk to airports (Cincinnati/Northern Kentucky Airport has a residual agreement). A compensatory agreement gives airports greater financial control, but also more financial risk. (Louisville and Lexington airports have compensatory agreements). Agreements can affect airports' use of revenues.

The final conclusion is that there are numerous examples of airports, local governments, and private entities providing incentives to airlines to expand or maintain air service. Cases of state governments providing incentives are less common. There appear to be only two states with ongoing programs for funding incentives for air service.

Mr. Hager said the effectiveness of services being provided with and without incentives is unknown. There are four basic categories of incentive techniques. The minimum revenue guarantee establishes a minimum level of revenue that an airline will get for a specified service. If revenue from passengers on the guaranteed flights is less than the agreed-upon minimum, then the airport or other entity making the guarantee is responsible for making up the shortfall. In a guaranteed ticket purchase program, also called a travel bank, businesses or individuals deposit funds in a bank account to be used for purchasing tickets on a specified airline over a specified time period. Cost subsidies are financial incentives to reduce an airline's costs for providing a specified service. Examples would be waivers or reductions in landing fees. Airports may also provide, for a fee, ground services that an airline would otherwise have to provide itself. The most common technique is marketing or advertising for an air service that is provided or purchased by the airport or other entity.

The Station Services program at the Mobile Regional Airport is an example of an airport providing ground services to maintain air service.

A state-funded incentive that has not worked out as well is the more than $16 million that the Ohio state government offered to Continental Airlines to expand its capacity at the Cleveland airport. The airport's situation has changed from plans in 2007 for significantly increased domestic and international service to a legal agreement, after Continental's merger with United Airlines, to limit reductions in service.

Kansas is one of the two state programs. In 2006, the state legislature established the Affordable Airfare Fund to provide more flight options, more competition for air travel, and affordable air fares. To date, state appropriations to the program have totaled nearly $25 million. Almost all incentive money has gone to AirTran to provide service to Atlanta from Wichita, but some has gone to another airline for flights to Denver. A report done by Wichita State University estimated that the overall economic impact over a 5-year period of the added AirTran service was approximately $130 million.

The Wyoming legislature created the Air Service Enhancement Program in 2003 due to the lack of competition among air carriers. The legislature has appropriated $1.5 million annually for a total of $18 million to date. The Aeronautics Commission, part of the Kansas Department of Transportation, decides which projects submitted by airports will be awarded state funding and how much local matching funding is required. Most funding has been used for incentive payments from airports to air carriers, but funds have also been used for marketing and facilities' enhancement.

Proposed bills to create two more state programs were introduced in 2010 but were not enacted. In South Carolina, a bill would have created the Air Service Incentive and Development Fund of up to $15 million to be administered by the Aeronautics Commission. In Louisiana, a bill would have created an Air Service Fund that would receive $9 million each year from existing state aviation fuel tax revenues.

Senator Schickel noted that a business plan was requested from Delta at the joint meeting with the Interim Joint Committee on Economic Development and Tourism in August. A document was received October 12. Officials from the Northern Kentucky airport had requested it in August. Copies of the document were placed in committee members' folders.

In response to a question from Senator Stine, Mr. Graycarek said that he was unsure how it is determined which communities have insufficient air carrier service or unreasonably high airfares to be eligible for the Small Community Air Service Development Program (SCASDP) Grants.

In response to questions from Senator Stine, Mr. Hager stated that the $1.6 million SCASDP grant was for a community in Florida and that he would provide more specific information. Statutory changes would be required to establish the tax increment financing program and revolving loan fund proposed by the Northern Kentucky, Louisville, and Lexington airports, but it is conceivable that airports could create separate operating units to provide services to airlines under existing law. Employees of the Northern Kentucky airport are participants in the County Employees Retirement System.

In response to a question from Senator McGaha, Mr. Hager said that airport officials could better answer but he would speculate that some of the decreased traffic at Northern Kentucky is handled by other Delta hubs such as Detroit.

In response to a question from Senator Stine, Mr. Graycarek responded that the airport-airline agreement at Northern Kentucky expires in 2015.

In response to a request from Senator Stine, Mr. Hager noted that staff could provide information on nonstop flights provided by the different Kentucky commercial airports.

In response to a question from Representative Mills, Mr. Hager said that for the report, staff did not research the interaction between officials in different states regarding benefits of and incentives for airlines at the Northern Kentucky airport.

In response to a question from Senator Schickel, Mr. Hager said that it is possible that airports may prefer to provide services themselves rather than contracting for them because the airports assume they could perform the services better and have more oversight of them.

In response to questions from Senator Stine, Mr. Hager noted that staff did not research airport commercial operating units internationally, but that his understanding is that they are common. If airports' provision of ground services reduces cost to airlines, then this would provide an advantage to that airport. The advantage would be reduced if additional airports began to provide ground services. In the U.S., Mobile and Owensboro are known to provide ground services, but staff would provide further information on other airports providing ground services.

In response to the report, Mr. Miller addressed the proposal for limited liability corporations (LLCs) as providers of airport services, something being done at other airports in the country. The three Kentucky airports would prefer statutory changes that specifically authorize the creation of separate operating units in order to avoid any potential legal challenges.

In response to questions from Representative Simpson, Mr. Miller noted that the Labor Cabinet or County Employees Retirement System are examples of entities that might challenge the establishment of a limited liability corporation by an airport authority on the grounds that it would circumvent labor agreements or the retirement system. Illinois law authorizes creation of LLCs by an airport authority. Mr. Miller and Mr. Mok noted that the employees of their airports are covered under the County Employees Retirement System.

Mr. Mok summarized the proposal for a revolving loan fund.

Mr. Parsons summarized the proposal for tax increment financing that could be used to increase air service. The existing state TIF program is not appropriate; statutes need to be amended.

In response to a question from Representative Simpson, Mr. Mok stated that the Northern Kentucky airport has unsuccessfully tried to get assistance from Ohio state government.

Representative Simpson suggested that the Cincinnati chamber of commerce would be better suited to get assistance from the State of Ohio.

In response to a question from Representative Simpson, Mr. Parsons noted that the airports' suggestion for using TIF funding to increase air service is a new idea.

In response to a question from Senator McGaha, Mr. Miller stated that the FAA prohibits airports from providing direct subsidies to airlines using airport revenues. Mr. Mok said that the FAA regulations do not prohibit this outright if incentives are available for everyone. A practical limit on providing funds for increased air service is that existing airlines fund the airport.

In response to a question from Senator McGaha, Mr. Mok said that the Northern Kentucky airport has had a residual contract since the 1970s, when this was the prevailing contract type. Mr. Miller noted that the Louisville airport has a compensatory contract but probably had a residual contract in the past. After deregulation in 1978, hub-dominated airports typically stayed with residual agreements; airports that were not major hubs were more likely to use compensatory agreements.

In response to a question from Senator McGaha, Mr. Mok said that Delta is in compliance with its agreement with the Northern Kentucky airport.

Mr. Whitmer said that the Owensboro airport provides above- and below-wing services for Allegiant Air. The airport does this with part-time employees because Allegiant only has three to four flights per week, so there is not enough of a market to attract the private sector.

Senator Stine commented that this model would make Kentucky airports more appealing internationally.

In response to a question from Senator Stine, Mr. Mok said that the Northern Kentucky airport has been very aggressive in pursuing international service.

Mr. Whitmer stated that Allegiant Air at other airports contracts privately for some ground handling services but prefers that airports provide those services.

In response to a question from Senator Schickel, Mr. Whitmer said that the ground handling employees are part-time; only full-time employees of the Owensboro airport are under the Kentucky Retirement Systems.

Senator Schickel commended the airports for cooperating.

The meeting adjourned at 11:50 a.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

November 4, 2010

Call to Order and Roll Call

The Program Review and Investigations Committee met on Thursday, November 4, 2010, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Kelly Flood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Kelly Flood, Co-Chair; Senators Vernie McGaha, R.J. Palmer II, Dan "Malano" Seum, Brandon Smith, and Katie Kratz Stine; Representatives Dwight D. Butler, Terry Mills, and Arnold Simpson.

Guests: Andrew Hartley, Staff Attorney, Lynsey Womack, General Counsel, Department for Local Government; Hollie Spade, Executive Director, Office of Legal Services, Cabinet for Economic Development; Mike Burnside, Executive Director, Jennifer Jones, Legal Counsel, Kentucky Retirement Systems.

LRC Staff: Greg Hager, Committee Staff Administrator; Rick Graycarek, Christopher Hall, Colleen Kennedy, Van Knowles, Lora Littleton, Jean Ann Myatt, Sarah Spaulding, Cindy

Upton, and Stella Mountain, Committee Assistant; Program Review and Investigations Committee Staff. Jon Roenker, Emily Spurlock, Mike Clark, LRC Staff Economists Office.

Staff Report: Transparency and Accountability of Quasi-governmental Entities

Cindy Upton said the objectives of the study were to identify the types and number of quasi-governmental entities, their organizational and fiscal characteristics, the services they provide, their employee benefit plans, their accountability mechanisms, and the transparency of their operations.

In the report, the term "transparency" means that information on an entity's use of public funds is available to the General Assembly and the public. Examples are open records and open meetings requirements. "Accountability" means that an entity can justify its use of public funds in accordance with laws and regulations. Examples are preparation of audited financial statements and other reports required by the General Assembly.

The term "quasi-governmental entity" is not defined in statute. The report uses a definition from the Congressional Research Service, which defines quasi-governmental entities as entities that are created by governments to serve public interests but that maintain a legally separate status. Board members often are appointed by government officials, and government officials may serve on a governing board.

Among the reasons that governments may create separate organizations are because the demand for services exceeds the ability to provide them within the traditional framework of government, to allow greater citizen input, to enable the governing board and management to focus on one specific function, or to overcome a government's constitutional or statutory limitations on the issuance of debt.

The number and types of quasi-governmental entities in Kentucky are not known. There is no central information repository for reporting them. New entities often are created while existing entities with similar purposes are not dissolved. Some creations are not true "entities" because they consist of groups of people who make decisions on public issues but have no separate staff, office, or other costs.

Public corporations of the state are created in statute and are subject to open meetings and open records requirements. All but two are required to prepare annual financial statements and have them audited.

Recommendation 2.1 is that the General Assembly may wish to consider amending KRS Chapter 247 and KRS Chapter 251 to require the Kentucky Agricultural Finance Corporation and the Kentucky Grain Insurance Corporation to publish annual audited financial statements.

Ms. Upton said that Program Review staff grouped quasi-governmental entities of the state by their predominant function: state infrastructure, local infrastructure, economic development, education and training, agriculture, housing, arts, healthcare, general state financing, and fiduciary entities.

A way to evaluate transparency and accountability is to look at the entities that can issue bonded debt and whether the debt service is paid from appropriations. Not all quasi-governmental entities of the state can issue debt and the state has not issued general obligation bonds since 1965.

At the local and regional levels, many quasi-governmental entities are allowed by statute to be created. They can be created under the Interlocal Cooperation Act, in which two or more local governments join together to provide services or facilities, or they may be created as special districts, such as water districts or local air boards. Other arrangements are not specified in statute; they often follow a public/private partnership approach to providing public services.

An interlocal cooperation agreement is allowed in statute and is required to include a description of any separate legal entity that will be created by the partnership. The Department for Local Government approves agreements between cities and counties and keeps a list. The Office of the Attorney General approves all others and maintains individual files but does not compile them. On the list kept by the Department for Local Government, it is not clear how many agreements actually created separate entities, and most agreements are entered into for sharing revenues and providing services, such as drug task forces.

Recommendation 3.1 is that the Department for Local Government should consider creating a uniform record-keeping system for interlocal cooperation agreements. In addition to the information it currently tracks, the department should consider detailing in its records the nature of each agreement and whether a separate entity is created. The department may wish to communicate and share its record-keeping system with the Office of the Attorney General so that similar information may be compiled by and obtainable from each.

The Department for Local Government reports 1,149 individual districts in the state. KRS 65.065 details when audits are required of districts and how the audits should be conducted. Using the definition of "district" from KRS 65.060, it appears as though all but two, drainage taxing districts and nontaxing waste management districts, have audit requirements. KRS 65.067 discusses bonding requirements for officers, officials, and employees of special districts. The statute does not rely on the definition of "district" in KRS 65.060.

Recommendation 3.2 is that the General Assembly may wish to consider whether KRS 65.060 should be applicable to all districts.

.

Ms. Upton said quasi-governmental entities at the local level are mostly special districts. Program Review staff grouped them by their predominant function: infrastructure, transportation, economic development, public health and safety, land use and planning, and community and social services.

In response to a question from Representative Flood, Ms. Upton said that quasi-governmental entities were categorized in part based on which agencies were responsible for overseeing them.

Based on the 2008 Local Debt Report, infrastructure is the primary category, with the highest number of individual entities and amount of debt reported. More than 100 water districts reported debt. Transportation also is a large amount relative to the others, primarily due to the effect of airport entities. Some local governments have issued general obligation debt to support their quasi-governmental entities.

The state has a number of economic development programs that are specified in statute and operated through the Cabinet for Economic Development. The report describes the state's incentive and loan programs, the entity that approves incentives or loans, and the maximum amount that can be approved. Program Review staff categorized them according to purpose as workforce training programs, energy and environmental programs, manufacturing and similar programs, business loan programs, and a personal and corporate investment fund program.

The three major approaches to economic development at the local level identified in the study are the public authority, the private foundation, and the public/private partnership. A public authority can be created as an industrial development authority under KRS 154.50, as a nonprofit entity under KRS Chapter 273, or by way of an interlocal cooperation agreement under KRS Chapter 65. As a public agency, it is subject to the state's open meetings and open records laws. A private foundation can be formed as a nonprofit corporation under KRS Chapter 273. Its funding typically is provided by private individuals, businesses, and local industries. It is not subject to open records and open meetings laws. It has less oversight and more confidentiality. A public/private partnership uses a blended approach and is usually formed under KRS Chapter 273. Since it receives funding from both the public and private sectors, it also receives policy input from both sectors. The degree of involvement by one sector or another can determine whether it is subject to open records and open meetings laws.

Elected officials often are members of a local economic development entity, sometimes as voting members. Elected officials often appoint members to the governing board of the entity. A local government's responsibility for debt of an economic development entity depends on how an interlocal corporation agreement, an entity's bylaws, or a loan agreement is structured. There may not be a legal obligation for a local government to cover an unpaid debt of an industrial authority, but local officials may perceive a moral obligation to do so. Local government financial contributions to the entities vary. Some make regular appropriations; others do not contribute at all. State assistance also varies. Many economic development entities receive assistance, either directly or through their local governments. The sources include the Area Development Fund, coal severance taxes, line-item appropriations, assistance from the Kentucky Infrastructure Authority, and Community Development Block Grants.

Two associations of local government officials, the Kentucky Association of Counties and the Kentucky League of Cities, are viewed by some as being quasi-governmental entities. Senate Bill 88 of the 2010 regular session deemed them to be public entities. Both provide training, financial, and insurance services to their members. The State Auditor's Office has examined their financial transactions, policies, and procedures and recommended a number of changes.

Participation in the retirement system for state employees is established in statute. A person's access to the system depends on whether his or her employer participates in the system. A board member of a quasi-governmental entity who also is a state official participates in the retirement system by virtue of his or her state employment. Private-sector board members do not participate. Determining who is an "employee" can be difficult. Some quasi-governmental entities do not have their own employees. They use staff from state government agencies.

To determine an entity's eligibility, the board reviews its articles of incorporation (for statutory authority), its bylaws, and its budget (to determine its funding source). The review is intended to determine if an entity is sufficiently governmental to participate. If so, the request is forwarded to the governor for the required executive order.

Participation in the retirement system for county employees also is established in statute. The county or school board must issue an order authorizing the entity's participation. An executive order from the governor is not needed. Some entities enter as part of a city or county government; others enter separately. It can be difficult to ascertain whether a specific local quasi-governmental entity is participating because it may have entered the system as part of the local government. A board member who is also a local government official participates if his or her employer has joined the system. Employees of that entity also participate. Private-sector board members do not participate.

Participation in the state-administered health plan is established in statute. Anyone participating in one of the retirement systems is eligible to participate in the health plan. In addition to current employees, local or district retirees who are members of the County Employees Retirement System can join the health plan when retiring before age 65, even if they had private insurance before retirement.

Approve Minutes for October 14, 2010

Upon motion made by Senator Schickel and seconded by Representative Mills, the minutes of the October 14, 2010 meeting were approved by voice vote, without objection.

Representative Flood said that the first part of the next meeting would be devoted to choosing study topics for 2011. Members should submit topics to be received by November 15.

In response to a question from Senator Schickel about Recommendation 2.1, Ms. Upton said the lack of a statutory requirement for audits of all state corporations could have been an oversight.

In response to a question from Senator Schickel, Ms. Upton said that special districts are granted the authority to tax in statute but that she did not know the intent or history behind this authority.

In response to a question from Representative Simpson, Ms. Upton said that local governments can be held responsible for quasi-governmental entities' debt in some instances.

Representative Simpson commented that too many entities are in the state retirement and healthcare systems.

In response to a question from Representative Simpson, Ms. Upton clarified that anyone in the state-administered retirement systems automatically qualifies for the state healthcare system too. Entities whose employees qualify for state retirement systems are described in statute but the governing board of the retirement systems must sometimes make the determination of whether an entity is sufficiently public to qualify. A recommendation goes to the governor, who issues an executive order.

In response to a question from Senator McGaha about debt of local quasi-governmental entities, Ms. Upton said that the reported debt of the Louisville Jefferson County Metropolitan Water and Sewer district was more than $2 billion.

In response to a question from Senator Schickel about the history of delegating authority to tax to special districts, Mr. Hartley said that authorization for taxing authority for special districts is spread piecemeal over many statutes. The state constitution authorizes taxing districts.

In response to a question from Representative Simpson about the Department for Local Government making recommendations to clarify the governing statutes, Mr. Hartley said that the department had commissioned a study of special districts years ago by the Northern Kentucky University law school on consolidation of statutes and clarification of what special districts are.

Representative Simpson commented that the committee should ask the Department for Local Government for recommendations.

Representative Flood said that the co-chairs could confer with Representative Simpson about this.

In response to a question from Representative Simpson, Ms. Jones said that entities meeting the definition of a public entity qualify for the retirement system.

In response to a question from Representative Simpson, Mr. Burnside said that a new employee represents a liability to the retirement system. Ideally, added employees would pay their way in the retirement system, but the full contributions from employers have not always been made and investments have not always met the actuarially determined goal.

In response to a question from Senator Schickel, Mr. Burnside said that the Kentucky Retirement Systems has not calculated how long it takes for the average employee to get benefits in excess of contributions but that he could look into this.

Staff Report: The Impact of Industrial Revenue Bonds on Property Taxes and School Funding

Jon Roenker and Emily Spurlock gave an overview of the report. Mr. Roenker said cities and counties may issue Industrial Revenue Bonds (IRBs) to purchase or construct industrial buildings for private entities. Ownership of the property may be transferred to the city or county for the duration of the bond. When transferred, the property may be subject to a reduced state property tax rate and may be exempt from local property taxes, which potentially reduces the tax base for the state and these districts. Under the state education funding formula, reduced assessments lead to an increase in state funding.

KRS 103.200 defines industrial buildings as land, buildings, real property, and personal property that is suitable for various types of activities. Included in the definition of industrial buildings are manufacturing facilities, transportation infrastructure, health care facilities, education facilities, recreation and cultural facilities, agricultural facilities, and incidental facilities for industrial sites. The statutory definition of an industrial building includes items that might not necessarily be commonly thought of as industrial buildings, such as water facilities, mineral resource processing facilities, convention and trade show facilities, hotels and motels, residential neighborhood preservation activities, historic buildings, and downtown business district redevelopment activities.

Kentucky statute provides authorization for Kentucky cities and counties to issue bonds for the financing of purchasing or constructing industrial buildings. If the city or county constructs or purchases the building, the property can be transferred to the city or county for the life of the bond. The property is then leased back to the private entity. These bonds are not considered a debt of the city or county that issues them.

An example of an IRB is a bond issued by Laurel County in 2008 for $16 million for purchase and refurbishment of a factory. A payment in lieu of taxes (PILOT) was made to East Bernstadt School District. The property was valued at $2.45 million in 2008 and at $16 million in 2010.

Two types of IRBs are tax-exempt and taxable. For tax-exempt IRBs, the interest income earned by the purchaser is not subject to federal income taxes, so purchaser of the bond is likely to accept a lower interest rate. In 1986, Congress placed a cap on the amount of tax-exempt bonds that can be issued each year. This cap is referred to as the Private Activity Bond Cap.

The Kentucky Private Activity Bond Allocation Committee (KyPABAC) is responsible for the distribution of Kentucky's allocation of tax-exempt IRBs. At least 60 percent of the cap goes to state issuers in the first six months of the year, usually to the Kentucky Higher Education Student Loan Corporation to finance student loans and the Kentucky Housing Corporation to finance mortgage loans for low-income home buyers. During the last six months of the year, the remaining portion of the cap is allocated to local issuers.

There is no federal limit on the amount of taxable bonds that can be issued by local governments.

The IRB approval process at the local level includes having the local legislative body adopt an ordinance or resolution that details the project and the financing. At the state level, approval is not required for all IRBs. KRS 103.2101 assigns the primary responsibility for reviewing these projects to the State Local Debt Officer and the KyPABAC. The Kentucky Economic Development Finance Authority (KEDFA) is also involved in the approval and reporting process.

Transferred property has potential negative impact on revenues of local governments and school districts. Removal of the property from the tax rolls reduces the tax base for the local taxing districts. In some cases, a PILOT may be in place that would require the private entity to make a payment to the local taxing district that would experience reduced property tax revenue because of the property transfer. At the state level, the potential exists for a reduction in the state property tax rate.

Property tax rates and revenue can be affected by the transfer of property to a city or county during the IRB process. By statute, some types of IRBs must be reviewed by three state agencies: the State Local Debt Officer, KyPABAC, and KEDFA. If tax revenue is affected, agencies must document local support for reviewed IRBs.

Recommendation 1.1 is that if the General Assembly would like to better monitor the extent to which IRBs are issued to finance property that is transferred to a city or county, it should require the State Local Debt Officer and/or KyPABAC to review all projects that are financed in this manner.

House Bill 44, enacted in 1979, limits the state's real property tax revenue growth to 4 percent per year on the value of real property existing in the prior year. HB 44 details the calculation of the compensating and 4-percent increase rates. The compensating rate is the rate that would allow a district to obtain approximately the same amount of revenue from real property that existed in the prior year. The 4-percent increase rate is the rate that generates 4 percent more revenue than the compensating rate.

At the local taxing district level, HB 44 sets a range of real property tax rates. This range does not necessarily limit the tax rates that the local district can adopt, but does determine what actions the district must undertake in order for the rate to be adopted. Any rate above the 4-percent increase rate is subject to a public hearing and a recall vote. Any rate at or below the 4-percent increase rate and above the compensating rate is subject only to a public hearing. Any rate at or below the compensating rate is not subject to a public hearing or a recall vote.

Staff selected IRBs issued in 2008 to examine the impact of transferred property on state and local tax rates. Six IRBs from 2008 involved property transferred to the local government, and thus could potentially have an impact on state and local real property tax rates and revenue. The total value of these six properties was approximately $108.1 million in 2010. Staff concluded that the value of the property transferred was not enough to affect the rate. Over the course of several years, there could be an impact. In any year, the value of property transferred could be sufficiently large to affect the rate.

IRB projects approved by KEDFA receive a reduction in the state property tax. There have been 26 KEDFA-approved projects since 2003. Of those 26 projects, 23 have received the reduced state rate on full value of property, and 21 of the 26 had 100 percent of local property taxes abated. Staff determined that more than $600 million would have to be removed from the base in order to affect the state real property tax rate by one-tenth of one cent. Staff concluded that the exclusion of a property from the tax base can cause the local taxing district to adopt higher rates before public hearing/recall than would have been adopted in the absence of the IRB.

The choices of local taxing districts determine if a higher rate is adopted. Higher selected tax rates offset lost revenue and the tax burden is shifted to the other properties on the tax roll. If the rate is not increased, the district may collect lower tax revenues than it would have collected in the absence of the property being transferred.

IRBs that are not seeking the reduced state property tax rate are not subject to the jurisdiction of KEDFA. These projects are reported to the State Local Debt Officer as part of the reporting requirements of KRS 147A.020. Documentation showing local support of the project is only required for projects that meet the definitions of KRS 103.200 (k) through (n).

In the case of local taxing districts, property that is transferred to the city or county and removed from the tax rolls causes the district's total value of assessments to be lower than it would otherwise be. As a result, for real property taxes, the compensating rate and the 4-percent increase rate would be higher than they would be in the absence of the property transfer. With higher compensating and 4-percent increase rates, the range of real property tax rates a district may adopt shifts upward.

Ms. Spurlock summarized the effect of property transfers on school districts. She said lower property assessments affect the amount of education funding a district receives from the state through Support Education Excellence in Kentucky (SEEK) funding formula, as well as the tax rates that are certified to the school district. She referred to the property in Laurel County to show the effect of a property tax exemption on a school district. When property currently worth $16 million was transferred to the county, the East Bernstadt Independent school district received more SEEK funding from the state, had different certified tax rates, and received a payment in lieu of taxes.

A major conclusion of the report is that when property is transferred to a tax exempt entity and is no longer included in the property assessment, there is a lower amount of funding required from the school district under the SEEK formula, and the state will contribute more funding.

The school funding that is available to the local district comes mainly from state and local sources. Local revenue is raised through taxes, such as property taxes on real and personal property and motor vehicles, as well as permissive taxes, such as utility and occupational taxes.

Ms. Spurlock provided a general overview of SEEK, focusing on the areas that are impacted by property assessments. Each district's SEEK calculation begins with the guaranteed per pupil funding that is set in the budget. Additional funding provided is based on the numbers of students meeting specified criteria and transportation costs in the district. This totals to the adjusted SEEK base. The district is then required to provide a minimum level of funding. After subtracting the district's required local effort of 30 cents per $100 of assessments, the state pays the remainder of the adjusted base funding. The state may provide additional funding (Tier I). After other adjustments, the result is the final state SEEK funding. One goal of SEEK is to provide more state funding to less wealthy districts and less state funding to more wealthy districts. For SEEK purposes, wealth is defined by total property assessments. Property assessments are directly entered into the SEEK calculation: through the required 30 cent local effort and through Tier I.

Since the minimum local effort required by the district is based on property assessments, a decrease in the property assessment in a district decreases the amount of funding that district is required to provide. Since the state pays the portion of the adjusted SEEK base that is not paid by the district, a decline in funding required from the district requires a dollar-for-dollar increase in funding provided by the state.

Property assessments are one factor used to calculate Tier I funding received by the state. Tier I funding is the funding over the required minimum local effort and up to 15 percent of Adjusted Base funding. The state contributes Tier I funding in districts whose per pupil assessment is less than 150 percent of the estimated statewide average per pupil assessment. The state contributes more funding to districts whose total tax revenues are high enough to indicate sufficient revenue above the required minimum. The effect would vary between districts, but a decline in property assessments would mean a lower per pupil assessment, which could make a district more likely to qualify for Tier I funding. For districts that do receive Tier I funding, a lower per pupil assessment increases the state's share of Tier I funding.

In addition to SEEK, districts participate in Facilities Support Program of Kentucky, which provides capital project funding. The district is required to raise a minimum level of revenue: 5 cents per $100 of assessments. A decline in assessments leads to a decline in funding required from the district. Since the state pays the portion of FSPK that is not paid by the district, a decline in FSPK funding required by the district requires a dollar-for-dollar increase in funding provided by the state.

As a result of an IRB and transfer of property to the county, the assessment in East Bernstadt Independent is $16 million lower than it would have been without the transfer. In the 2009-10 and 2010-11 school years, the exemption of property and lower assessment caused state base funding to increase $48,000, state Tier I funding to increase approximately $17,000, and state FSPK funding to increase $8,000. As a result of the property being exempt, the state paid approximately $73,000 more to this district each year than it would have without the property transfer.

The second effect in school funding is on school district property tax rates. For school districts, the effect of excluding property from taxation will vary between districts. Like local districts, the lower assessment may allow the district to adopt a higher tax rate without a public hearing or possible recall. The lower assessment could lower the minimum tax rate the district must levy in order to receive maximum state funding.

Four tax rates are certified to each school district. Two rates are the HB 44 compensating and 4 percent increase rates. The subsection one rate is the rate that produces no more revenue than what would have been produced by the highest rate certified to the district in the prior year. As assessments decline, these three rates will rise.

The HB 940 rate, which is also called the Tier I rate, is the rate that produces enough revenue to qualify the district for maximum Tier I funding from the state. This rate is based on all taxes that are levied in the district, and on the prior year's collection rate. Because Tier I funding is based in part on the district's assessment, this rate is based on a minimum level of revenue needed given that district's level of assessment. Because this rate uses the assessment, prior year revenues, and the prior year collection rate to determine a needed level of revenue, the effect of a decline in assessments on the Tier I tax rate would vary by district.

The levied equivalent rate is the total of all tax revenue from all sources, divided by total assessments. In order for a district to receive the maximum amount of Tier I funding from the state, the district has to raise enough revenue relative to its total assessments so that its levied equivalent rate is high enough. If the assessment declines, the district would not need to raise as much revenue to achieve a certain levied equivalent rate. If the assessment increases, the district would need more revenue to achieve its needed levied equivalent rate and it would have a higher assessment from which to raise that additional revenue. Districts collect revenue through multiple taxes, such as real and personal property taxes, motor vehicle taxes, utility taxes, and occupational taxes. All of these revenue sources are counted toward total revenue. If a district's assessments change, the impact on each district's levied equivalent rate would vary because it would depend on what other taxes were levied by that district and its tax rates.

In 2009, the East Bernstadt Independent school district adopted the compensating rate of 29.5 cents per $100 of assessments. If $16 million in assessments had not been exempt due to an industrial revenue bond, the compensating rate that would have been certified to the district would have been 27.4 cents. If the district had still taken the compensating rate in this instance, this lower rate would have generated about $36,000 in additional revenue, since the rate would have been applied to the additional $16 million.

In 2010, the district adopted the Tier I tax rate of 39.2 cents per $100. If property had not been exempt, and the assessment had been $16 million higher, the Tier I rate certified to the district would have been 41.5 cents per $100. Assuming the district still opted to levy the Tier I rate, adopting this higher rate would have generated about $75,000 more revenue because the rate would have been higher and an additional $16 million would have been taxable.

A PILOT is in effect with the East Bernstadt Independent school district. The business agreed to pay the property tax that would have been paid to the school district if the property had remained taxable, based on the value of the property and the current tax rate. In 2009, the PILOT payment was approximately $47,000. In 2010, it was almost $63,000. PILOT payments are not accounted for in SEEK or property tax calculations.

As a result of the exemption of property, the district potentially lost some revenue. The district gained PILOT money from the private business and more state funding for both SEEK and FSPK. In total, the lower assessment resulted in the district having approximately $84,000 more funding available in 2009, and approximately $60,000 more available in 2010.

Ms. Spurlock noted that the example provided shows potential effects in one district, but the effect may be different in other districts. Generally, districts with lower property assessments collect less tax revenue and more state SEEK and FSPK funding. The total effect of a lower property assessment in a given district would depend on factors such as the tax rates adopted by the district, the amount of the property exemption and the total assessment in the district, and the number of students in the district.

In response to a question from Senator McGaha, Ms. Spurlock agreed that a district with tax exempt property could benefit from a higher compensating tax rate, more state SEEK funding, and a payment in lieu of taxes. Others contributing to SEEK would, in effect, be paying for this.

The meeting was adjourned at 11:40 a.m.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

November 5, 2010

Call to Order and Roll Call

The 9th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Friday, November 5, 2010, 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; Senators David Givens and Vernie McGaha; Representatives Royce W. Adams, James R. Comer Jr., Charlie Hoffman, and Tommy Turner.

Guests: Roger Thomas, Joel Neaveill, Christi Marksbury, Mike Tobin, and Jennifer Hudnall, Governor's Office of Agricultural Policy; Randy Seymour, Roundstone Native Seed Co.

Legislative Guest: Representative Fred Nesler.

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

Minutes of the October 6, 2010, meeting were approved by voice vote and without objection on a motion by Senator McGaha and second by Senator Givens.

Governor's Office of Agricultural Policy Report

Mr. Roger Thomas, Executive Director, Governor's Office of Agricultural Policy (GOAP) and Mr. Joel Neaveill, GOAP Chief of Staff, reported on the actions of the Agricultural Development Board (ADB) at its October meetings.

Before discussing projects considered by the ADB at its earlier meeting, Mr. Thomas reported on two issues – some recent meetings conducted to update county extension agents on changes to the County Agricultural Investment Program (CAIP) and the recent United States Department of Agriculture drought designation for most Kentucky counties.

According to Mr. Thomas' testimony, the extension agents, who administer the county councils, were generally receptive to the CAIP changes. In turn, comments received from the agents would be taken up by the ADB at its two-day planning sessions later in November.

The USDA granted the drought disaster designation for 91 counties; 63 of the counties were "primary counties" while 28 were deemed "contiguous counties." Responding to one committee member, Mr. Rogers indicated the contiguous counties had not experienced as much drought damage as the primary counties. The counties would still be in line for assistance through the Farm Service Agency.

Following a review of the CAIP projects approved for funding at the prior ADB meeting, Mr. Neaveill reviewed the projects receiving county funding.

Regarding the approval of Hardin and Barren county funds for a Western Kentucky University Research Foundation climate data collection program, Senator Givens posed a question that he had received from an extension agent about collecting data on rainfall amounts from different counties to come up with an average for regions. Mr. Neaveill mentioned the director of the program and indicated he would help the senator make contact. They also said they would provide Senator Givens with detailed information about the scope of the data collection program.

They indicated to Co-chair Gibson that two other counties that were asked, but did not contribute funding for the program, had decided their local soil conservation district could provide comparable data, if needed. They told the co-chair that local officials generally approve the placement of the climate equipment in particular counties.

Responding to Senator McGaha about the ATP Greenhouse LLC project in Butler County, they pointed out that fertilizer was not included on the list of items that could be purchased with the funds approved for the project.

Regarding a project denied funding, the Greenleaf Plant Food Wholesale Inc. endeavor, the board had not granted previous funding to the company, they told Co-chair Gibson.

Roundstone Native Seeds Report

The committee heard a presentation by Mr. Randy Seymour, Chairman, Roundstone Native Seed Co., Hart County, which has received ADB grant funding and a loan from the Kentucky Agricultural Finance Corporation.

Mr. Seymour described his background to the committee and detailed the development of the company, which began on a small scale by supplying native grass seeds to the Nature Conservancy and the Department of Fish and Wildlife Resources. Since then, the company has grown from having a few garden-size plots to large production fields. In addition to its own production, Roundstone has 42 farmers in the area growing seed plants for the company. At present, the company supplies native seeds to entities in several states. Universities number among the company's customers.

In his presentation, Mr. Seymour mentioned some potential legislative issues.

According to Mr. Seymour, there is no mechanism in place for the Division of Regulatory Services to routinely test native seeds being shipped from out of state to customers via the U.S. Postal Service or other carriers. He indicated the division routinely checks the seeds that he produces. Unregulated seed shipments, he explained, may contain noxious seeds or invasive plant seeds. According to Mr. Seymour, legislation is needed to require the Division of Regulatory Services to test seeds that are being shipped into the state. The division does not check seeds authorized for use in Transportation Cabinet, Fish and Wildlife Services, or mine reclamation projects, according to his testimony.

Mr. Symour testified that some states have defined ecotype seeds, which would be native a particular area. He mentioned certain wildflowers and the like that are routinely used in roadside planting projects, but those are grown in either other countries or other states. He urged legislative assistance in defining "native" ecotype seeds.

Responding to questions from Senator Givens, Mr. Seymour said he foresees increased propagation of warm season native grasses as the trend increases toward production of biomass energy crops.

Asked about biomass-type crops being planted as a part of the Conservation Reserve Enhancement Program (CREP), Mr. Seymour indicated the "door is closed" at this time because of the USDA's approach in wanting CREP acreages devoted to wildlife habitat. He also said he was disappointed regarding the grasses allowed in current sign-ups under the CP-25 facet of CREP.

He indicated to Senator Gibson that the growth of nodding thistles on some CREP fields occurred because the fields formerly were planted as pastureland, but as the land ceased being used as pasture, once the pastureland went away, the weedy plants emerged. He indicated to the senator that most grasses approved under CREP are not biomass or forage plants. He cited the importance of directing farmers to plans that have good biomass or forage potential.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library.

The meeting adjourned at approximately 11:30 a.m.

2011 Prefiled Bills

BR 4 - Representative Susan Westrom (04/27/10)

AN ACT relating to promotional sampling of distilled spirits and wine.

Amend KRS 243.0305 to make the hours and days of operation for a souvenir retail liquor licensee subject to local ordinance; amend KRS 243.130, 243.154, and 243.170 to allow manufacturers, small farm winery wholesalers, and wholesalers to distribute wine or distilled spirits under a sampling license; amend KRS 244.050 to allow retail drink, retail package, and souvenir retail liquor licensees to give a customer 3 distilled spirit samples per day rather than 2 samples under a sampling license; permit a licensed distiller, wholesaler, small farm winery, or small farm winery wholesaler to acquire a sampling license; limit these sampling licensees to providing the standard size and number of complimentary samples of distilled spirits or wine per day to each customer during regular business hours at a retailer's licensed premises; authorize the sampling licensee or its agents, servants, or employees to address the customer and pour and serve samples at the retailer's premises; require retail licensees to sell the distilled spirits used for a complimentary sampling event at no more than the retail licensee's normal selling price; permit the retail licensee to bill on a per-event basis in the usual course of business; forbid a distiller from using its sampling license on its distillery premises unless it also holds a souvenir retail liquor license; prohibit a wholesaler, small farm winery, or small farm winery wholesaler from using its sampling license at its business premises if the premises is located in a dry territory; prelude a distiller, wholesaler, small farm winery, or small farm winery wholesaler sampling licensee from concurrently holding a distilled spirits sampling event and a wine sampling event at the same premises unless the Department for Alcoholic Beverage Control has approved the event in advance; authorize distiller licensees to give a consumer who is touring the distillery for educational purposes one complimentary sample of up to 1/2 ounce of un-aged product manufactured at the distillery premises; enable distiller, wholesaler, small farm winery, or small farm winery wholesaler sampling licensees to offer consumers branded nonalcoholic promotional items of nominal value in conjunction with a distillery or winery tour or a complimentary sampling event.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Licensing and Occupations

BR 10 - Representative Linda Belcher (06/11/10)

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).)
To: Interim Joint Committee on Education

BR 11 - Representative Linda Belcher (06/11/10)

AN ACT relating to probate fees.

Amend KRS 61.315 to exempt the estate of anyone who is eligible for state death gratuity benefits, and the estate of any regular member of the Armed Forces, from probate fees.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Veterans, Military Affairs, and Public Protection

BR 12 - Representative Linda Belcher (06/11/10)

AN ACT relating to prescription drugs.

Create a new section of KRS Chapter 218A to make pseudoephedrine, ephedrine, and phenylpropanolamine prescription substances, make exemptions, and establish penalties for prohibited conduct; amend KRS 218A.1446, relating to the recording of pseudoephedrine transactions, to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Health and Welfare

BR 13 - Representative Linda Belcher (06/11/10)

AN ACT relating to obesity in school children.

Amend KRS 158.856 to clarify that school physical activity assessment tools shall generate: data on the amount of time and the types of activity required by KRS 160.345(11); performance and progress data necessary to monitor health risk behaviors and indicators identified by the national Centers for Disease Control and Prevention and to design programs to increase physical activity of children and reduce childhood diabetes and obesity; fitness information to assist students and the student's parents or guardians in planning home activities; and aggregate school fitness data to assist school councils in reviewing and implementing wellness policies; require school districts to submit supporting data with required summary; amend KRS 160.345 to require schools containing kindergarten through grade 5 to provide a minimum of 45 minutes per week of physical activity for half day kindergarten and 90 minutes per week for full day kindergarten through grade 5.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 14 - Representative Thomas Kerr (05/20/10)

AN ACT relating to evidence.

Amend KRS 422.300 to add out-of-state hospitals to the chapter's provisions relating to the production of medical records for adjudicative proceedings.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 17 - Representative Linda Belcher (08/25/10)

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" and replace it with the word "negligently" 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 18 - Representative Linda Belcher (06/14/10)

AN ACT relating to child custody.

Amend KRS 620.090 to specify that when the court issues a temporary order granting custody of a child to the cabinet, the court may order arrangements for medical, visual, and dental examinations; provide that children who are in temporary custody for a period not exceeding 45 days from the date of the removal 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 Judiciary

BR 19 - Representative Linda Belcher (08/24/10)

AN ACT relating to wastewater.

Create new sections of KRS Chapter 65 to express the findings of the General Assembly regarding wastewater and to authorize the creation of a regional wastewater commission as a pilot project area within Bullit, Hardin, Jefferson, Meade, Nelson, Oldham, and Spencer Counties; establish definitions for "commission," "member entity," "organizing official," "wastewater," and "sources of collected water," allow 2 or more member entities owning wastewater systems to acquire, construct, operate, and improve those systems; establish a method for member entities to form a regional wastewater commission; require the governing body of any member entity proposing participation in the commission to publish notice of a public hearing in accordance with KRS Chapter 424 at least 30 days' prior to the hearing; establish appointments of 1 commissioner to represent each member entity; require that the commissioner be a customer, resident, or authorized representative of the member entity; require no less than 3 commissioners and set the terms for the commissioners at 4 years; allow the commission to appoint a chair and officers; allow member entities to join existing commissions at any time; allow the commission salaries for other officers and employees; allow the commission's fund to pay expenses of commissioners and employees; require bonding for commissioners and other minor officials and bonds paid by the commission fund; require commission meetings and records be subject to open meetings and open records laws; allow removal of a commissioner for cause; establish a method for a member entity to withdraw from the commission; establish the commission as a public body corporate and politic; allow the commission to execute contracts, make loans, issue and repay revenue bonds, receive proceeds from loans or grants, purchase, acquire, hold, and dispose of real and personal property, and exercise powers granted under KRS Chapters 58 and 224A; allow the commission to have full and complete supervision, management, and control over all of its facilities; require construction or expansion of any wastewater facility proposed be approved by either the Division of Water or the United States Environmental Protection Agency; exempt the commission from taxation; require the commission to procure the services of a certified public accountant to conduct an audit of all funds and fiscal transactions annually; exempt the commission from regulation by the Public Service Commission, except for contracts between the commission and a utility regarding provision of services that would result in an increase in rates paid by customers of that utility subject to approval by the Public Service Commission; allow the commission to set its rates and terms through contracts with member entities, nonmember entities, and neighboring states; establish minimum contract requirements; require a vote by the commission for rate changes and adjustments and notice requirements prior to rate changes; require the commission to procure professional or independent accounting to determine operating, maintenance, and debt service costs and provide reccommendations for specific rates to offset the costs every 5 years; require the commission to determine final rates and charges based on the 5-year study consultation; require the commission to provide at least 60 days' written notice to the governing bodies of the member entities prior to the effective date of any change in rates or charges for service; amend KRS 58.010 to include a regional wastewater commission in the definition of "governmental agency"; amend KRS 224A.011 to include a regional wastewater commission in the definition of "governmental agency," and to include facilities related to the collection, transportation, and treatment of wastewater in the definitions of "infrastructure project" and "water resources project"; amend KRS 278.010 to exclude a regional wastewater commission from the definition of "public utility."

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Natural Resources and Environment

BR 20 - Representative Linda Belcher (06/11/10)

AN ACT relating to early education assessment and intervention.
Create a new section of KRS Chapter 158 to define "aphasia," "dyscalculia," dyslexia," "phonemic awareness," and "scientifically based research"; require the Kentucky Board of Education to promulgate administrative regulations for district-wide reporting on the use of K-3 response-to-intervention implementation in reading by August 1, 2012, in mathematics by August 1, 2013, and behavior by August 1, 2014; require the Department of Education, on or before January 1, 2012, to make available technical assistance, training, and a Web-based resource to assist all local school districts in the implementation of the system and instructional tools based on scientifically based research; require the department to collaborate with other state agencies and organizations; require conformity with 20 U.S.C. sec. 1414(a)(1)(E) for initial evaluations of students with suspected disabilities; require the department to report to the Interim Joint Committee on Education on implementation by November 30, 2012, and annually thereafter; amend KRS 157.200 to conform with the federal definition of a "specific learning disability."

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 21 - Representative Linda Belcher (08/25/10)

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 administrative regulations to require that each local school board 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 22 - Representative Linda Belcher (06/11/10)

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).)
To: Interim Joint Committee on Transportation

BR 23 - Representative Linda Belcher (06/11/10)

AN ACT relating to domestic relations.
Amend KRS 403.135 to permit the inclusion of a minor child's name in a domestic relations proceeding.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 26 - Representative Melvin B. Henley (09/23/10)

AN ACT relating to consumer protection.
Create a new section of KRS 367.110 to 367.300, the Consumer Protection Act, to require that advertisements which contain restrictions or limitations fully disclose the restrictions or limitations in the advertisement; provide exception; amend KRS 367.990 to provide for a civil penalty; amend KRS 367.180, 367.190, and 367.230 to conform.

(Prefiled by the sponsor(s).)

BR 32 - Senator Jack Westwood (09/09/10)

AN ACT relating to career and technical education, making an appropriation therefor, and declaring an emergency.
Amend KRS 158.812 to express legislative goals for career and technical education; amend KRS 158.810 to define terms related to career and technical education; create a new section to KRS Chapter 156 to require the Department of Education issue core content standards, assess student progress, and develop new courses relevant to college and career readiness; create a new section to KRS Chapter 158 providing for the creation and use of evidence-based models assessing the needs of at-risk students; create a new section of KRS Chapter 157 to define terms related to career and technical education and to establish a career and technical education accessibility fund; amend KRS 158.814 to address unmet needs for career and technical education; amend KRS 158.816 to add criteria to the assessment of technical education students; amend KRS 18A.010 to exempt technology center employees from the count of full-time executive branch employees; EMERGENCY.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 33 - Representative Mike Harmon (08/25/10)

AN ACT relating to driving under the influence.
Amend various sections in KRS Chapter 189A, relating to driving under the influence, to restructure the existing penalties from a four-tiered structure to a three-tiered structure; expand the five-year look back window for prior offenses from 5 years to 10 years, and to allow forfeiture of motor vehicles used in a DUI if the operator's license had been previously suspended; amend KRS 281A.2102 to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 39 - Representative Bill Farmer (10/06/10)

AN ACT proposing to amend Sections 99, 124, and 144 of the Constitution of Kentucky relating to a Judge of the County Court.

Propose to amend Sections 99, 124, and 144 of the Constitution of Kentucky to eliminate the Office of Judge of County Court in merged county-and-city government; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)

BR 43 - Senator Damon Thayer (08/25/10)

AN ACT relating to public records.

Create a new section of KRS Chapter 7 to require the Legislative Research Commission to create a Web site to provide certain information on the expenditure of state funds; create a new section of KRS Chapter 26A to require the Chief Justice to create a Web site to provide certain information on the expenditure of state funds; create a new section of KRS Chapter 42 to require the Finance and Administration Cabinet to create a Web site to provide certain information on the expenditure of state funds; create a new section of KRS Chapter 42 to require all executive branch agencies to make financial data available to the Finance and Administration Cabinet, and to require the cabinet to give the Legislative Research Commission and the Court of Justice control over their expenditure data by January 1, 2012; amend KRS 164A.565 to require the governing boards of each postsecondary educational institution to make financial data available to the Finance and Administration Cabinet; and provide that the Act shall be known as the "Taxpayer Transparency Act of 2011."

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 46 - Representative Will Coursey (07/22/10)

AN ACT relating to underground petroleum storage tank contractors.

Amend KRS 224.60-135 to grant the state fire marshal authority to promulgate administrative regulations to establish a program to identify and certify persons who install, repair, close, or remove underground petroleum storage tanks; require certification in order to install, repair, close, or remove an underground storage tank for a petroleum storage tank owner or operator; amend KRS 227.280 to extend the state fire marshal's authority to refer violations to the circuit court of the county in which the offense was committed.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Natural Resources and Environment

BR 51 - Representative Brad Montell (11/17/10)

AN ACT relating to water quality reporting.

Create new sections of KRS 224.70 to define "public water system," and "Tier 2 and Tier 3"; require public water system owners or operators to report Tier 3 violations within 30 days; require violations be posted on the owner or operator's Internet Web site; if a Web site does not exist, require notification to customers upon written or oral request; allow the Energy and Environment Cabinet to promulgate administrative regulations to administer the notification process; clarify that the requirements for Tier 3 notifications are supplementary and do not impair or supersede federal national drinking water standards.

(Prefiled by the sponsor(s).)

BR 52 - Representative Sal Santoro (08/12/10)

AN ACT relating to pawnbrokers.

Amend KRS 226.010 to define "pawnbroker," "pledgor," and "permitted user"; amend KRS 226.040 to expand registry requirements associated with pawn transactions, prohibit pawn transactions with persons unwilling or unable to provide required identification, and require submission of information to the Department of Kentucky State Police or contracted vendor; and create a new section of KRS Chapter 17 to require the Department of Kentucky State Police to establish or contract for the provision of pawn database services.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Banking and Insurance

BR 55 - Representative Stan Lee (09/07/10)

A JOINT 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 61 - Representative Jesse Crenshaw (07/22/10)

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 62 - Representative Jim Wayne (07/20/10)

AN ACT relating to public financing for judicial campaigns.

Create new sections of KRS 118A to establish the clean judicial elections fund; define terms; establish fund to distribute transfers to certified judicial candidates; provide that the Kentucky Registry of Election Finance administer the fund and promulgate necessary administrative regulations; designate that moneys in the fund be invested in accordance with regulations developed by the State Investment Commission; require the registry to publish information about campaign expenditures in the judicial campaigns of the previous year; establish requirements to be designated a certified judicial candidate and gain access to the fund; provide guidelines for distribution of funds to certified judicial candidates; direct that judicial review of any final action of the registry be expedited by the court; provide for a civil penalty up to $10,000 for an actual violation of these provisions, and a Class D felony for any knowing violation of these provisions; provide that a person entitled to a state tax refund may designate on their income tax return an amount to be credited to the fund; permit the Supreme Court to require members of the Kentucky Bar Association to submit an annual fixed amount not to exceed $25 to be dedicated to the clean judicial elections fund; provide for a January 1, 2012 effective date.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 67 - Representative Tom Burch (11/23/10)

AN ACT relating to the reporting of deaths in nursing homes.

Create a new section of KRS 216 to require each long term care facility or hospice facility to require a designated reporter to report all deaths to the appropriate coroner or medical examiner within 24 hours, in the case of a resident dying while away from the facility the report is required within 24 hours of the facility receiving notification of the death; require coroners or medical examiners to accept the report and, upon finding reasonable cause to suspect death as a result of maltreatment, to continue the investigation as a coroner's case, as a police report or as a report to the appropriate Commonwealth's attorney; amend KRS 216B.990 to create a Class C misdemeanor for the first offense when a designated reporter fails to report a death and a Class B misdemeanor for subsequent offenses; create a fine of $200 per week for long term care facilities that fail to designate an employee as the designated reporter; create a new section of KRS Chapter 431 to require the Attorney General to establish a Kentucky Multidisciplinary Commission on Adult Abuse and Neglect, require each investigation of a death in a nursing home to be conducted by a specialized multidisciplinary team, require local protocols to be developed in each county or by contiguous county groups specifying how state protocols are to be followed; amend KRS 216B.590 to require surveyors and investigators to undergo at least

2 hours of training surrounding evidence preservation following a death in a nursing home due to suspected abuse or neglect; create a new section of KRS chapter 216 to require each long term care facility to conduct a three hour Attorney General-approved training session every 2 years covering the prevention of adult abuse and neglect; amend KRS 209.990 to make failure to report the abuse or neglect of an adult a Class A misdemeanor.

(Prefiled by the sponsor(s).)

BR 68 - Representative Larry Clark (08/24/10)

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 three years, a six-month notice to the plan and the commissioner 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 requirement 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 conform.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Banking and Insurance

BR 69 - Representative Larry Clark (08/24/10)

AN ACT relating to campaign finance.

Amend KRS 121.015 to define “personal funds.”

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 70 - Representative Larry Clark (08/24/10)

A JOINT RESOLUTION authorizing and directing a comprehensive study of the effectiveness of the economic development initiatives and incentives of the Commonwealth.

Direct the Director of the Legislative Research Commission to engage a consulting firm to study the effectiveness of economic development incentive programs; require results to be submitted by December 1, 2011.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Economic Development and Tourism

BR 71 - Representative Leslie Combs, Representative Greg Stumbo (09/02/10)

AN ACT proposing to amend the Constitution of Kentucky relating to hunting, fishing, and harvesting wildlife.

Propose to amend the Constitution of Kentucky to create a right to hunt, fish, and harvest nonthreatened species using traditional methods; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 75 - Representative Mike Cherry (08/13/10)

AN ACT relating to public records.

Create a new section of KRS Chapter 7 requiring the Legislative Research Commission to provide public access to legislative branch financial information by January 1, 2012; create a new section of KRS Chapter 26A requiring the Administrative Office of the Courts to provide public access to judicial branch financial information by January 1, 2012; create a new section of KRS Chapter 42 to require the Finance and Administration Cabinet to provide public access to executive branch financial information by January 1, 2012; amend KRS 164A.565 to require the governing boards of each postsecondary educational institution to make budget, financial statements, and governing board meeting records available on each institution’s Web site by January 1, 2012; direct the staff of the Legislative Research Commission to study the use of the Internet by local governments to provide citizen access to their financial and other information.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 83 - Representative Brent Yonts (10/27/10)

AN ACT relating to state government contracts and declaring an emergency.

Amend KRS 45A.550 to redefine “privatization contract” and eliminate the definition of “services”; amend KRS 45A.551 to specify the procedure for approving a state agency’s request to enter into a privatization contract, including approval by the Finance and Administration Cabinet, the Governor, and the General Assembly, to require the agency to list in writing an analysis of the need for the privatization, and to indicate that privatization contracts are to be procured under KRS 45A.695; amend KRS 45A.552, 45A.553, and 45A.695 to conform; require existing contracts to be canceled for convenience unless previously authorized by statute; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 92 - Senator John Schickel (09/02/10)

AN ACT relating to firearms, including ammunition and accessories for firearms.

Create new sections of KRS Chapter 237 relating to firearms, ammunition, and firearms accessories made in Kentucky, marked as made in Kentucky, and used in Kentucky to specify that these items, with specified exemptions, are exempt from federal law; name law the “Kentucky Firearms Freedom Act”.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 94 - Representative Terry Mills (11/17/10)

AN ACT relating to compulsive gambling and making an appropriation therefor.

Create new sections of KRS Chapter 222 to establish the compulsive gamblers awareness and treatment fund; amend KRS 222.005 to define “pathological gambling” and “problem gambling”; direct the use of funds and limit annual administrative costs to $50,000; establish the Compulsive Awareness and Treatment Fund Advisory Council; establish the council’s membership and responsibilities; require the Cabinet for Health and Family Services to promulgate administrative regulations to develop standards, establish a funding and application process, certify disbursement of funds, and report annually; amend KRS 138.510 to provide funding from the total amount wagered in Kentucky; amend KRS 154A.130 to provide funding from the gross revenues of the state lottery; amend 238.570 to provide funding from the gross receipts from all charitable gaming; amend KRS 164.7871 to conform; amend KRS 222.001, 222.003, and 222.005 to define terms and to conform.

(Prefiled by the sponsor(s).)

BR 97 - Representative Joni L. Jenkins (08/17/10)

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).)

To: Interim Joint Committee on Judiciary

BR 98 - Representative Keith Hall (09/22/10)

AN ACT relating to emergency vehicles.

Amend KRS 189.920 relating to lights on emergency vehicles to permit publicly owned jail vehicles used for emergency purposes to use blue lights but not sirens; permit elected jailer or chief administrator of a jail without a jailer to use blue lights on one personal vehicle.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 111 - Senator Dan “Malano” Seum, Senator David L. Williams, Senator Elizabeth Tori (08/25/10)

AN ACT relating to school attendance.

Amend KRS 159.070 to permit a parent or legal guardian to enroll for attendance a child in the school nearest to the child's home, except in cases in which there are academic or skill prerequisites for attendance in the school; provide that those residing the shortest travel distance to a school be given first priority in cases where the capacity of the school may be exceeded; permit a child to attend a school other than the one closest with permission of the district.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 114 - Representative Brent Yonts (10/12/10)

AN ACT relating to wills.
Amend KRS 394.150 and 394.300 to allow the will of a nonresident probated longer than eleven years ago to be recorded in Kentucky in the same manner as a Kentucky will for the purpose of passing title to real property without the necessity of undergoing a second probate proceeding in this state.
(Prefiled by the sponsor(s).)

BR 117 - Representative Reginald Meeks (11/08/10)

A RESOLUTION designating August 26, 2011, as Montford Point Marines Day, and honoring the Montford Point Marines.
Designate August 26, 2011, as Montford Point Marines Day and honor the Montford Point Marines.
(Prefiled by the sponsor(s).)

BR 121 - Representative Melvin B. Henley (09/22/10)

AN ACT relating to out-of-state durable medical equipment providers.
Create a new Section of KRS Chapter 216B to require the Cabinet for Health and Family Services to promulgate an administrative regulation requiring a provider of durable medical equipment located in another state to maintain an office or place of business in Kentucky if that state requires durable medical equipment providers with a principal place of business in Kentucky to maintain an office or place of business within that state.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Health and Welfare

BR 123 - Senator Tim Shaughnessy (09/09/10)

AN ACT relating to university undergraduate completion.
Create a new section of KRS Chapter 164 to require each public university to submit to the Council on Postsecondary Education by December 1, 2011, a plan adopted by the board of trustees or board of regents listing goals, strategies and timelines to increase the number of students graduating with a bachelor's degree; require the council to create by August 30, 2011, a tracking system to collect data on the number of attempted and earned credit hours for each freshman and transfer student entering each university in the fall 2011 semester, and thereafter track students from enrollment until degree completion; report to the Legislative Research Commission, no later than November 1, 2013, and annually thereafter, the number of students who complete bachelor's degrees by time for completion, hours attempted and earned, and average hours per term, the number of students who complete bachelor's degree program at their university of origin or the number of transfer students who complete bachelor's degree programs, and the average time to degree completion for full-time and part-time students; require the council to report to the Interim Joint Committee on Education by October 31 of each year and post on the council's Web site an institutional profile for each university and a composite system profile which provides current and six-year trends for revenue, full-time enrollment, average ACT score, percentage of freshman taking remedial courses, four, five, and six year graduation rates, tuition rates, and additional accountability measures developed by the council; require the board of trustees or the board of regents of a public university to include, no later than October 31, 2014, progress toward improving bachelor's degree completion as part of the annual evaluation of the president of the institutions.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 130 - Representative Jody Richards (09/14/10)

AN ACT relating to publications of state agencies.
Create a new section of KRS Chapter 57 to prohibit any agency of the state executive or legislative branch from mailing an unsolicited publication to any person who has not requested a copy, unless the mailing is determined to be essential by the Governor or by the General Assembly; require state agencies to submit annual and biennial reports to the General Assembly or the Legislative Research Commission online rather than on paper; amend KRS 12.110 to conform.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 131 - Representative Jody Richards (09/17/10)

AN ACT relating to domestic 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.
(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Judiciary

BR 132 - Representative Jody Richards (09/10/10)

AN ACT relating to state employee health insurance.
Create a new section of KRS 18A.225 to 18A.2287 to require the Personnel Cabinet to establish a pilot program to improve the health and wellness outcomes of state employees; require the pilot program to provide a reduced monthly cost for a fully insured health benefit plan or self-insured plan offered by the Public Employee Health Insurance Program to an employee who participates in wellness activities; require the wellness activities to be approved by the cabinet; require the cabinet to determine the amount of the reduced monthly cost and the level of participation required to qualify for the reduced cost; establish that the pilot program is to be in effect January 1, 2012 to December 31, 2015; require the Cabinet to submit an annual report on the results of the pilot program on or before December 1.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on State Government

BR 133 - Representative Jody Richards (10/14/10)

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, 2011; report findings to appropriate committee or committees no later than December 1, 2011.
(Prefiled by the sponsor(s).)

BR 136 - Senator John Schickel (09/09/10)

AN ACT relating to school funding.
Amend KRS 157.310 to clarify the intention of the General Assembly that no mandate be placed on the public schools without program funding to carry out the mandate; require legislation relating to the public schools that includes a fiscal note pursuant to KRS 6.955 or a state mandate pursuant to 6.965 to include provision for funding that is adequate for compliance with the mandate; clarify that no school district shall be compelled to comply with mandated enactments of the General Assembly that do not provide adequate funding; specify that this amendment does not relieve a school district from the obligation to comply with state or federal laws relating to health, safety, or civil rights.

(Prefiled by the sponsor(s).)
To: Interim Joint Committee on Education

BR 141 - Senator Joey Pendleton (11/17/10)

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; require Kentucky to adopt any federal rules or regulations relating to industrial hemp.

(Prefiled by the sponsor(s).)

BR 143 - Representative Marie Rader, Representative Addia Wuchner (09/16/10)

AN ACT relating to coroners.

Amend KRS 189.910, 189.920 and 189.940 to permit a coroner or deputy coroner to equip a private or public vehicle with red and blue lights and a siren with the permission of the legislative body of the county, urban-county, consolidated local government, or unified local government and to use the lights and siren only to respond to the scene of an emergency involving the reported death of a human being.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Transportation

BR 151 - Representative Leslie Combs (11/10/10)

AN ACT relating to sales and use tax.

Create a new section of KRS Chapter 139 allowing a sales and use tax refund on the purchase of building materials used to repair or replace homes in a disaster area; effective July 1, 2011.

(Prefiled by the sponsor(s).)

BR 153 - Representative Jeff Hoover, Representative John “Bam” Carney, Representative James R. Comer Jr., Representative Ron Crimm, Representative Jim DeCesare, Representative Bob M. DeWeese, Representative C. B. Embry Jr., Representative Bill Farmer, Representative Joseph M. Fischer, Representative David Floyd, Representative Danny Ford, Representative Mike Harmon, Representative Tim Moore, Representative David Osborne, Representative Marie Rader, Representative Sal Santoro, Representative Alecia Webb-Edgington, Representative Addia Wuchner, Representative Jill York (09/21/10)

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 154 - Representative Jeff Hoover, Representative John “Bam” Carney, Representative James R. Comer Jr., Representative Ron Crimm, Representative Jim DeCesare, Representative Bob M. DeWeese, Representative C. B. Embry Jr., Representative Bill Farmer, Representative Joseph M. Fischer, Representative David Floyd, Representative Danny Ford, Representative Mike Harmon, Representative Brad Montell, Representative Tim Moore, Representative David Osborne, Representative Marie Rader, Representative Sal Santoro, Representative Alecia Webb-Edgington, Representative Addia Wuchner, Representative Jill York (09/21/10)

AN ACT relating to the General Assembly.

Create a new section of KRS Chapter 6 to require a 48 hour waiting period prior to a vote on an appropriation or revenue bill or amendment.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on State Government

BR 161 - Representative Sal Santoro, Representative Alecia Webb-Edgington (09/21/10)

AN ACT relating to firearms, including ammunition and accessories for firearms.

Create new sections of KRS Chapter 237 relating to firearms, ammunition, and firearms accessories made in Kentucky, marked as made in Kentucky, and used in Kentucky to specify that these items, with specified exemptions, are exempt from federal law; name the law the “Kentucky Firearms Freedom Act”.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Judiciary

BR 162 - Representative Sal Santoro (09/21/10)

AN ACT relating to school funding.

Amend KRS 157.310 to clarify the intention of the General Assembly that no mandate be placed on the public schools without program funding to carry out the mandate; require legislation relating to the public schools that includes a fiscal note pursuant to KRS 6.955 or a state mandate pursuant to 6.965 to include provision for funding that is adequate for compliance with the mandate; clarify that no school district shall be compelled to comply with mandated enactments of the General Assembly that do not provide adequate funding; specify that this amendment does not relieve a school district from the obligation to comply with state or federal laws relating to health, safety, or civil rights.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 163 - Representative Joni L. Jenkins (09/21/10)

AN ACT relating to fees in public universities and colleges.

Amend KRS 164.400 to permit the boards of regents and boards of trustees of the public universities and colleges to establish fees sufficient for the payment of instructional and operational expenses consistent with the recommendations of the Council on Postsecondary Education; clarify the types of fees that boards may require payment of; prohibit mandatory athletic or meal fees for nonresident or commuter students; delete provision referencing incidental fees.

(Prefiled by the sponsor(s).)

To: Interim Joint Committee on Education

BR 167 - Senator Tim Shaughnessy (09/29/10)

AN ACT relating to school districts.

Create a new section of KRS Chapter 159 to require the Commonwealth to provide state funds from the general fund to a local school district to offset the costs of implementing any changes to Kentucky Revised Statutes that result in mandated changes to the local district assignment plan; provide that this expenditure is the state’s first priority over other financial obligations; require the Finance and Administration Cabinet to promulgate administrative regulations to outline the process and procedures to be used in requesting and paying the funds.

(Prefiled by the sponsor(s).)

BR 171 - Representative Joni L. Jenkins (10/27/10)

AN ACT relating to the enforcement of local government ordinances.

Amend KRS 82.700, dealing with local government nuisance codes to include counties within the definition of local governments, define “amelioration costs” and “premises”; amend KRS 82.720 to allow a local government to possess liens for amelioration costs imposed pursuant to KRS 82.700 to 82.725 and KRS 381.770; Amend KRS 381.770, relating to nuisances to provide that the liens possessed in accordance with KRS 381.770 take precedence over all other liens, except state, county, school board, and city taxes.

(Prefiled by the sponsor(s).)

BR 172 - Senator John Schickel (10/13/10)

AN ACT relating to necessaries.

Amend KRS 404.040 to provide for gender neutrality in the furnishing of necessaries during marriage; amend KRS 140.090 to conform.

(Prefiled by the sponsor(s).)

BR 181 - Representative Brad Montell (11/17/10)

AN ACT relating to the exclusion of abortion coverage for health insurance exchanges.

Establish Subtitle 17D of KRS Chapter 304 and create a new section to define “abortion,” “elective abortion,” and “health benefit exchange”; create a new section to prohibit qualified health benefit plans in Kentucky from offering abortion coverage through a health benefit exchange but permit individuals to purchase optional supplemental coverage for elective abortions outside of the state exchange if a separate premium is paid for the coverage; set forth provisions regarding the calculation of the premium, per enrollee, for elective abortion coverage; set forth provisions regarding signature and notice requirements; prohibit an issuer of elective abortion coverage from discounting or reducing the premium paid for other coverage based on the fact an individual has elective abortion coverage.

(Prefiled by the sponsor(s).)

BR 198 - Representative Jim Gooch Jr. (10/22/10)

A JOINT RESOLUTION urging the United States Congress to repeal the Affordable Care Act of 2010 (ACA).

Urge Congress to repeal the Affordable Care Act of 2010.

(Prefiled by the sponsor(s).)

BR 200 - Representative Brent Yonts (10/27/10)

AN ACT relating to prison inmate canteen operations.

Amend KRS 196.270 to require that inmate canteen operations be subject to the Open Meetings Act, the Open Records Act, and the Model Procurement Code; require a separation between the canteen and general inmate food service in their staffing and management.

(Prefiled by the sponsor(s).)

BR 202 - Representative Joni L. Jenkins (11/09/10)

AN ACT relating to elder and vulnerable adult abuse, neglect, and financial exploitation and making an appropriation therefor.

Amend KRS 209.990 to provide a civil remedy with treble damages for use against persons who are convicted of exploitation of an adult and fail to return the victim's property within 30 days of an order by the sentencing court to do so; amend KRS 381.280 to include the commission of a felony under KRS Chapter 209 among the offenses that trigger an offender's forfeiture of the right to inherit property from the victim of the offense; direct that any escheated property be directed to the elder and vulnerable victims trust fund; create a new section of KRS Chapter 41 to establish the elder and vulnerable victims trust fund to provide funding for programs combating elder and vulnerable adult abuse, neglect, or financial exploitation.

(Prefiled by the sponsor(s).)

BR 216 - Representative Joni L. Jenkins (11/09/10)

AN ACT relating to trusts and estates.

Amend KRS 395.005 to allow residents of other states who are not related to a decedent to be appointed as a fiduciary if the appointment is done pursuant to a will of the decedent.

(Prefiled by the sponsor(s).)

BR 217 - Representative Joni L. Jenkins (11/09/10)

AN ACT relating to trusts and estates.

Create a new section of KRS Chapter 209 to prohibit persons convicted of a felony under that chapter from serving in any capacity that has authority over the victim of the offense or the victim's estate.

(Prefiled by the sponsor(s).)

BR 220 - Representative Reginald Meeks (11/08/10)

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, including Central America, and who maintains tribal affiliation or community attachment to the tribe of origin or to the community of original peoples; make conforming amendments.

(Prefiled by the sponsor(s).)

BR 221 - Representative Reginald Meeks (11/08/10)

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 222 - Representative Reginald Meeks (11/29/10)

AN ACT relating to historic preservation.

Create new sections of KRS Chapter 381 relating to the disposition of historic or prehistoric human remains; define terms relating to the disposition of historic or prehistoric human remains; declare public policy of the Commonwealth regarding historic or prehistoric human remains; establish property confirmation process by which property owners or developers verify whether property contains known human remains; require 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 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; amend KRS 171.313 to require the Kentucky Historical Society to cooperate in the processes established under this Act; 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; 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; 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.

(Prefiled by the sponsor(s).)

BR 224 - Representative Reginald Meeks (11/08/10)

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 228 - Representative Reginald Meeks (11/29/10)

AN ACT relating to school dropout prevention.

Amend KRS 158.145 to revise the existing declaration of the General Assembly to phase in an increase in the compulsory attendance age and to set a high school graduation rate of at least 90 percent by July, 2016; amend KRS 158.146 to revise the use of dropout prevention grants; to direct the Kentucky Department of Education to establish standards and indicators to measure progress and to assist schools in implementing research-based strategies; authorize the commissioner of education to approve alternative programs granting high school and college credit; create a new section of KRS Chapter 158 to establish the Commonwealth Mentor Initiative; create a new section of KRS Chapter 18A to provide one hour per week leave to state employees who become certified Commonwealth mentors to volunteer in a private or public school; specify conditions for mentor approval; create a new section of KRS Chapter 164 to require boards of trustees and boards of regents to encourage personnel to participate in the Commonwealth Mentor Initiative; amend KRS 159.010 to gradually increase the compulsory attendance age to 18 by July 1, 2015; amend KRS 159.020 to conform; amend KRS 157.224 to require the commissioner of education to report performance data on students with disabilities and initiatives for improvement; encourage the department, the KY Tech System and the Kentucky Community and Technical College System to work with local school districts to expand career pathways to keep students engaged; require the commissioner of education and the president of the Council on Postsecondary Education to engage others in the study of alternative education; express the General Assembly's intent to provide funding support to help districts with programs and services required by increasing compulsory attendance.

(Prefiled by the sponsor(s).)

BR 242 - Representative Brad Montell (11/17/10)

AN ACT relating to school buses.

Amend KRS 189.540 to allow a local school board to sell commercial advertising on school buses; prohibit certain types of advertising; specify uses for advertising revenue.

(Prefiled by the sponsor(s).)

BR 243 - Representative Danny Ford (11/17/10)

AN ACT relating to energy drinks.

Create a new section of KRS Chapter 217 to prohibit the sale of energy drinks to children under 18 years of age; amend 217.015 to define the term "energy drink".

(Prefiled by the sponsor(s).)

BR 245 - Representative Brent Yonts (11/17/10)

AN ACT relating to criminal record expungement.

Amend KRS 431.076 to allow a defendant to petition a court to expunge a misdemeanor criminal charge which has been dismissed with prejudice in exchange for a plea of guilty to another offense.

(Prefiled by the sponsor(s).)

BR 252 - Representative Brent Yonts (11/17/10)

AN ACT relating to criminal procedure.

Create a new section of KRS Chapter 196 to require the Department of Corrections to develop cost of incarceration and supervision information; create a new section of KRS Chapter 532 to require an acknowledgement of consultation with the cost of incarceration and supervision information prior to the acceptance of a felony plea bargain; amend KRS 532.055 relating to truth-in-sentencing to require that the cost of incarceration and supervision information be included in the sentencing phase of a trial.

(Prefiled by the sponsor(s).)

BR 256 - Representative Rick G. Nelson (11/29/10)

A JOINT RESOLUTION directing the Governor to cease all furloughs of Executive Branch employees and declaring an emergency.

Direct the Governor to cease all furloughs of state employees for the remainder of the 2010-2012 Biennium; EMERGENCY.

(Prefiled by the sponsor(s).)

BR 258 - Representative Terry Mills (11/17/10)

AN ACT relating to school buses.

Create a new section of KRS Chapter 189 to allow a local school board to sell advertising on school buses; prohibit certain types of advertising.

(Prefiled by the sponsor(s).)

BR 260 - Representative Terry Mills (11/29/10)

AN ACT relating to echocardiograms for infants.

Create a new section of KRS Chapter 214 to require institutions that care for infants to have an echocardiogram performed on each newborn infant; create a new section of Subtitle 17A of KRS Chapter 304 to require health benefit plans to cover echocardiograms for infants 28 days of age or younger.

(Prefiled by the sponsor(s).)

BR 262 - Representative John Will Stacy, Representative Hubert Collins, Representative Mike Denham, Representative Derrick Graham, Representative Tanya Pullin, Representative Fitz Steele, Representative Greg Stumbo (11/09/10)

A JOINT RESOLUTION directing the Governor to cease all furloughs of Executive Branch employees.

Direct the Governor to cease all furloughs of state employees for the remainder of the 2010-2012 Biennium.

(Prefiled by the sponsor(s).)

BR 265 - Representative Brent Yonts (11/19/10)

AN ACT relating to incompatible offices.

Amend KRS 61.080 to make membership on a governing body of certain districts, local ethics bodies, and planning units, incompatible offices with other such positions within a county.

(Prefiled by the sponsor(s).)

BR 267 - Representative Ron Crimm (11/23/10)

AN ACT relating to the operation of vehicles on a highway.

Amend KRS 189.030 to require that headlamps on a vehicle shall be illuminated whenever the vehicle is being operated on a highway.

(Prefiled by the sponsor(s).)

BR 268 - Representative Ron Crimm (11/16/10)

AN ACT relating to the gross revenues and excise tax fund.

Amend KRS 136.650 to increase the hold harmless amount for fiscal year 2011-2012 and every fiscal year thereafter; amend KRS 136.654 to require the Department of Revenue to detemine if it is necessary for a participating political subdivision to certify its total tax receipt.

(Prefiled by the sponsor(s).)

BR 269 - Representative Ron Crimm (11/23/10)

AN ACT relating to domestic relations.

Amend KRS 403.200 to permit a court to provide for wage assignment and automatic electronic transfer of funds for payment of spousal maintenance; make technical corrections.

(Prefiled by the sponsor(s).)

BR 270 - Representative Ron Crimm (11/12/10)

AN ACT relating to animals.

Amend KRS 525.125, 525.130, and 525.135 to forfeit ownership of animals involved in cruelty and torture cases and prohibit ownership or possession of animals of the same species for two years.

(Prefiled by the sponsor(s).)

BR 271 - Representative Ron Crimm (11/16/10)

AN ACT relating to annuity nonforfeiture provisions.

Amend KRS 304.15-365 to prohibit surrender charges beyond the maturity date of an annuity except for certain annuity contracts with renewable periods with an interest rate in excess of the minimum rate, and that meet certain conditions; allow an annuity contract that provides flexible considerations to have a separate surrender charge schedule and separate calculation of maturity dates.

(Prefiled by the sponsor(s).)

BR 272 - Representative Ron Crimm (11/16/10)

AN ACT relating to traffic control devices.

Create a new section of KRS Chapter 189 to require local governments that have installed speed bumps or speed humps on a roadway under its jurisdiction to denote the speed bumps or speed humps using a road sign or paint them so that they are clearly visible to persons traveling the roadway.

(Prefiled by the sponsor(s).)

BR 278 - Representative Mike Denham (11/29/10)

AN ACT relating to delinquent property taxes.

Amend KRS 134.452 to reduce third-party purchaser fees beginning January 1, 2012.

(Prefiled by the sponsor(s).)

BR 279 - Representative Ron Crimm (11/23/10)

AN ACT relating to child welfare.

Amend KRS 600.020 to establish a new definition for "independent living" as it relates to a child committed to the custody of the Commonwealth; amend KRS 620.140 to establish that a child committed to the custody of the Commonwealth may request, no later than 12 months after attaining the age of 18 years, to extend or reinstate the commitment; amend KRS 620.250 to allow local foster care review boards to have access to the educational records of children committed to the custody of the Commonwealth.

(Prefiled by the sponsor(s).)

BR 290 - Representative Dennis Keene (11/29/10)

AN ACT relating to driving under the influence and making an appropriation therefor.

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 and require ignition interlock usage beginning with the first DUI offense; amend KRS 189A.340 to establish an assistance fund for indigent defendants; amend KRS 189A.410 to require ignition interlock usage while an offender is driving on a hardship license.

(Prefiled by the sponsor(s).)

BR 327 - Representative Mike Denham (11/29/10)

AN ACT relating to transportation.

Amend KRS 189.030 to require illumination of headlights during any period of precipitation that necessitates the use of windshield wipers by motorists.

(Prefiled by the sponsor(s).)

BR 328 - Representative Mike Denham (11/23/10)

AN ACT relating to weights and measures.

Create a new section of KRS 363.510 to 363.850 to allow the Commissioner of Agriculture to promulgate administrative regulations relating to tobacco moisture testing devices; amend KRS 363.510 to include instruments to measure internal moisture or density of unprocessed bulk tobacco in the "weights and measures" definition.

(Prefiled by the sponsor(s).)

BRs by Sponsor

* - denotes primary sponsorship of BRs

Senate

House

Index Headings

BR Index

Administrative Regulations and Proceedings

Finance & Administration Cabinet, funds for local school districts to cover assignment plan changes - BR167
Kentucky Board of Education, commercial advertising on school buses - BR242

Advertising

Full disclosure, Consumer Protection Act - BR26
School buses, commercial advertising on - BR242, 258

Aged Persons and Aging

Abuse, neglect, or financial exploitation of elderly and vulnerable, legal remedies and programs - BR202
Adult victimization, prohibitions on perpetrators of - BR217
Deaths in nursing homes, notification of coroners, investigation following certain - BR67

Agriculture

Bulk tobacco, allow inspection of instruments that measure moisture - BR328
Industrial hemp, licensing and growing of - BR141

Alcoholic Beverages

DUI, ignition interlock device, use of - BR290
Promotional sampling of - BR4

Alcoholism

DUI,
ignition interlock device, use of - BR290
penalties imposed - BR33

Animals, Livestock, and Poultry

Cruelty to animals, forfeiture and ownership provisions - BR270

Appropriations

Bill or amendment containing appropriation, 48-hour waiting period prior to vote - BR154
Constitutional amendment, General Assembly, compensation suspended - BR153
Mandates on public schools, financial support for - BR136

Attorney General

Consumer Protection Act, advertisements - BR26
Deaths in nursing homes, notification of coroners, investigation following certain - BR67

Attorney, Commonwealth's

Deaths in nursing homes, notification of coroners, investigation following certain - BR67

Budget and Financial Administration

Bill or amendment containing appropriation, 48-hour waiting period prior to vote - BR154
Constitutional amendment, General Assembly, compensation suspended - BR153
Public fund expenditures, Web sites showing - BR75
State funds, expenditures, Web site with records of - BR43

Campaign Finance

Personal funds, definition of - BR69
Public financing for judicial campaigns, create program for - BR62

Cemeteries and Burials

Archeological artifacts/burial artifacts, protection of - BR224
Cemeteries, protection of - BR222

Charitable Organizations and Institutions

Charitable gaming, compulsive gamblers awareness and treatment fund, creation of - BR94

Children and Minors

Child committed to the custody of the Commonwealth, provisions for - BR279
Compulsory attendance, age limit, raising of - BR228
Custody, temporary - BR18
Domestic relations, personal identifiers - BR23
Echocardiogram, require for newborn infants - BR260
Education programs, career and technical education - BR32
Energy drinks, sale to children under 18 years of age, prohibition of - BR243
Foster children, dual credit and dual enrollment courses, tuition waiver - BR10

Physical activity of school children, assessment of - BR13
School attendance - BR111

Cities

Amelioration costs for code violations, lien for - BR171
Human remains and artifacts, protections for, restrictions on building permits - BR222
Nuisances, lien priority - BR171
Regional wastewater commissions, city membership, requirements for - BR19

Civil Actions

Abuse, neglect, or financial exploitation of elderly and vulnerable, legal remedies - BR202
Adult victimization, prohibitions on perpetrators of - BR217
Direct care staff, ICF/MR resident, failure to supervise, penalties - BR17
Domestic
relations, personal identifiers - BR23
violence, dating couples, inclusion of - BR131
Fiduciaries, appointment of nonresidents - BR216
Maintenance orders for spouses, availability of automatic payment methods - BR269
Nonresident wills, recording of - BR114

Civil Procedure

Abuse, neglect, or financial exploitation of elderly and vulnerable, legal remedies - BR202
Adult victimization, prohibitions on perpetrators of - BR217
Domestic relations, personal identifiers - BR23
Fiduciaries, appointment of nonresidents - BR216
Medical records, production of - BR14
Nonresident wills, recording of - BR114

Commendations and Recognitions

Montford Point Marines Day, designate - BR117

Commerce

Exemption from federal law, firearms and ammunition made and used in Kentucky - BR92
Exemptions from federal law, firearms and ammunition made and used in Kentucky - BR161

Consolidated Local Governments

Office of Judge of County Court, elimination of - BR39
Red and blue lights, sirens, use by coroner or deputy coroner - BR143

Constitution, Ky.

General Assembly, compensation for services, suspension of - BR153
Office of Judge of County Court, not elected in merged county and city governments - BR39
Right to hunt, and harvest wildlife - BR71
Voting for felons, constitutional amendment to provide - BR61

Constitution, U.S.

Tenth Amendment, state sovereignty - BR55

Consumer Affairs

Advertisements, full disclosure - BR26

Contracts

Privatization, requirements for - BR83

Coroners

Notification to coroners following deaths in nursing homes, investigation following certain - BR67
Red and blue lights, sirens, use by coroner or deputy coroner - BR143

Corrections and Correctional Facilities, State

Cost of incarceration and supervision, calculation of amounts - BR252
Inmate canteens, operation of - BR200
Probate fees, estate of officer killed in line of duty, exemption for - BR11

Counties

Amelioration costs for code violations, lien for - BR171
Human remains and artifacts, protection of, restrictions on building permits - BR222
Incompatible offices - BR265
Nuisances, lien priority - BR171
Office of Judge of County Court, not elected in merged county and city governments - BR39
Red and blue lights, sirens, use by coroner or deputy coroner - BR143
Regional wastewater commissions, county membership, requirements for - BR19

Counties, Urban

Red and blue lights, sirens, use by coroner or deputy coroner - BR143

County Judge/Executives

Constitutional amendment, elimination of Office of Judge of County Court in merged local governments - BR39

Court of Appeals

Public financing for campaigns, create program for - BR62

Court, Supreme

Public financing for campaigns, create program for - BR62

Courts

Adult victimization, prohibitions on perpetrators of - BR217
Child custody, temporary - BR18
Domestic violence, dating couples, inclusion of - BR131
Expenditures, Web site showing - BR75
Public financing for campaigns, create program for - BR62
State funds, reporting requirements for expenditures, posting on Web Site - BR43

Courts, Circuit

Adult victimization, prohibitions on perpetrators of - BR217
Cost of incarceration and supervision, information provided in sentencing - BR252
Domestic
relations, personal identifiers - BR23
violence, dating couples, inclusion of - BR131
Expungement of criminal records, procedure in regard to plea bargains - BR245
Maintenance orders for spouses, availability of automatic payment methods - BR269
Public financing for campaigns, create program for - BR62

Courts, District

Adult victimization, prohibitions on perpetrators of - BR217
Child committed to the custody of the Commonwealth, provisions for - BR279
Expungement of criminal records, procedure in regard to plea bargains - BR245
Public financing for campaigns, create program for - BR62

Courts, Family

Adult victimization, prohibitions on perpetrators of - BR217
Domestic
relations, personal identifiers - BR23
violence, dating couples, inclusion of - BR131
Maintenance orders for spouses, availability of automatic payment methods - BR269

Crime Victims

Abuse, neglect, or financial exploitation of elderly and vulnerable, legal remedies and programs - BR202
Expungement of criminal records, procedure in regard to plea bargains - BR245

Crimes and Punishments

Abuse of corpse and abuse of venerated object, amendment to - BR224
Abuse, neglect, or financial exploitation of elderly and vulnerable, offenses relating to - BR202
Cruelty to animals, forfeiture and ownership provisions - BR270
Deaths in nursing homes, notification of coroners, investigation following certain - BR67
Direct care staff, ICF/MR resident, failure to supervise, penalties - BR17
DUI,
ignition interlock device, use of - BR290
penalties imposed - BR33
Expungement of criminal records, procedure in regard to plea bargains - BR245
Felons' voting rights, constitutional amendment to provide - BR61
Pseudoephedrine, possession or sale of - BR12
Public transportation, offenses against user or operator of - BR97
Theft of item with VIN, law enforcement agency, duty to report to NCIC - BR22

Criminal Procedure

Abuse, neglect, or financial exploitation of elderly and vulnerable, offenses relating to - BR202
Cost of incarceration and supervision, information provided in sentencing - BR252
Cruelty to animals, forfeiture and ownership provisions - BR270
Deaths in nursing homes, notification

2011 LRC Publications Price List

Daily Record Pickup.....$165
Daily Record Mailed .....$165 (plus postage)
Friday Record Mailed ....$38.50 (plus postage)
Individual Record Pickup ...$2.75
Individual Record Mailed ..$2.75 (plus postage)

Bills
Complete Set of Bills and Resolutions (Pick-up) $630.00
Individual Bills
Per Page ...$.05
Amendments
Per Page....$.05
Roll Call Votes
$.15 (per page)

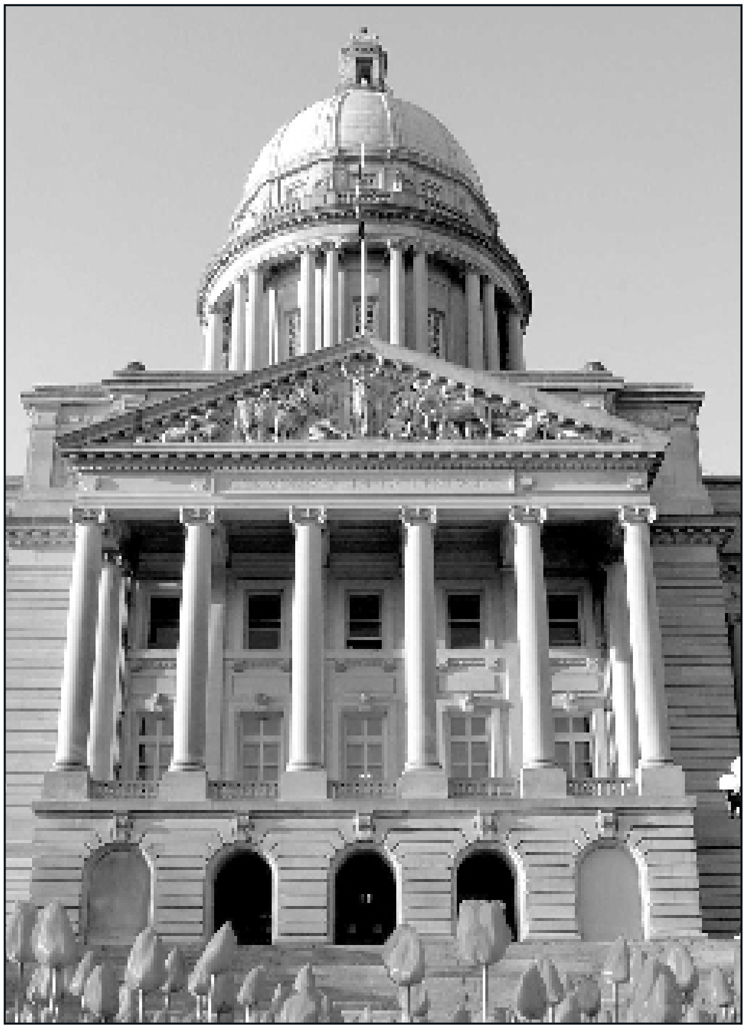
Publications
1-10 copies .... Free (plus postage, if mailed)
Copies over 10 .... ($1.00 per copy, plus postage if mailed)

Administrative Regulations
Bound Volumes.... $170.00
Administrative Register....$96.00
Volumes and Register $250.00

Acts of the General Assembly (on CD...$10)
Regular Sessions ... Priced after printing
Special Sessions .... Priced after printing

Journals
House and Senate Complete Set, House Set, Senate Set...all priced after printing

(all prices subject to 6% Kentucky sales tax)



The Kentucky Legislative Research Commission is a 16-member committee of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the LRC constitutes the administrative office for the General Assembly. Its director serves as chief administrative officer of the Legislature when it isn't in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

The LRC is also responsible for statute revision, publishing and distributing the Acts and Journals following sessions, and for maintaining furnishings, equipment and supplies for the Legislature. It also functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

2010 Interim

LEGISLATIVE RECORD

Published monthly by the Legislative Research Commission, the Interim RECORD is designed to inform the citizens of Kentucky of the between-sessions work of the General Assembly.

Paper subscriptions are free upon request. Contact LRC's Public Information Office, Capitol Annex, Frankfort, KY 40601, 502-564-8100, ext. 307 to subscribe.

The Interim RECORD can also be read on-line at www.lrc.ky.gov/legislation.htm. *If you have a paper subscription and would like to end your subscription and read the Interim RECORD on-line only, please call 502-564-8100, ext. 307 or send a request by e-mail to bruce.phillips@lrc.ky.gov.*

Stories may be reprinted without permission, although credit is appreciated.

Printed with state funds

Bobby Sherman, Director
Legislative
Research Commission

Robert Jenkins
Deputy Director for Committee and Staff Coordination

Rob Weber
Public Information Officer

Joe Cox
Publications and Printing Officer

Rebecca Mullins Hanchett
Editor, Typography and Design

Mike Sunseri
Chief Photographer

Karen Bourne
Jeff Fossett
Steve Gatewood
Bruce Phillips
Bud Kraft
Keith Krey
Jeanie Mitchell
Scott Payton
Chuck Truesdell
Public Information Staff

2010 Interim

LEGISLATIVE RECORD

Kentucky General Assembly
700 Capitol Avenue
Frankfort, Kentucky 40601

Change Service Requested

Pre Sorted Standard
U.S. Postage
PAID
Frankfort, Kentucky
Permit Number 308